

---

## Amenity Agreement

---

The Landowner specified at Item 1 of the Reference Schedule

Bowdens Silver Pty Limited ACN 009 250 051

Version: 1

# Table of contents

---

<b>Parties.....</b>	<b>1</b>
<b>Background.....</b>	<b>1</b>
<b>Agreed terms .....</b>	<b>2</b>
<b>1. Definitions and interpretation.....</b>	<b>2</b>
<b>1.1. Definitions</b>	<b>2</b>
<b>1.2. Interpretation</b>	<b>4</b>
<b>2. Term</b>	<b>5</b>
<b>2.1. Commencement Date</b>	<b>5</b>
<b>2.2. Term of Agreement</b>	<b>5</b>
This document begins on the Commencement Date and continues until the later of:	<b>5</b>
<b>3. Compensation .....</b>	<b>5</b>
<b>3.1. Initial Payment</b>	<b>5</b>
<b>3.2. Compensation Amount</b>	<b>5</b>
<b>4. Negotiated agreement .....</b>	<b>5</b>
<b>4.1. Acknowledgment by the Landowner</b>	<b>5</b>
<b>4.2. Intention and substance of document</b>	<b>6</b>
<b>5. Rights under the Policy .....</b>	<b>6</b>
<b>5.1. Acknowledgment of Mining Impacts</b>	<b>6</b>
<b>5.2. Agreed Mitigation Measures</b>	<b>6</b>

<b>5.3.</b>	Request for mitigation measures	6
<b>5.4.</b>	Mitigation measures to be agreed by Bowdens Silver	7
<b>6.</b>	<b>Acceptance of Mining Impacts .....</b>	<b>7</b>
<b>7.</b>	<b>Exploration and mining activities .....</b>	<b>7</b>
<b>7.1.</b>	No objection	7
<b>8.</b>	<b>GST</b>	<b>8</b>
<b>8.1.</b>	Definitions	8
<b>8.2.</b>	GST exclusive	8
<b>8.3.</b>	Taxable Supply	8
<b>8.4.</b>	Later GST change	8
<b>8.5.</b>	Reimbursement or indemnity	8
<b>9.</b>	<b>Announcements and confidentiality.....</b>	<b>8</b>
<b>10.</b>	<b>Dispute resolution .....</b>	<b>9</b>
<b>10.1.</b>	Good faith	9
<b>10.2.</b>	Notice of dispute	9
<b>10.3.</b>	Informal dispute resolution	9
<b>10.4.</b>	Referral to Secretary	9
<b>11.</b>	<b>Notice</b>	<b>9</b>
<b>11.1.</b>	Method of giving notice	9
<b>11.2.</b>	When is notice given	10
<b>11.3.</b>	Address for notices	10

<b>12. General .....</b>	<b>10</b>
<b>12.1. Amendments</b>	10
<b>12.2. Costs</b>	10
<b>12.3. Related Body Corporate</b>	10
<b>12.4. Assignment by the Landowner</b>	10
<b>12.5. Assignment by Bowdens Silver</b>	10
<b>12.6. Counterparts</b>	11
<b>12.7. No merger</b>	11
<b>12.8. Entire agreement</b>	11
<b>12.9. Further assurances</b>	11
<b>12.10. No waiver</b>	11
<b>12.11. Relationship between the parties</b>	11
<b>12.12. Governing law and jurisdiction</b>	12
<b>12.13. Severability</b>	12
<b>12.14. Delivery</b>	12
<b>Reference Schedule .....</b>	<b>13</b>
<b>VLAMP Discussion Paper .....</b>	<b>14</b>
<b>Execution .....</b>	<b>15</b>

# Amenity Agreement

Dated

---

## Parties

**Landowner**                      **The Landowner specified at Item 1 of the Reference Schedule**

of the address specified at Item 2 of the Reference Schedule

**Bowdens Silver**                **Bowdens Silver Pty Limited ACN 009 250 051**

of Level 11, 52 Phillip Street, Sydney, New South Wales 2000

## Background

- A.        The Landowner is the registered proprietor of the Property.
- B.        Bowdens Silver has made an application for Development Consent under the EPA Act to carry out the Project in close proximity to the Property.
- C.        The Landowner acknowledges that the Project will cause Mining Impacts.
- D.        This Deed is a 'negotiated agreement' for the purposes of the Policy and as a result the Property is not subject to the assessment, mitigation or acquisition criteria set out in the Policy.

