

## Schedule E1. Site, Worksites and Related Drawings

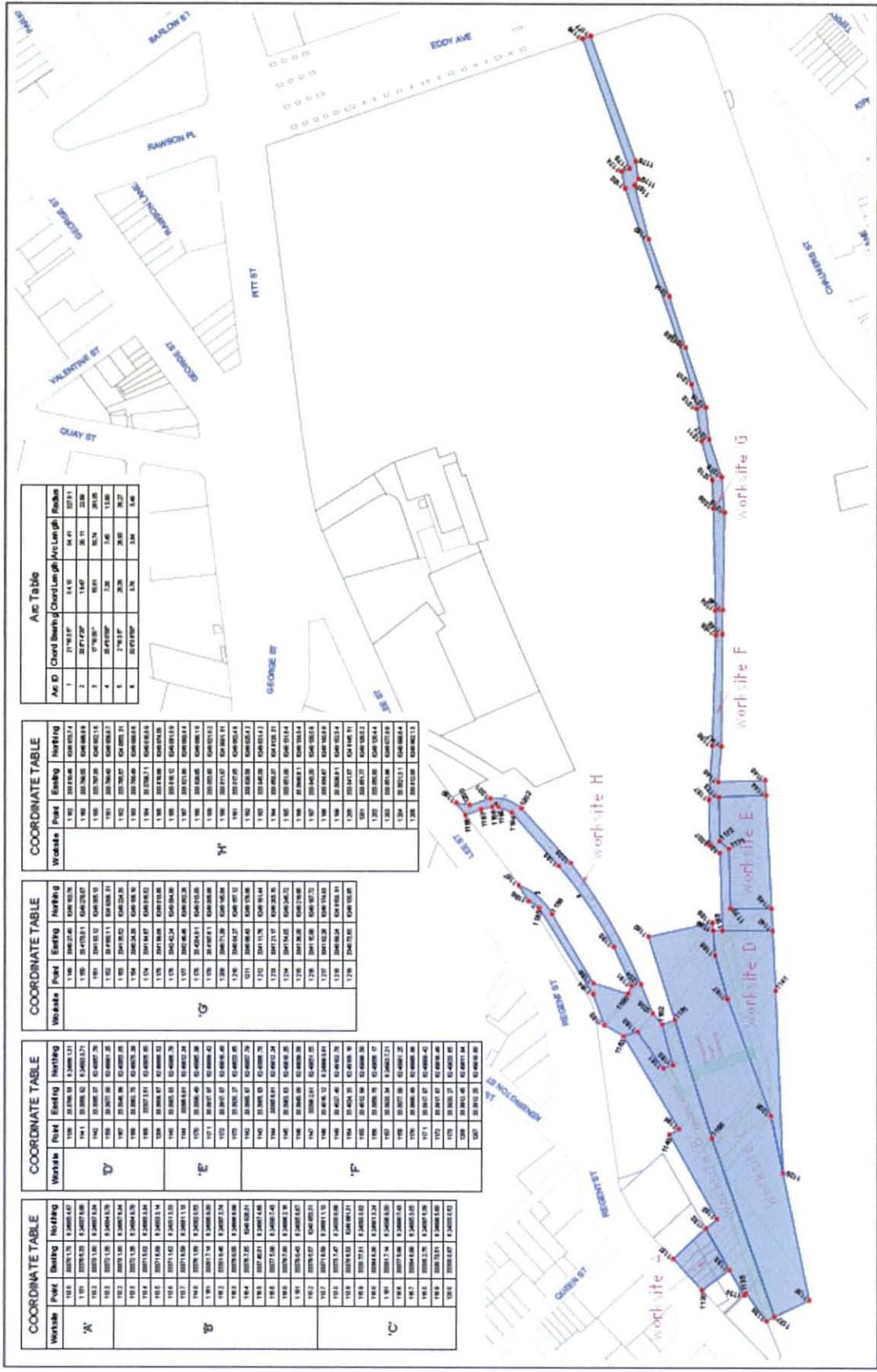
(Clauses 1.1, 3.1, 7.10)

### Schedule E1 Part 1 - Site, Worksites and Related Drawings

This Schedule E1 Part 1 includes the drawings listed in Table 1 below.

