

Memorandum of Understanding

Port of Townsville Limited

ACN 130 077 673

Queensland Pacific Metals Limited

ACN 125 368 658

Commercial in Confidence

Name **Port of Townsville Limited (POTL)**
ACN 130 077 673
Notice Details Benwell Road
Townsville QLD 4810
Email: dpenny@townsville-port.com.au
Attention: Chief Operating Officer

Name **Queensland Pacific Metals Limited (QPM)**
ACN 125 368 658
Notice Details Level 1, 1 Altona St,
West Perth. WA 6005
Email: jkhoo@qpmetals.com.au
Attention: John Khoo

Background

- A. Pursuant to the provisions of the *Transport Infrastructure Act 1994* (Qld), POTL is responsible for the effective and efficient management of the Port.
- B. QPM is investigating the establishment of an ore facility at the Port and is seeking to secure a long-term logistics solution for QPM Products through the Port.
- C. QPM needs to investigate and assess the approvals and works, and feasibility thereof, required to import and export the QPM Products through the Port.
- D. POTL needs to investigate and assess the works, and feasibility thereof, required to enable the import and export of QPM Products through the Port.
- E. The parties have agreed to undertake the investigations referred to in Recitals C and D.
- F. It is the intention of POTL and QPM that the investigations referred to in Recitals C and D will be completed as soon as reasonably possible.
- G. Upon conclusion of the investigation, POTL and QPM will negotiate in good faith a commercial arrangement to effect the works and the use of the Port by QPM.

1. Definitions

- 1.1 In this MoU, unless the context otherwise requires, the definitions in Schedule 1 apply.

2. Objective

- 2.1 To determine the feasibility of, and requirements involved with, importing and exporting QPM Products through the Port.

3. Agreement

3.1 Investigations by POTL and QPM

- (a) POTL and QPM agree to jointly assess and determine the following to enable the import and export of QPM Products through the Port:

- (i) QPM's planned growth scenarios for QPM Products to be imported and exported;
 - (ii) capacity and constraints of existing port infrastructure (including berths, rail, roads and land), options for increasing capacity and efficiencies in the short, medium and long term and any new port infrastructure required to be developed for handling of QPM Products under various growth scenarios;
 - (iii) costs, timeframes and responsibilities for undertaking any upgrades of existing port infrastructure or development of new port and transport infrastructure to accommodate QPM Products under various growth scenarios;
 - (iv) site options for the development of storage facilities and loading infrastructure at the Port;
 - (v) commercial and operational terms for any access to and use of the Port, port infrastructure and associated storage and transport facilities at the Port; and
 - (vi) any other investigations considered necessary and agreed between the parties.
- (b) In order to pursue the investigations detailed in clause 3.1:-
- (i) QPM may be given access to confidential information of POTL; and
 - (ii) POTL may be given access to confidential information of QPM.
- (c) In consideration of:-
- (i) being given access to the confidential information of the other party; and
 - (ii) the mutual undertakings contained in this MoU;

each of the parties agree that it will observe and comply with the obligations in clause 9.

3.2 Good Faith Negotiations

- (a) POTL and QPM agree to negotiate in good faith a commercial arrangement for any developments at the Port and access to port infrastructure that implements the investigations in clause 3.1.
- (b) POTL and QPM acknowledge that timing is of the essence and agree to use reasonable endeavours to undertake the investigations in clause 3.1 and commercial negotiations in clause 3.2 in a timely manner.

3.3 Relationship between the parties

- (a) While the parties agree to cooperate to achieve the Objective, nothing in this MoU will be considered or interpreted as giving rise to any fiduciary relationship or constitute the relationship of the parties as a partnership or association.
- (b) The parties each acknowledge and agree that nothing in the MoU or subsequent agreements entered into by the parties will, in any way, restrict, fetter or otherwise affect the discretion of POTL to exercise any of its functions and power pursuant to any legislation.

- (c) Nothing in this clause 3 or elsewhere in this MoU represents, implies or dictates that:
 - (i) a development with QPM in any form will definitely occur; or
 - (ii) the parties must reach agreement on the matters referred to in clause 3.1(a).

4. Port Capacity

- 4.1 The Parties acknowledge that QPM is seeking to import up to 1.5 million (wet) tonnes per annum of nickel laterite ore.
- 4.2 The Parties acknowledge that QPM is seeking to export the following:
 - (a) Up to 65,200t of battery chemical products per annum; and
 - (b) Up to 500,000t of haematite per annum.
 - (c) Up to 40,000t of magnesite per annum
- 4.3 POTL confirms that based on current expected future port utilisation and having regard to the capacity available within the approved Port Expansion Project footprint, there will be sufficient capacity for QPM to import the quantity of ore detailed in clause 4.1 and export the quantity of products detailed in clause 4.2.
- 4.4 The Parties note that the funding of any upgrades to existing port infrastructure, development of any new port infrastructure and the commercial terms of access are the subject of the investigations set out in clause 3.1 and negotiations set out in clause 3.2.