## Agreed terms

### **1. Definitions and interpretation**

---

#### **1.1. Definitions**

In this document:

<b>Term</b>	<b>Definition</b>
<b>Agreed Exceedance Criteria</b>	means the criteria at Item 10 of the Reference Schedule.
<b>Agreed Mitigation Measures</b>	means the measures specified at Item 11 of the Reference Schedule.
<b>Approvals</b>	means any certificate, licence, consent, permit, approval or other requirement of any Authority having jurisdiction in connection with the activities contemplated by this document.
<b>Authority</b>	means any government department, local government, government or statutory authority.
<b>Business Day</b>	means a day that is not a Saturday, Sunday or public holiday in Sydney or the place where an act is to be performed, notice received or a payment is to be made.
<b>Commencement Date</b>	means has the meaning given to that term under clause 2.1(a).
<b>Compensation Amount</b>	means the amount to be calculated as specified at Item 7 of the Reference Schedule.
<b>Corporations Act</b>	means Corporations Act 2001 (Cth).
<b>Development Consent</b>	has the meaning given to that term in the EPA Act.
<b>EPA Act</b>	means the Environmental Planning and Assessment Act 1979 (NSW).
<b>GST</b>	has the meaning given to that term in the GST Act.
<b>GST Act</b>	means A New Tax System (Goods and Services Tax) Act 1999 (Cth).
<b>Initial Payment</b>	means the non-refundable amount payable by Bowdens Silver as specified at Item 8 of the Reference Schedule.
<b>Landowner</b>	the Landowner specified at Item 1 of the Reference Schedule.
<b>Mining Act</b>	means the Mining Act 1992 (NSW).
<b>Mining</b>	means the act of extracting material from land for the purpose of recovering minerals, and includes the processing and transport of these materials, as well as all other related activities in carrying out the Project.
<b>Mining Impacts</b>	means the specific impacts caused by the carrying out of the Project on the Subject Area (as described in the VLAMP Discussion Paper contained in Schedule 2), including but not limited to noise and dust impacts.
<b>Mining Leases</b>	means any mining leases granted to Bowdens Silver or a nominee under the Mining Act for the mining of silver, zinc and lead ore over land which includes all or part of the Subject Area.

<b>Term</b>	<b>Definition</b>
<b>Policy</b>	means the Voluntary Land Acquisition and Mitigation Policy for State Significant Mining, Petroleum and Extractive Industry Developments, dated September 2018, as amended from time to time.
<b>Property</b>	means the land specified at Item 12 of the Reference Schedule.
<b>Project</b>	means the Bowdens Silver Project Site (SSD-5765) as proposed within the footprint of Tenements, including any amendments to the Project, as approved by a Development Consent.
<b>Reference Schedule</b>	means the reference schedule contained in Schedule 1 of this document.
<b>Related Body Corporate</b>	has the meaning given to that term by section 9 Corporations Act.
<b>Subject Area</b>	means the area of land on which the proposed Project will be carried out.
<b>Tenements</b>	means Exploration Licences 5920 and 6354 issued under the Mining Act and any substitution, replacement or extension of those tenements.

## 1.2. Interpretation

In this document:

- (a) a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, this document and references to this document include any schedules or annexures;
- (b) a reference to a party to this document or any other document or agreement includes the party's successors, permitted substitutes and permitted assigns;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a document or agreement (including a reference to this document) is to that document or agreement as amended, supplemented, varied or replaced;
- (e) a reference to this document includes the agreement recorded by this document;
- (f) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (g) if any day on or by which a person must do something under this document is not a Business Day, then the person must do it on or by the next Business Day;
- (h) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity; and



- (i) a reference to 'month' means calendar month.