**Table 1. Drawings**

Description	Drawing No.
Sydney Yard Access Bridge Worksites	NWRLSRT-RPS-SCS-SR-DWG-000010 Rev B



**ARC TABLE**

ARC ID	Chord Bearing	Chord Length	Arc Length	Radius
1	21°43'12"	14.6	14.41	277.1
2	87°47'42"	14.6	26.11	23.8
3	17°38'12"	14.6	16.74	261.8
4	87°47'42"	14.6	26.11	23.8
5	21°43'12"	14.6	14.41	277.1

**COORDINATE TABLE**

Workite	Point	Easting	Northing
H	1182	20176.00	608182.4
	1183	20176.00	608182.4
	1184	20176.00	608182.4
	1185	20176.00	608182.4
	1186	20176.00	608182.4
	1187	20176.00	608182.4
	1188	20176.00	608182.4
	1189	20176.00	608182.4
	1190	20176.00	608182.4
	1191	20176.00	608182.4

**COORDINATE TABLE**

Workite	Point	Easting	Northing
G	1192	20176.00	608182.4
	1193	20176.00	608182.4
	1194	20176.00	608182.4
	1195	20176.00	608182.4
	1196	20176.00	608182.4
	1197	20176.00	608182.4
	1198	20176.00	608182.4
	1199	20176.00	608182.4
	1200	20176.00	608182.4
	1201	20176.00	608182.4

**COORDINATE TABLE**

Workite	Point	Easting	Northing
D	1202	20176.00	608182.4
	1203	20176.00	608182.4
	1204	20176.00	608182.4
	1205	20176.00	608182.4
	1206	20176.00	608182.4
	1207	20176.00	608182.4
	1208	20176.00	608182.4
	1209	20176.00	608182.4
	1210	20176.00	608182.4
	1211	20176.00	608182.4

**COORDINATE TABLE**

Workite	Point	Easting	Northing
K	1212	20176.00	608182.4
	1213	20176.00	608182.4
	1214	20176.00	608182.4
	1215	20176.00	608182.4
	1216	20176.00	608182.4
	1217	20176.00	608182.4
	1218	20176.00	608182.4
	1219	20176.00	608182.4
	1220	20176.00	608182.4
	1221	20176.00	608182.4

**SYDNEY YARD ACCESS BRIDGE WORKITES**

Project: SYDNEY YARD ACCESS BRIDGE  
 Workite: B  
 Date: 11/11/2016  
 Scale: 1:1000  
 Author: [Name]  
 Checker: [Name]  
 Approver: [Name]

**LEGEND**

- Workite boundary
- Workite area
- Workite area

**NOTES:**  
 Workite boundaries are created from stakeless provided and digitized from aerial photography. No boundary survey has been conducted.

## Schedule E1 Part 2 - Site Access Dates and Conditions

### General

- (a) Without limiting the Contractor's other obligations under this Contract in relation to the Site, the Contractor, must, in executing the Contractor's Activities, comply with the requirements set out in this Schedule E1 Part 2.
- (b) The Contractor will be given access to the parts of the Site at the times and subject to the compliance by the Contractor with the conditions set out in this Schedule E1 Part 2.
- (c) In this Schedule E1 Part 2:

**Control** means undertaking all the activities required to manage and control all access to a Worksite, and maintaining the temporary and permanent infrastructure provided by the Contractor including the Temporary Works on the Worksite. Such activities will include managing, controlling and maintaining the security of the Worksite, conducting basic familiarisation and safety inductions for all those accessing the Worksite (but not inductions specific to Other Contractors' work), operating and maintaining the temporary and permanent infrastructure provided by the Contractor, including the Temporary Works, and liaising with Authorities.

