

Queensland



**GURULMUNDI SECURE  
LANDFILL AGREEMENT  
ACT 1992**

**Act No. 4 of 1992**

Queensland



# GURULMUNDI SECURE LANDFILL AGREEMENT ACT 1992

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Queensland



# **Gurulmundi Secure Landfill Agreement Act 1992**

## **Act No. 4 of 1992**

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**An Act to approve and give effect to an agreement between the State, the Brisbane City Council and the Council of the Shire of Murilla relating to the establishment and operation of a secure landfill site at Gurulmundi, and for other purposes**

*[Assented to 27 March 1992]*

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

### **Short title**

1. This Act may be cited as the *Gurulmundi Secure Landfill Agreement Act 1992*.

### **Definitions**

2. In this Act—

“**agreement**” means the deed of agreement made between the State, the Brisbane City Council and the Council of the Shire of Murilla on 17 December 1991, a copy of which is set out in the Schedule, as varied under the Agreement;

“**site**” means the Site defined in the Agreement.

### **Act to bind the Crown**

3. This Act binds the Crown.

### **Approval of agreement**

4.(1) The agreement is approved.

(2) The execution of the agreement by the Honourable Neville George Warburton on behalf of the State is ratified.

(3) Each party to the agreement is taken to have been authorised to enter into the agreement.

### **Parties to give effect to agreement**

5. Each party to the agreement—

- (a) may do anything the agreement authorises it to do; and
- (b) must do everything that it is required to do under the agreement.

**Consent etc., to land use unnecessary**

6. Despite the *Health Act 1937* or any other enactment, consent, approval or authorisation is not required for a use of, or an activity on, the site under the agreement.

**By-laws**

7.(1) The Landfill Management Committee constituted under the agreement may make by-laws, not inconsistent with the agreement, with respect to the agreement, including, for example—

- (a) protecting the site from trespass, injury, damage, interference or misuse; and
- (b) preventing nuisances at, on or near and affecting the site; and
- (c) providing and regulating access within the site; and
- (d) operating the site; and
- (e) regulating the conduct of persons entering or using the site.

(2) A by-law may impose a maximum penalty of 80 penalty units for a contravention of the by-law.

(3) The Landfill Management Committee must submit a by-law made under subsection (1) for consideration by the Governor in Council.

(4) The Governor in Council may—

- (a) approve the by-law as submitted; or
- (b) disallow the by-law.

**By-laws to be tabled and disallowable**

8. Section 28A of the *Acts Interpretation Act 1954* (Regulations) applies to by-laws made and approved under this Act as if they were regulations.

**Reserve land taken to be Crown land**

**9.** For the purposes of the agreement, Crown land reserved and set apart for local government functions or purposes is Crown land.

**Minister defined for purposes of agreement**

**10.** For the purposes of the agreement, the Minister administering this Act is taken to be the Minister charged with the administration of the Bureau of Emergency Services of Queensland.

**SCHEDULE**

**AGREEMENT**

for the establishment and operation of a  
Secure Landfill Site  
at  
Gurulmundi

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**B E T W E E N**  
STATE OF QUEENSLAND  
BRISBANE CITY COUNCIL  
**A N D**  
COUNCIL OF THE SHIRE OF MURILLA

K M O'Shea  
Crown Solicitor  
State Law Building  
George Street  
BRISBANE

Telephone: 239 6920  
Facsimile: 239 6386

**DEED OF AGREEMENT**

**B E T W E E N**

**STATE OF QUEENSLAND****A N D**

**BRISBANE CITY COUNCIL**, a body corporate constituted under the City of Brisbane Act 1924

**A N D**

**COUNCIL OF THE SHIRE OF MURILLA**, a body corporate constituted under the Local Government Act 1936

**W H E R E A S:**

- A.** BCC operates a hazardous waste treatment plant at Willawong in the State of Queensland;
- B.** BCC in its operation of the Plant practices cost recovery from waste disposers;
- C.** BCC presently only accepts, with some exceptions, waste at the Plant that is generated within the City of Brisbane;
- D.** The State is desirous of BCC accepting waste at the Plant from other local authority areas in southern Queensland;
- E.** BCC has exhausted the capacity of the Plant to dispose of treated waste requiring secure landfill disposal;
- F.** BCC could receive additional quantities of waste at the Plant if it was able to remove therefrom treated waste requiring secure landfill disposal;
- G.** The State will make available to BCC for its use and operation a secure landfill site for the disposal of treated waste from the Plant;
- H.** The Site is located within the Shire of Murilla;
- I.** The parties desire to record the agreement reached between them in respect of the use and operation of the Site.