## **2. Term**

---

### **2.1. Commencement Date**

- (a) The Commencement Date is the date to be specified by Bowdens Silver in the written notice provided to the Landowner, advising that Bowdens Silver intends to commence construction of the Project (**Commencement Date**).
- (b) The Commencement Date must be no less than 21 days after the day that written notice is provided to the Landowner in accordance with 2.1(a).
- (c) Prior to the Commencement Date, Bowdens Silver must have obtained the Mining Leases required to carry out the Project.
- (d) Bowdens Silver must notify the Landowner in writing within 10 Business Days of the grant of each of the Mining Leases required to carry out the Project.

### **2.2. Term of Agreement**

This document begins on the Commencement Date and continues until the later of:

- (a) the expiration, cancellation or surrender of the Mining Leases including any renewals;
- (b) the expiration of the Development Consent for the Project including any extensions; or
- (c) the permanent cessation of Mining at the Project.

## **3. Compensation**

---

### **3.1. Initial Payment**

Upon execution of this document by the parties, Bowdens Silver must pay the Landowner the non-refundable Initial Payment.

### **3.2. Compensation Amount**

Bowdens Silver will pay to the Landowner the Compensation Amount within 28 days of the Commencement Date.

## **4. Negotiated agreement**

---

### **4.1. Acknowledgment by the Landowner**

The Landowner acknowledges that it has been fully informed of the implications of entering into this document and had a good understanding of:

- (a) the scale and nature of the Mining Impacts; and
- (b) the health risks (if any) of being exposed to the Mining Impacts.

## **4.2. Intention and substance of document**

The parties acknowledge and agree that this document:

- (a) is intended to operate as a 'negotiated agreement' for the purposes of the Policy and the Development Consent;
- (b) sets out the compensation provided for compensable loss, impacts and damages arising under the Policy, EPA Act, Mining Act, and any other law or requirement in respect of Mining Impacts by Bowdens Silver in accordance with the Agreed Exceedance Criteria specified at Item 10 of the Reference Schedule;
- (c) is enforceable in a court of law (see clause 12.11);
- (d) remains in force for at least the duration of any predicted exceedance of the relevant assessment criteria (see Item 8 of the Reference Schedule);
- (e) provides for the transfer of obligations to any new holder of the Mining Leases, and the transfer of obligations to any new landowner if the Property is sold (see clauses 12.3 and 12.4);
- (f) identifies the scope of any impacts which are the subject of the agreement (see Item 9 and Item 10 of the Reference Schedule);
- (g) provides for a means of resolving disputes (see clause 10); and
- (h) provides that Bowdens Silver must pay the reasonable costs of the Landowner associated with the preparation, negotiation and entry into this document (see clause 12.2).

## **5. Rights under the Policy**

---

### **5.1. Acknowledgment of Mining Impacts**

The Landowner acknowledges that the Property is expected to be subject to the Mining Impacts as a result of the Project and that the extent and duration of these predicted impacts is identified in Schedule 2.

### **5.2. Agreed Mitigation Measures**

Bowdens Silver must implement the Agreed Mitigation Measures within three months of the Commencement Date, or a later date as agreed between the parties.

### **5.3. Request for mitigation measures**

At any time during the life of the Project, the Landowner may request Bowdens Silver to carry out additional mitigation works on the Property, at the expense of Bowdens Silver. The works requested by the Landowner must be:

- (a) proportionate to the predicted impact from the Project;
- (b) reasonable and feasible;
- (c) directed towards reducing the impacts of the Project; and
- (d) agreed to by Bowdens Silver, acting reasonably.

#### **5.4. Mitigation measures to be agreed by Bowdens Silver**

The parties acknowledge and agree that the carrying out of mitigation measures on the Property is at the discretion of Bowdens Silver, who must act reasonably.