**Drawing** means drawing NWRLSRT-RPS-SCS-SR-DWG-000010 Rev B included in Schedule E1 Part 1.

**Establish** means providing all the temporary infrastructure required by the Contractor for its use of the Worksite, including obtaining all Authority Approvals, survey for and construction of all perimeter fences, clearing vegetation, and providing all temporary Services, construction roads, signage, traffic management, car wash bays, drainage, perimeter security management, environmental management measures, pedestrian access, road changes off the Site to provide access, hard stand areas, wheel wash facilities and other facilities required for the Worksite, with all the Contractor's establishment such as offices and amenities (including those for the Principal where required).

**Reinstate** means restoring the Worksite to a condition not less than that existing immediately prior to the Contractor obtaining access to the Worksite, including in compliance with conditions of the Planning Approval, any Third Party Agreement requirements and any additional conditions required by relevant Authorities, but excluding any change to temporary infrastructure required for use of the Worksite after the reinstatement.

**Worksites** means:

- (i) the worksite areas shown on the Drawing (Worksites A, B, C, D, E, F, G and H)
- (ii) the worksite area for the LV supply which is located within the Sydney Yard West Distribution Substation building (Worksite I);
- (iii) the worksite area within the main transmission room, CENA 36, located on level 1 of the west wing building of Central Station (Worksite J); and
- (iv) the worksite area created by the new bridge deck (Worksite K).

### Site

The Site consists of the Worksites.

## Site Access and Use Conditions

- (a) The Contractor has Control of, and must Control, Worksites A, B, C, D, E, F, G and K commencing on the access dates for these the Worksites, unless otherwise identified in Table 1.
- (b) The Contractor must Establish each Worksite for which it has Control to the extent required to undertake the Contractor's Activities.
- (c) The Contractor must Reinstate each Worksite, unless otherwise identified in Table 1.
- (d) For each Worksite the Contractor must comply with the general conditions of access and use below and the specific conditions of access and use identified in the Table 1:
  - (i) The removal of any trees is subject to the prior written approval of the Principal's Representative.
  - (ii) Vehicle access to and from the Worksite, including the location of all entrances, points of access, turning restrictions, slip lanes, traffic volumes and weight limits on local streets, hours of work and the like must comply with the Planning Approval, all other Authority Approvals, and the Traffic Management Plan required under SMR PA.
  - (iii) The site office facilities provided for the Principal must be provided when in accordance with the SWTC.
  - (iv) The Contractor must ensure that protection and reinstatement of the condition and features of the Worksite comply with the Planning Approval and all other Authority Approvals.
  - (v) The Contractor must comply with the conditions of all leases, licences and easements under which the Principal or any relevant Rail Transport Agency is entitled (as against the owner of a part of the Site) to have access to a part of the Site (including any Third Party Agreements).
- (e) The Contractor acknowledges that a Worksite may include vehicular driveways or access and egress points that are shared with property owners, their tenants and/or Other Contractors. The Contractor must not impede or interfere with the function and use of these driveways or access and egress points.
- (f) The Contractor acknowledges that a Worksite may extend across, over and under railways. The Contractor will not have exclusive use of these railways. The Contractor must coordinate its use of these railways with any relevant Rail Transport Agency and Other Contractors.
- (g) The Contractor acknowledges that in addition to the conditions of access and use stated in this Schedule E1, the conditions of access and use of various Worksite will be subject to the requirements specified in Schedule E3 and Schedule E4.