5. Term

- 5.1 This MoU will commence on the Commencement Date and will expire on the Expiry Date or at such earlier time as may be agreed between the parties.

6. Termination

- 6.1 A party may terminate this MoU by written notice to the other in any of the following circumstances:
 - (a) a party decides that it does not wish to proceed with, or continue, the investigations (clause 3.1).
- 6.2 No party will be entitled to any compensation or other payment from the other as a result of termination under clause 6.1, however such termination does not affect any obligation of a party that has accrued at that time under or as a result of a breach of clause 7 (intellectual property) or clause 9 (confidentiality).

7. Intellectual Property

- 7.1 Intellectual property of a party used in the investigations (clause 3.1) will remain the intellectual property of that party, and may not be used by the other party, except for the purposes of this MoU.

- 7.2 If this MoU is terminated in accordance with clause 6, the recipient party must comply with a request from the disclosing party to return or destroy, delete or erase all documents containing the disclosing party's intellectual property, excluding any such material contained in the parties' board papers or minutes.

8. Costs

- 8.1 Each party must bear and pay its own costs of, and incidental to, the preparation and execution of this MoU.
- 8.2 Each party must bear and pay its own costs (third party costs and internal costs) of, and incidental to, the investigations detailed in clause 3.1.
- 8.3 The parties agree that:
- (a) some third party costs involved in undertaking the investigations detailed in clause 3.1 may be shared between POTL and QPM;
 - (b) prior to engaging any third party to undertake investigations the parties will agree in writing as to the scope of the works, the cost estimate, the amount each party is contributing, and the process of paying any costs to the third party;
- 8.4 Each party agrees that any other costs referred to or arising from this MoU will be shared equally between the parties, except as may otherwise be agreed in writing.

9. Confidentiality

- 9.1 Subject to clause 9.2, each party will keep the contents of this MoU, and all books, documents and information made available to that party for the purposes of entering into this MoU or in the course of the performance of this MoU confidential, and will not disclose the same to any other person without the prior written consent of the other party.
- 9.2 Clause 9.1 will not apply in the following circumstances:
- (a) any disclosure required by law;
 - (b) disclosure to solicitors, accountants or other professional advisers under a duty of confidentiality;
 - (c) disclosure reasonably necessary for a party to properly perform its obligations under this MoU;
 - (d) disclosure necessary for the purposes of a party's corporate governance, including board minutes and directors papers;
 - (e) disclosure to POTL's shareholding Ministers or relevant Government department.
- 9.3 Without limiting clause 9.1, the parties agree that neither will make any public announcement or any statement to the media, in respect of any matter related to or arising from this MoU, without the prior written consent of the other party.

10. No Warranties

- 10.1 Neither party warrants to the other that any information they provide in accordance with this MoU will be complete or accurate, and each party must make its own enquiries to confirm the accuracy and completeness of such information.

11. Entire Agreement and Variations

- 11.1 This MoU constitutes the entire agreement between the parties, and supersedes all prior communications, negotiations, arrangements and agreements, whether oral or written, with respect to the subject matter.
- 11.2 No agreement or understanding varying, extinguishing or extending this MoU is legally binding unless it is in writing signed by each party or on behalf of a party by a duly authorised representative.

Schedule 1 - Definitions

Defined terms in this MoU, its recitals and schedules:

Approval	means any approval or consent from a government or statutory body that is a condition precedent to the import or export of the QPM Products through the Port.
Commencement Date	means the date on which this MoU is executed.
Expiry Date	means 31 January 2022.
MoU	means this Memorandum of Understanding.
Port	means the Port of Townsville.
Shareholding Ministers	means the shareholding Ministers of POTL.
QPM Products	means imported nickel ore and nickel sulphate, cobalt sulphate, hematite, HPA and magnesia to be exported.

Executed as a deed.

Executed on behalf of **Queensland Pacific Metals Limited** (ACN 125 368 658) by:



Signature of Authorised Representative

John Downie

Name of Authorised Representative

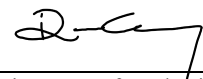


Signature of Witness

John Khoo

Name of Witness

Executed on behalf of **Port of Townsville Limited** (ACN 130 077 673) by:



Signature of Authorised Representative

Ranee-Lee Crosby

Name of Authorised Representative



Signature of Witness

Drew Penny

Name of Witness