### **6. Acceptance of Mining Impacts**

---

The Landowner accepts that:

- (a) the Property may be affected by the Mining Impacts as a result of the exercise of rights conferred by the Development Consent and the Mining Lease;
- (b) Bowdens Silver intends to carry out the activities permitted by the Development Consent which may cause the Property to be affected by the Mining Impacts, as specified in Item 9 of the Reference Schedule;
- (c) if the Development Consent provides that Bowdens Silver may exceed any environmental criteria on land for which there is an agreement which allows any criteria to be exceeded, this document constitutes such an agreement; and
- (d) the Landowner is not entitled to any compensation for Mining Impacts referred to in this clause 6 including dust, visual and noise impacts other than the Compensation Amount specified in Item 7 of the Reference Schedule.

### **7. Exploration and mining activities**

---

#### **7.1. No objection**

- (a) The Landowner agrees not to oppose Bowdens Silver in their endeavours to obtain the grant or renewal of any mining authorities under the Mining Act, any Development Consent under the EPA Act and associated Approvals in respect of the Subject Area or the carrying out of exploration or Mining activities by Bowdens Silver in relation to the Subject Area or the Project.
- (b) The Landowner must not (and must procure that any others occupying the Property do not) lodge any objection or complaint nor request any inquiry or hearing in respect of the obtaining of any Approval by Bowdens Silver for the Project.
- (c) The Landowner must not (and must procure that any others occupying the Property do not) lodge any objection or complaint nor request any inquiry or hearing in respect of the obtaining of or compliance with any Approval, nor in respect of the establishment, construction or operation of the Project by Bowdens Silver that relate to an Agreed Exceedance Criteria on the Property.
- (d) The Landowner accepts that this document is to be regarded and treated as full compensation for the purposes of the Policy, the Mining Act, the EPA Act, any Approvals under those Acts and the common law for any exploration or Mining activities carried out by Bowdens Silver that affect the Property.
- (e) The parties must execute any further documents to give effect to the intent of this clause including executing any consent as is necessary for the granting or renewal of any mining authorities under the Mining Act, the obtaining of Development Consent under the EPA Act or the carrying out of any other activities by Bowdens Silver in relation to the Subject Area.

## **8. GST**

---

### **8.1. Definitions**

Any terms capitalised in clause 8 and not already defined in clause 1.1 have the same meaning given to those terms in the GST Act.

### **8.2. GST exclusive**

Except under clause 8, the consideration for a Supply made under or in connection with this document does not include GST.

### **8.3. Taxable Supply**

If a Supply made under or in connection with this document is a Taxable Supply, then at or before the time any part of the consideration for the Supply is payable:

- (a) the Recipient must pay the Supplier an amount equal to the total GST for the Supply, in addition to and in the same manner as the consideration otherwise payable under this document for that Supply; and
- (b) the Supplier must give the Recipient a Tax Invoice for the Supply.

### **8.4. Later GST change**

For clarity, the GST payable under clause 8.3 is correspondingly increased or decreased by any subsequent adjustment to the amount of GST for the Supply for which the Supplier is liable, however caused.

### **8.5. Reimbursement or indemnity**

If either party has the right under this document to be reimbursed or indemnified by another party for a cost incurred in connection with this document, that reimbursement or indemnity excludes any GST component of that cost for which an Input Tax Credit may be claimed by the party being reimbursed or indemnified, or by its Representative Member, Joint Venture Operator or other similar person entitled to the Input Tax Credit (if any).