**Table 1. Worksite Access Dates and Conditions of Use**

Work site	Access Date	Conditions of Access and Use
A	15 March 2017	The Contractor must maintain the security of access to the Rail Corridor from this Worksite, including fencing along the boundary between this Worksite and Worksite B.
B	18 February 2017	<p>In relation to the access gate on the boundary between this Worksite and Worksite H:</p> <ul style="list-style-type: none"> <li>- access to the gate via Worksite H is subject to the requirements of Schedule E4 for the Draft Licence for Access with State Transit Authority; and</li> <li>- the Contractor must maintain security of the access gate to prevent unauthorised access to this Worksite B; and</li> <li>- the Contractor must establish with Sydney Trains protocols for maintaining security of the access gate (such as the use of dual locks for the gate), whilst ensuring access to Worksite B by Sydney Trains, NSW Trains, emergency services and authorised Other Contractors at all times.</li> </ul> <p>The Principal will obtain from Sydney Trains the necessary approvals (including infrastructure booking authority and track possession of all Railway Tracks in this Worksite B) to designate this Worksite as a construction site to allow placement of plant, equipment and structures on Railway Tracks within this Worksite.</p> <p>The Contractor is responsible for any design and physical works required to mitigate the risk of damage to existing infrastructure.</p> <p>For the period from 1 March 2017 to 31 December 2017, the Contractor must maintain clear at all times a vehicular access path, suitable for a 19 metre long rigid truck, from the access gate on the boundary between this Worksite and Worksite H through to the Lee Street substation worksite for use by Other Contractors.</p> <p>The Contractor must also maintain clear at all times a vehicular access path, suitable for a prime mover and Semi Trailer (19m), to access the goods line cutting (Power House Museum Siding) including sufficient room for reversing movements.</p> <p>The Contractor must maintain clear at all times a vehicular access path, suitable for a 19 metre long rigid truck, through this Worksite from the access gate on the boundary between</p>

Work site	Access Date	Conditions of Access and Use
		<p>this Worksite and Worksite H to the heavy load track crossing in Worksite C generally along the path marked on the Drawing) for use by Sydney Trains and Other Contractors.</p> <p>The Contractor must complete all of the Contractor's Activities on this Worksite by 30 March 2018.</p>
C	Refer to Schedule E1 Part 3.	<p>All access to this Worksite C is to subject to Track Possessions and the area of access will be altered by the configuration of the Track Possessions.</p> <p>The Contractor must Reinstate this Worksite at the end of each Track Possession.</p> <p>The Contractor must comply with Clause 10 "Working in and Adjacent to the Rail Corridor and Rail Environment" of the SMR PA and the Sydney Trains "Network Access Manual".</p> <p>The Contractor has Control of a specific area within the Worksite for each Track Possession, as agreed with Sydney Trains and the Principal prior to each Track Possession.</p> <p>The Contractor must provide a draft plan identifying the proposed area within the Worksite to be under Control of the Contractor for each Track Possession prior to the "Works Coordination Meeting" (12 weeks out from possession date), for coordination with Sydney Trains and Other Contractors. The final plan must be presented at the "Works Coordination Meeting" and Control will be provided to the Contractor by the Principal prior to each Track Possession.</p>
D	18 February 2017	<p>The Contractor must maintain clear at all times a vehicular access path, suitable for a 19 metre rigid truck, through this Worksite D from the heavy load track crossing in Worksite C to Worksite F (generally along the path marked on the Drawing) for use by Sydney Trains and Other Contractors.</p> <p>The boundary fencing installed by the Contractor for this Worksite must be modular with panels which can be easily repositioned to allow access for vehicles from the heavy load track crossings in Worksite C to Worksite F.</p>
E	1 May 2017	<p>The Contractor must complete all of the Contractor's Activities on this Worksite by 31 January 2018.</p>
F	18 February 2017	<p>This is a shared access and the Contractor must ensure safe vehicle and pedestrian access at all times.</p> <p>The Contractor must not park vehicles or use this Worksite for material and equipment storage or unloading.</p> <p>Vehicular access must be maintained at all time to the existing hi-rail access points.</p>