**THE PARTIES AGREE AS FOLLOWS:-****1. INTERPRETATION**

In this Agreement unless the context otherwise requires or the contrary intention appears:

1.1 “the State” means the State of Queensland;

“BCC” means the Brisbane City Council;

“Murilla” means the Council of the Shire of Murilla;

“the Plant” means the hazardous waste treatment plant operated by BCC at Willawong in Brisbane;

“the Site” means the secure landfill site to be located at Gurulmundi in the Shire of Murilla and being the land more particularly described as Lot 67 on Plan AU 67, Parish of Bartsch, County of Auburn in the State of Queensland containing an area of 1,360 acres, 2 roods, 22 perches and being the whole of the land contained in Certificate of Title Volume 4369 Folio 174;

“Agreement” means this Agreement;

“hazardous waste” means hazardous waste accepted at the Plant;

“treated waste” means hazardous waste that has been treated at the Plant for secure landfill disposal at the Site;

“Committee” means the Landfill Management Committee constituted under this Agreement;

“Report” means the Final Impact Assessment Study Report given by AGC Woodward-Clyde and dated October 1991;

“Minister” means the Minister for Police and Emergency Services or other Minister of the Crown for the time being charged with the administration of the Bureau of Emergency Services of Queensland;

“Term” means the period of time during which this Agreement shall continue to operate pursuant to clause 2.1.

- 1.2 A reference to a person includes a reference to corporations and other entities recognised by law.

The singular includes the plural and vice versa.

Words importing a gender shall include a reference to all other genders.

- 1.3 The headings to the clauses herein have been inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of any of the terms and conditions of this Agreement.

## **2. TERM**

- 2.1 This Agreement shall commence on the date of execution of this Agreement and continue for a term of 25 years therefrom or until 97,500 tonnes of treated waste has been disposed of at the Site, whichever shall first occur.

Prior to the expiration of this Agreement, the parties shall enter into negotiations for additional usage of the Site.

## **3. SITE**

- 3.1 The Site will be acquired by the State.
- 3.2 The Site will at all times remain Crown land.
- 3.3 The State will meet all costs in respect of land identification, impact assessment studies, land acquisition, and the construction and/or upgrading of the access road external to the Site for a distance of 1,750 metres approximately from the road entrance to the Site towards the Leichhardt Highway.

**4. LANDFILL MANAGEMENT COMMITTEE**

4.1 The parties to this Agreement shall constitute a Landfill Management Committee.

4.2 Each of the State and BCC shall be entitled to be represented by one (1) or two (2) persons elected to public office and who have been duly authorised, from time to time, by writing addressed to the Committee.

Murilla shall be entitled to be represented by one (1) or two (2) persons elected to public office, one of whom shall be the Shire Chairman from time to time.

4.3 Each party to this Agreement shall be entitled to one (1) vote at all meetings of the Committee.

In the case of Murilla, the Shire Chairman shall be the representative entitled to exercise the vote of Murilla. Either of Murilla's representatives may, if unable to attend a meeting of the Committee, by writing under his hand addressed to the Committee appoint a proxy to attend in his place and any proxy so appointed to attend in place of the Shire Chairman may exercise the vote of Murilla.

4.4 The Committee shall determine the operating policy for the Site in accordance with this Agreement and the Report.

4.5 The Committee shall determine the objectives to be met by the design, development and operation of the Site in accordance with the Report and such other data and reports as the Committee shall obtain, and must approve the details of the design, development and operation as being adequate to give effect to those objectives.

4.6 The Committee shall, unless otherwise provided in this Agreement, determine its own practices and procedure.

Any party to this Agreement may convene a meeting of the Committee upon fourteen (14) days notice in writing to the other parties or to the secretary (if any) of the Committee.

The BCC will provide the necessary administrative and secretarial support to the Committee.