## **9. Announcements and confidentiality**

---

- (a) The parties must keep confidential the existence and contents of this document and their negotiations.
- (b) No public announcement or communication about the existence and contents of this document or the negotiations of the parties may be made or authorised by a party unless:
  - (i) the other party has given its written approval;
  - (ii) the disclosure is to a Related Body Corporate of Bowdens Silver;
  - (iii) the disclosure is to a bona fide purchaser of an interest in Bowdens Silver, an interest in a Related Body Corporate of Bowdens Silver or an interest in the Tenements;

- (iv) the disclosure is made for the purposes of any application for Development Consent made to a consent authority or an appeal to the Land and Environment Court in respect of such application for Development Consent;
- (v) the disclosure is to the disclosing party's employees, consultants, professional advisers, bankers, financial advisers and financiers or to a person whose consent is required under this document or for a transaction contemplated by it; or
- (vi) the disclosure is made to comply with any applicable law or the requirements of any regulatory body (including any relevant stock exchange).

## **10. Dispute resolution**

---

### **10.1. Good faith**

The parties agree that if any claim or dispute arises between them in connection with this document they will endeavour to settle such claim or dispute in good faith.

### **10.2. Notice of dispute**

A party claiming that a dispute has arisen under or in connection with this document must give written notice to the other party specifying the nature of the dispute.

### **10.3. Informal dispute resolution**

Within 28 Business Days of receipt of the notice referred to in clause 10.2 by another party, the parties (or its nominees) must meet to attempt, using their reasonable endeavours, to resolve the dispute.

### **10.4. Referral to Secretary**

In the event that Bowdens Silver or the Landowner believes in good faith, at any time, that any claim or dispute cannot be settled, either party may refer the claim or dispute to the Secretary of the Department of Planning, Industry and Environment to be resolved.

## **11. Notice**

---

### **11.1. Method of giving notice**

A notice, consent or communication under this document is only effective if it is:

- (a) in writing in English, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) given as follows:
  - (i) delivered by hand to that person's address;
  - (ii) sent to that person's address by prepaid mail or by prepaid airmail, if the address is overseas; or
  - (iii) sent by email to that person's email address.

### 11.2. When is notice given

A notice, consent or communication given under clause 11.1 is given and received on the corresponding day set out in the table below. The time expressed in the table is the local time in the place of receipt.

If a notice is	It is given and received on	
Delivered by hand or sent by email	(a)	that day, if delivered by 5.00pm on a Business Day; or
	(b)	the next Business Day, in any other case.
Sent by post	(a)	three Business Days after posting, if sent within Australia; or
	(b)	seven Business Days after posting, if sent to or from a place outside Australia.

### 11.3. Address for notices

A person's address and email address are those set out in the Reference Schedule.

## 12. General

### 12.1. Amendments

This document may only be amended by written agreement between all parties.

### 12.2. Costs

Bowdens Silver agrees to pay the Landowner's reasonable legal costs associated with the Landowner's entry into this document.

### 12.3. Related Body Corporate

The parties acknowledge that Bowdens Silver enters into this document for itself and on behalf of its Related Body Corporate that holds or may hold Development Consent in relation to the Project. The Landowner acknowledges that a Related Body Corporate may enforce the provisions of this document.

### 12.4. Assignment by the Landowner

The Landowner may only assign this document or a right under this document with the written consent of Bowdens Silver such consent not to be unreasonably withheld provided that:

- (a) the assignee is the purchaser of the Property; and
- (b) the Landowner procures the proposed transferee to enter into an amenity agreement on the same terms as this document.

### 12.5. Assignment by Bowdens Silver

- (a) Bowdens Silver may (at its discretion) assign to any of the following (**New Party**) the whole or a part of an interest in this document:
  - (i) a purchaser of the whole or an interest in the Project;

- (ii) the purchaser of the whole or an interest in the Tenements or the Mining Leases;  
or
- (iii) any Related Body Corporate of Bowdens Silver or the party in clause 12.4(a)(i).
- (b) If requested by Bowdens Silver, the Landowner will execute all documents and undertake all acts reasonably necessary to give effect to Bowdens Silver's assignment of its rights and obligations under this document.
- (c) Bowdens Silver must pay the reasonable costs of the Landowner related to the compliance by the Landowner with the Landowner's obligations under this clause 12.4.