Work site	Access Date	Conditions of Access and Use
		<p>The fencing installed by the Contractor for this Worksite must be modular with panels which can be easily repositioned to allow access to the intercity Railway Tracks by Sydney Trains' maintenance vehicles.</p> <p>The Contractor must complete all of the Contractor's Activities on this Worksite by 30 March 2018.</p>
G	18 February 2017	<p>This is a shared access and the Contractor must only use this Worksite for vehicular access to Worksite F.</p> <p>Sydney Trains will control this Worksite during all weekend track possessions in Sydney Yard, excluding those that take possession of only Platform Roads 1 to 4.</p> <p>The Contractor must not park vehicles in this Worksite or use this Worksite for material and equipment storage or unloading.</p> <p>The maximum allowable vehicle load along this Worksite is 30 tonnes (gross). The maximum allowable vehicle height along this Worksite is 3.8 metres. The Contractor must ensure that vehicles maintain a safe working distance to the OHW or obtain a power isolation from Sydney Trains.</p> <p>The Principal will procure from Sydney Trains the infrastructure booking authority and track possession of the Railway Tracks in this Worksite for the benefit of the Contractor.</p> <p>The Contractor must obtain all other necessary approvals for this Worksite from Sydney Trains for vehicle access, including any electrical permits and power isolations, in accordance with Sydney Trains Network Rules and Network Procedures.</p> <p>The Contractor must install and maintain fencing for the duration of its occupation of this Worksite, in accordance with the SWTC, along the yellow line of platform 15 from the wall of the Central Station building to the southern end of the platform. The fencing must include a gate, in accordance with the SWTC, to allow deliveries to the station from the Eddy Avenue access ramp.</p> <p>The Contractor must provide security (including security personnel and a site access cabin) and access control to the Worksite, including to restrict the public's access to Worksite G through the Contractor installation of construction fencing and access gates.</p> <p>The Contractor must establish with Sydney Trains protocols for:</p>

Work site	Access Date	Conditions of Access and Use
		<ul style="list-style-type: none"> <li>ensuring access to Worksite G by Sydney Trains, NSW Trains, emergency services and authorised Other Contractors at all times;</li> <li>the Contractor to operate the vehicle arrestor on the ramp from Eddy Avenue;</li> <li>the Contractor to provide traffic management control at Eddy Avenue; and</li> <li>the Contractor's and Other Contractor's personnel to access the Worksite on foot.</li> </ul> <p>The Contractor will not have access to this Worksite for a duration of 72 hours which will occur between 1 November 2017 to 31 December 2017, as determined by Sydney Trains.</p> <p>The Contractor will not have access from Eddy Avenue to this Worksite over a period of 10 Business Days during Q4 2017 and Q1 2018, as directed by the Principal by giving 60 Business Days' written notice to the Contractor.</p> <p>The Contractor must complete all of the Contractor's Activities on this Worksite by 30 March 2018.</p>
H	1 March 2017	<p>Access to and the use of this Worksite is subject to the requirements of Schedule E4 for the Draft Licence for Access with State Transit Authority.</p> <p>The Contractor must complete all of the Contractor's Activities on this Worksite by 30 March 2018.</p>
I	1 May 2017	<p>The use of this Worksite will be by agreement with Sydney Trains. The Contractor must obtain all necessary approvals from Sydney Trains for access, including any power isolations.</p>
J	1 May 2017	<p>The use of this Worksite will be by agreement with Sydney Trains. The Contractor must obtain all necessary approvals from Sydney Trains for access.</p>
K	Date when it is possible to safely access the complete bridge deck without requiring a Track Possession	<p>Access to and the use of the Worksite is subject to the Contractor maintaining safe access and not undertaking any Contractor's Activities from this Worksite which would require a Track Possession to be performed safely.</p>

### Schedule E1 Part 3 - Track Possessions Schedule

(a) In this Schedule E1 Part 3:

**Configuration 3** means a Track Possession with power isolation of the Down Main, Up Main, Up Shunting Neck Tracks and Platform Road 1 to 4.