- 4.7 A quorum at meetings of the Committee shall be two (2) parties represented and entitled to a vote, except in the case of any determination concerning the categories of waste that may be disposed in the Site or the required treatment of waste prior to disposal in the Site, and for such determinations the quorum shall be three (3) parties represented and entitled to vote.

A decision of the Committee that requires a quorum of two (2) parties, shall be determined by a majority vote of those parties present and entitled to vote.

Any decision of the Committee that requires a quorum of three (3) parties shall require a unanimous vote.

In respect of any matter where the Committee cannot reach a majority or unanimous decision as required, or any matter where the Committee cannot after two (2) successive meetings achieve a quorum, any party may refer the matter to the Minister who shall determine the matter. A determination of the Minister shall be binding on the Committee.

- 4.8 The Committee shall determine, but not be limited to, the following matters of policy:

- the types of treated waste that may be disposed in the Site;
- the objectives of treatment for waste prior to disposal in the Site;
- the objectives to be met by design, construction and operational standards for all facilities on the Site;
- required practices and procedures for the transport and storage of treated waste;
- an Environmental Management Plan;
- monitoring of the Site;
- public access to monitoring data;
- rehabilitation of the Site;
- Site Remediation Plans to respond to particular problems;
- other post closure plans for the Site;

- security of the Site;
  - appropriate technology to be employed at the Site in the light of five yearly reviews of alternative technologies, to be assessed by the Committee.
- 4.9 The Committee shall report annually to the Minister, or at such ~~intervals~~ intervals as the Minister may require.
- 4.10 The Committee shall take technical advice from a Sub-Committee as required. Each party to this Agreement may nominate one or two technical officers or nominees to serve on the Sub-Committee.

Where the Sub-Committee is unable to reach a common view on any matter it shall present, as required, the views of each member.

## **5. USE OF SITE**

- 5.1 BCC will design, develop and operate the Site in accordance with the policies, procedures and approvals determined by the Committee and in accordance with the Report.
- 5.2 BCC shall be the sole operator of the Site and will in that operation comply with all relevant legislative requirements.
- 5.3 In the event of any breach of public health or environmental standards applicable to the Site, whether imposed by statute or the Committee, BCC shall forthwith advise the Committee of same and cease operations until the breach has been investigated and rectification and remediation has been carried out by BCC to the satisfaction of the Committee and/or any relevant regulatory authority.
- 5.4 BCC shall at no time alter the nature of the operations at the Site without the prior approval of the Committee.
- 5.5 BCC shall operate the Site in conjunction with the Plant on a user pays basis imposing charges fixed by it from time to time and shall receive no remuneration or compensation whatsoever from the other parties to this Agreement in the operation and use of the Site except as otherwise provided by this Agreement.

- 5.6 BCC shall accept for treatment at the Plant hazardous waste of classes 3A, 3B, 4, 5, 6 and 7 as defined in Section AA4.1 and Appendix IV of the Report from all the local authority areas in southern Queensland.

Such local authority areas shall include the Shires of Miriam Vale, Kolan, Monto, Eidsvold, Taroom, Bungil, Booringa, Murweh, Quilpie and Bulloo, together with all the local authorities between those and the southern border of the State of Queensland, together with all local authority areas that may hereafter be created in replacement or substitution, in whole or in part, for any of the aforesaid local authority areas.

- 5.7 BCC shall meet all its costs of this Agreement, together with all its costs of the design and development and operation of the Site from charges imposed upon users of the Plant.

Such costs of BCC shall include but shall not be limited to:

- costs of erecting and maintaining security and perimeter fencing at the Site;
- construction and maintenance of roads within the Site;
- maintenance of the section of external access road constructed and/or upgraded by the State pursuant to clause 3.3.

- 5.8 BCC shall not engage a contractor or contractors to carry out the overall management and operation of the Site.

In the consideration of tenders or quotations for work, all things being equal, preference will be given to Murilla or local persons.

## **6. TREATED WASTES FOR SITE DISPOSAL**

- 6.1 Only treated solidified hazardous waste of classes 3B (solvent waste), 5 (pesticide waste) and 7 (other waste needing permanent internment) as defined in Section AA4.1 and Appendix IV of the Report (excluding those intractable wastes in class 7 requiring concrete encapsulation), and such other treated solidified waste or contaminated material, the composition of which the Committee considers to be appropriate for disposal in the Site, and which the

Committee is satisfied has been subject to a sufficient level of testing and treatment, shall be disposed in the Site.