#### **12.6. Counterparts**

This document may be signed in any number of counterparts. All counterparts together make one instrument.

#### **12.7. No merger**

The rights and obligations of the parties under this document do not merge on completion of any transaction contemplated by this document.

#### **12.8. Entire agreement**

- (a) This document supersedes all previous agreements about its subject matter. This document embodies the entire agreement between the parties.
- (b) To the extent permitted by law, any statement, representation or promise made in any negotiation or discussion, is withdrawn and has no effect except to the extent expressly set out or incorporated by reference in this document.
- (c) Each party acknowledges and agrees that it does not rely on any prior conduct or representation by the other party in entering into this document.

#### **12.9. Further assurances**

Each party must do all things reasonably necessary to give effect to this document and the transactions contemplated by it.

#### **12.10. No waiver**

- (a) The failure of a party to require full or partial performance of a provision of this document does not affect the right of that party to require performance subsequently.
- (b) A single or partial exercise of or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.
- (c) A right under this document may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.

#### **12.11. Relationship between the parties**

Unless expressly stated otherwise, this document does not create a relationship of employment, trust, agency or partnership between the parties.

**12.12. Governing law and jurisdiction**

- (a) New South Wales law governs this document.
- (b) Each party irrevocably submits to the exclusive jurisdiction of the New South Wales courts and courts competent to hear appeals from those courts.

**12.13. Severability**

A clause or part of a clause of this document that is illegal or unenforceable may be severed from this document and the remaining clauses or parts of the clause of this document continue in force.

**12.14. Delivery**

Each party intends to be bound by this document when that party executes this document.



# 1.

## Reference Schedule

	Landowner:	[#insert].
	Landowner's address:	[#insert].
	Landowner's email:	[#insert].
	Bowdens Silver contact:	The Manager
	Bowdens Silver address:	GPO Box 225, Sydney, NSW 2001
	Bowdens Silver email:	manager@bowdenssilver.com.au
	Compensation Amount:	[#insert] (GST exclusive) ( <b>maximum</b> ), which includes: <ul style="list-style-type: none"> <li>(a) Initial Payment set out in Item 8 below;</li> <li>(b) [#insert] cash payment on the Commencement Date;</li> <li>(c) [#insert] per annum (<b>maximum</b>) for 50% payment of Property electricity rates; and</li> <li>(d) [#insert] for the Agreed Mitigation Measures.</li> </ul>
	Initial Payment:	[#insert] (GST exclusive).
	Mining Impacts	Refer to Schedule 2.
	Agreed Exceedance Criteria	Refer to Schedule 2.
	Agreed Mitigation Measures	<ul style="list-style-type: none"> <li>(a) Installation or upgrade of a mechanical ventilation/ comfort condition system;</li> <li>(b) Installation of double glazing on all external windows; and</li> <li>(c) Installation of roof insulation.</li> </ul>
	Property	[#insert Lot/DP of Landowner's affected Property].

2.

VLAMP Discussion Paper

---

[#Insert document titled Bowdens Silver Project – Documentation Assembled for Discussion Regarding Voluntary Land Acquisition and Mitigation Policy for {Insert Landowner}]

## Execution

EXECUTED as a deed

Signed by Landowner in the presence of:

\_\_\_\_\_  
▲ Signature of Landowner

\_\_\_\_\_  
▲ Signature of witness

\_\_\_\_\_  
▲ Name of witness (print)

Signed by Landowner in the presence of:

\_\_\_\_\_  
▲ Signature of Landowner

\_\_\_\_\_  
▲ Signature of witness

\_\_\_\_\_  
▲ Name of witness (print)

Executed by

Bowdens Silver Pty Limited ACN 009 250 051 by:

\_\_\_\_\_  
▲ Director

\_\_\_\_\_  
▲ Director/Secretary

\_\_\_\_\_  
▲ Full name of Director

\_\_\_\_\_  
▲ Full name of Director/Secretary