**Configuration 11 (Roads 1 to 5) (Yard Isolation)** means a Track Possession of the Down Main, Up Main, Up Shunting Neck, Up Suburban Yard from points 235A and Platform Road 1 to 6. The power isolation will be for the whole of Sydney Yard Terminal. Diesel trains will operate on the adjoining tracks of the Down Suburban Yard, Up Bankstown, Down Bankstown and Platform Roads 6 to 15.

**Configuration 11 (Roads 1 to 8)** means a Track Possession with power isolation of the Down Main, Up Main, Up Shunting Neck, Up Suburban Yard, Down Suburban Yard, and Platform Road 1 to 8.

**Configuration 11 (Roads 1 to 8) (Yard Isolation)** means a Track Possession of the Down Main, Up Main, Up Shunting Neck, Up Suburban Yard, Down Suburban Yard, and Platform Road 1 to 8. The power isolation will be for the whole of Sydney Yard Terminal. Diesel trains will operate on the adjoining tracks of the Up Bankstown, Down Bankstown and Platform Road 9 to 15.

**Configuration 11 (Roads 1 to 15) (Yard Isolation)** means a Track Possession of all Tracks in Sydney Yard Terminal. The power isolation will be for the whole of Sydney Yard Terminal.

**Configuration 11 (Roads 1 to 15) (Roads 9 to 15 Isolation)** means a Track Possession of all Tracks in Sydney Yard Terminal. The power isolation will be for Up Bankstown, Down Bankstown and Road 9 to 15.

**Configuration 11 (Roads 5 to 15)** means a Track Possession with power isolation of the Up Suburban Yard, Down Suburban Yard, Up Bankstown, Down Bankstown and Platform Road 5 to 15.

**Configuration 11 (Roads 6 to 15) (Yard Isolation)** means a Track Possession of the Up Bankstown, Down Bankstown and Platform Roads 6 to 15. The power isolation will be for the whole of Sydney Yard Terminal. Diesel trains will operate on the adjoining tracks of the Up Suburban Yard, Down Suburban Yard, Down Main Line, Up Main Line, Up Shunting Neck and Platform Road 1 to 5.

**Configuration 11 (Roads 9 to 15)** means a Track Possession with power isolation of the Up Bankstown, Down Bankstown and Platform Roads 9 to 15.

(b) The Track Possessions (with power isolations) in Table 2 will be procured by the Principal for the benefit of the Contractor to carry out the Contractor's Activities in accordance with Clause 7.10 of the General Conditions.

**Table 2 Track Possessions to be Procured by the Principal**

Start Date	Finish Date	Weekend	Possession Configuration
25/02/2017	26/02/2017	WE35	Configuration 11 (Roads 9 to 15)
02:00hrs 12/03/2017	02:00hrs 13/03/2017	WE37	Configuration 11 (Roads 6 to 15) (Yard Isolation)
01/04/2017	02/04/2017	WE40	Configuration 8 with suburban yard (Up Bankstown, Down Bankstown, Up Suburban, Down Suburban) No overnight all track possession
29/04/2017	30/04/2017	WE44	Configuration 3
26/08/2017	27/08/2017	WE09	Configuration 11 (Roads 1 to 8) (Yard Isolation)
02/09/2017	03/09/2017	WE10	Configuration 11 (Roads 1 to 5) (Yard Isolation) Except for the period from 22:00 Saturday to 06:00 on Sunday which will be a Configuration 11 (Roads 1 to 15) (Yard Isolation)
07/10/2017	08/10/2017	WE15	Configuration 3
14/10/2017	15/10/2017	WE16	Configuration 11 (Roads 9 to 15) Except for the period from 22:00 Saturday to 06:00 on Sunday which will be a Configuration 11 (Roads 1 to 15) (Roads 9 to 15 Isolation)
28/10/2017	29/10/2017	WE18	Configuration 11 (Roads 6 to 15) (Yard Isolation) Except for the period from 22:00 Saturday to 06:00 on Sunday which will be a Configuration 11 (Roads 1 to 15) (Yard Isolation)
13/01/2018	14/01/2018	WE29	Configuration 11 (Roads 1 to 8) (Yard Isolation) Except for the period from 22:00 Saturday to 06:00 on Sunday which will be a Configuration 11 (Roads 1 to 15) (Yard Isolation)
20/01/2018	21/01/2018	WE30	Configuration 11 (Roads 6 to 15) (Yard Isolation) Except for the period from 22:00 Saturday to 06:00 on Sunday which will be a Configuration 11 (Roads 1 to 15) (Yard Isolation)