- 6.2 There shall not be disposed in the Site any radioactive substances as defined by the Radioactive Substances Act 1958, Poly Chlorinated Biphenyl (PCB) waste, or other waste in respect of which the Committee determines that in its opinion no environmentally acceptable treatment is available.

## **7. PAYMENTS AND INDEMNITIES**

- 7.1 BCC shall pay to Murilla \$40,000 per annum during the Term for each complete year of the Term.

The said sum shall be paid in one instalment in the quarter commencing 1 July of each year.

The said sum shall be increased after the first year in accordance with increases in the Consumer Price Index (All Groups Brisbane) as between the quarter ending 30 June 1992 and the quarter ending 30 June in the year payment is due.

In the event that this agreement shall be terminated during the course of any year of the Term:-

- (a) if the termination is prior to the payment of the said sum for that year, BCC shall pay to Murilla such part of the said sum (as increased from time to time during the Term) as shall relate proportionately to the then expired part of that year of the Term;
  - (b) if the termination is after the payment of the said sum for that year, Murilla shall refund to BCC such part of the said sum (as increased from time to time during the Term) as shall relate proportionately to the then unexpired part of that year of the Term.
- 7.2 Murilla does hereby accept that the said annual payment from BCC is in full satisfaction and payment of all the costs and expenses of Murilla in being represented on the Committee and the Sub-

Committee thereto.

- 7.3 The said sum shall be paid into the “Community Consultation and Development Fund” operated by Murilla, to be expended on costs and expenses referred to in clause 7.2 and on projects of general benefit to the local community which it is otherwise lawful for Murilla to undertake.
- 7.4 The State does indemnify each of BCC and Murilla, their servants and agents, from and against all actions, claims, proceedings and legal costs arising out of the identification of the Site and its provision to BCC for use as a secure landfill site.
- 7.5 The State and BCC do jointly and equally indemnify Murilla, its servants and agents, from and against all actions, claims, proceedings and legal costs arising out of the operation and use of the Site by BCC.  
Murilla acknowledges and agrees that this indemnity shall not apply to any contract that Murilla may enter into with BCC for the performance of any services at the Site.
- 7.6 The State and BCC do hereby acknowledge and agree that they shall share jointly and equally any liability for actions, claims, proceedings and legal costs arising out of policy decisions of the Committee.
- 7.7 If by operation of law or for any reason other than the default of BCC in the observance of the terms and conditions of this Agreement or any applicable law -
- (a) this Agreement is frustrated;
  - (b) the Site having been developed or partly developed, does not commence to accept treated waste for disposal;
  - (c) having commenced to operate, the Site ceases to accept treated waste for disposal;
  - (d) BCC ceases to be the operator of the Site,

the State shall pay to BCC by way of compensation an amount equivalent to the “unrecouped developmental costs”.

For the purposes of this clause, the unrecouped developmental costs shall be calculated by using the following formula:

$$\text{UDC} = \text{DC} - \text{X}$$

Where -

UDC is the unrecouped developmental costs;

DC is the expenses incurred by BCC in developing the Site including capitalised services costs;

X is the amount collected by BCC through charges imposed for the disposal of treated waste less operating costs (including profit, if any) and costs external to the Site.

## **8. PUBLIC QUERY**

8.1 The parties hereto shall, subject to clause 8.2, refer any enquiry from a member of the public, whether or not in writing, in respect of the use and operation of the Site, to the Committee for response. The parties shall be entitled to advise the querist that the matter has been referred to the Committee.

8.2 Murilla may answer directly any queries directed to it which are of a kind-

(a) that relate to purely factual matters of which Murilla has actual knowledge, or

(b) that the Committee has previously determined may be answered by Murilla.

## **9. ASSIGNMENT**

9.1 BCC shall not assign or deal in any other way with its rights and

obligations under this Agreement without the prior consent in writing of the State and Murilla.

## **10. FORCE MAJEURE**

10.1 BCC shall not be liable for any delay or failure to perform its obligations hereunder if such failure is due to force majeure.