Start Date	Finish Date	Weekend	Possession Configuration
17/03/2018	18/03/2018	WE38	Configuration 11 (Roads 6 to 15) (Yard Isolation) Except for the period from 22:00 Saturday to 06:00 on Sunday which will be a Configuration 11 (Roads 1 to 15) (Yard Isolation)
<b>Weeknight Track Possessions</b>			
Timing	Duration	Possession Configuration	
Two weeks of Monday, Tuesday, Wednesday and Thursday nights between WE02 and WE09 in 2017/2018, by agreement with Sydney Trains.	4 hours per night	Configuration 11 (Roads 5 to 15)	
One week of Monday, Tuesday, Wednesday and Thursday nights between WE02 and WE09 in 2017/2018, by agreement with Sydney Trains.	4 hours per night	Configuration 11 (Roads 1 to 8)	

- (c) In the case of the weekend Track Possessions set out in Table 2 above, periods of approximately four hours at the beginning, and at the end, of each weekend Track Possession are to be provided for by the Contractor for the arrangement and coordination of safe working procedures and power isolations of overhead or transmission lines.
- (d) The Contractor must pay the Principal the relevant amount from Table 3 below in respect of each Additional Track Possession or Power Isolation in accordance with Clause 7.10 of the General Conditions.

**Table 3 Additional Track Possessions or Power Isolation Amounts**

Type of <i>Additional Track Possession or Power Isolation</i>	Approximate Period	Amount to be paid to the Principal
For each of the configurations identified in Schedule E1 Part 3(a)	02:00 Saturday to 02:00 Monday	\$300,000
Weeknight track possession with power isolation	Not available	Not applicable
Weekend power isolations	Not available	Not applicable



**Schedule E2.**      **Not used**

**Schedule E3. Project Planning Approval and Conditions**

(Clauses 1.1, 2.3(c))

The Planning Approval has been obtained by the Principal.

Insofar as they are applicable to the Works or the Contractor’s Activities, the Contractor must fulfil all the conditions and requirements of the Planning Approval, as if it were the Principal, except to the extent that the following tables identify the Principal will retain these obligations. The Principal will fulfil all the conditions and requirements of the Planning Approval as they relate to works other than the Works or the Contractor’s Activities. Nothing specified as being a responsibility of the Principal will relieve the Contractor from complying with any obligation set out elsewhere in the Contract. The Contractor may apply to have any part of any of the Approvals or Mitigation Measures modified. The Contractor acknowledges and agrees that it is solely responsible for any such modification.

**Part A - Planning Approval (based upon Conditions of Approval dated 9 January 2017)**

**Table 1 - Obligations to comply with Conditions of Approval (dated 9 January 2017) retained by the Principal**

A capitalised term in the table below has the meaning attributed to that term in the Conditions of Approval.

Condition Number	Obligation of the Conditions of Approval retained by the Principal
A2	The Principal will implement the mitigation measures to the extent set out in Table 2 below.
A9	The Contractor must undertake all activities necessary to comply with this condition (except submission to the Secretary) and provide the information to the Principal.  The Principal will submit the information provided by the Contractor, to the Secretary.
A10	The Principal will comply with this condition.
A12	The Principal will comply with this condition.
A13	The Principal will comply with this condition.
A14	The Principal will comply with this condition.
A17	The Contractor must undertake all activities necessary to comply with this condition (except submission to the Secretary) and provide the information to the Principal.  The Principal will submit the information provided by the Contractor, to the Secretary.