## **11. GOVERNING LAW**

11.1 This Agreement shall be governed by and construed in accordance with to the law of Queensland.

## **12. TERMINATION**

12.1 The State may terminate this Agreement forthwith if BCC fails to observe, comply with or fulfil any of its statutory or contractual obligations under or arising out of this Agreement, and in such event, the State shall be under no liability to pay any compensation whatsoever to BCC.

## **13. VARIATION**

13.1 This Agreement shall not be varied otherwise than by writing under the hand and seal of all parties.

## **14. ENTIRE AGREEMENT**

14.1 The terms of the agreement between the parties are those set out in this Agreement, and no written or oral agreement, arrangement or understanding made or entered into prior to the date of this Agreement shall in any way be read or incorporated into this Agreement.

## **15. WAIVER**

15.1 A waiver by any party of any term or condition of this Agreement shall not be deemed or constituted as a waiver of such term or condition for the future or of any subsequent breach. All remedies, rights, undertakings, and obligations contained in this Agreement

shall be cumulative and none of them shall be in limitation of any other remedy, right, undertaking or obligation of either party.

## **16. NO PARTNERSHIP OR AUTHORITY**

16.1 The parties agree that nothing contained or implied in this Agreement shall constitute one party the partner or agent of another party, nor render one party liable, except as herein provided in clauses 7.4, 7.5 and 7.6, for debts or liabilities incurred by another party.

## **17. NOTICES**

17.1 Notices under this Agreement may be delivered by prepaid postage, by hand, by telex or by facsimile transmission to each of the parties at the address set out below or such other address as a party may specify by notice in writing to the other. Notices shall be deemed to be given -

- (a) two (2) days after deposit in the mail with postage prepaid;
- (b) when delivered by hand; or
- (c) if sent by facsimile transmission, upon an apparently successful transmission being noted by the sender's facsimile machine,

as the case may be.

### **The State:**

The Director  
Chemical Hazards and  
Emergency Management Unit  
Bureau of Emergency Services  
30 Makerston Street  
BRISBANE QLD 4000

Fax: (07) 227 4466

**BCC:**

Town Clerk  
Brisbane Administration Centre  
69 Ann Street  
BRISBANE QLD 4000

Fax: (07) 229 5450

**Murilla:**

Shire Clerk  
Murilla Shire Council  
Council Chambers  
MILES QLD 4415

Fax: (076) 27 1782

**18. INSURANCES**

- 18.1 BCC shall during the Term maintain a public liability insurance policy in respect of its operations under this Agreement, for a sum of not less than twenty million dollars (\$20,000,000) arising from any one event in respect of the death of, or bodily injury to persons, or damage to property.
- 18.2 BCC shall during the Term maintain a property insurance policy in respect of the Site for a sum equal to the full insurable replacement value of all insurable property on the Site in respect of loss, destruction or damage caused thereto.

**19. EXECUTION**

- 19.1 The parties agree that if this Agreement is not executed by all parties on the same date, this Agreement shall commence on and from the latest of the dates of execution.

**IN WITNESS WHEREOF THE PARTIES HERETO HAVE EXECUTED THIS DEED**

**SIGNED SEALED** and )  
 )  
**DELIVERED** by the Honourable )  
 )  
          N. WARBURTON           )           N G Warburton            
 )  
 the Minister for Police and )  
 )  
 Emergency Services of )  
 )  
 Queensland for and on behalf of the )  
 )  
 Crown in right of the **STATE OF** )  
 )  
**QUEENSLAND** this           18th           )  
 )  
 day of           December           1991. )

THE SEAL of **BRISBANE CITY COUNCIL** )  
 )  
 was hereto affixed this           18th           day of )  
 )  
          December           1991 by me, )           James Soorley            
 )  
          BRYAN WILLIAM HICKS           )           B W Hicks          

)  
 I being the proper officer to affix )  
 )  
 such seal in the presence of: )

          J K Oddy JP (Qld)            
 A Justice of the Peace

THE CORPORATE SEAL of **COUNCIL OF** )

)

**THE SHIRE OF MURILLA** was hereto )

)

affixed this 18th day of December )

)

1991 under the hands of )

)

)

R.J. GILMOUR )

R J Gilmour

(the Chairman) )

)

)

and P. COCHRANE )

P L Cochrane

(the Shire Clerk) )

)

who certify that they are the proper )

)

officers in that behalf. )