Condition Number	Obligation of the Conditions of Approval retained by the Principal
A22	The Principal will engage, nominate, and seek approval from the Secretary of a suitably qualified and experienced ER. The Principal will be the single point of contact with the Secretary and provide the Contractor with the date the submission for approval is made, or any other timeframe relevant to this condition.
A23	The Principal will notify the Contractor when the approval of the Secretary is given.
A25	The Principal will engage, nominate, and seek approval from the Secretary of a suitably qualified and experienced AA. The Principal will be the single point of contact with the Secretary and provide the Contractor with the date the submission for approval is made, or any other timeframe relevant to this condition.
A26	The Principal will notify the Contractor when the approval of the Secretary is given.
A28	The Principal will comply with this condition.
A29	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
A30	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
A31	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
A32	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
A33	The Principal will notify the Contractor of the Pre-Construction Compliance Report approval once it is received from the Secretary.

Condition Number	Obligation of the Conditions of Approval retained by the Principal
A34	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
A35	The Principal will comply with this condition.
A36	The Principal will comply with this condition.
A37	The Principal will comply with this condition.
A38	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
A39	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
A40	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
A41	The Principal will comply with this condition, relying on information in respect of Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
A42	The Principal will comply with this condition, relying on information in respect of Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
A43	The Principal will be the single point of contact with the Secretary.

Condition Number	Obligation of the Conditions of Approval retained by the Principal
A44	The Principal will comply with this condition, relying on information in respect of Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
B1	The Principal will comply with this condition.
B2	The Principal will comply with this condition.
B3	The Principal will comply with this condition.
B4	The Principal will notify the Contractor of the Community Communication Strategy approval once it is received from the Secretary.
B5	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
B6	The Principal will comply with this condition.
B7	The Principal will comply with this condition, relying on information in respect of Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
B8	The Principal will comply with this condition.
B9	The Principal will comply with this condition.
B10	The Principal will comply with this condition.
B11	The Principal will comply with this condition.
B14	The Principal will provide an initial response to a complaint, relying on information in respect of Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to provide an initial response.
B15	The Principal will comply with this condition in relation to B15 (a), (b), and (c).

Condition Number	Obligation of the Conditions of Approval retained by the Principal
C3	The Principal will comply with this condition in relation to any sub plans not identified as applicable in the SMR E.
C6	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
C7	The Principal will submit the endorsed CEMP to Secretary. The Contractor must provide a copy of the CEMP, including the ER's endorsement, to the Principal in a timely manner to enable submission to the Secretary.
C8	The Principal will notify the Contractor when the approval of the Secretary is given.
C9	The Principal will comply with this condition.
C11	The Principal will comply with this condition, except that the Contractor will undertake monitoring on the Site, and provide access for the Department and EPA to the real time on-site monitoring data.
C13	The Principal will submit the endorsed Construction Monitoring Programs to the Secretary.
C14	The Principal will notify the Contractor when the approval of the Secretary is given.
C16	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
D1	The Principal will comply with this condition.
D2	The Principal will comply with this condition.
D3	The Principal will comply with this condition.
D4	The Principal will comply with this condition.
D5	The Principal will comply with this condition.
D6	The Principal will comply with this condition.

Condition Number	Obligation of the Conditions of Approval retained by the Principal
D7	The Principal will comply with this condition.
D8	The Principal will comply with this condition.
D9	The Principal will comply with this condition.
D10	The Principal will comply with this condition.
D11	The Principal will comply with this condition.
D12	The Principal will comply with this condition.
D13	The Principal will comply with this condition.
D14	The Principal will comply with this condition.
E1	The Principal will comply with this condition.
E6	The Principal will submit the Tree Report to the Secretary.
E8	The Principal will comply with this condition in respect of flooding impact outside of the Site. The Contractor must provide detailed design calculations and other data if requested by the Principal.
E9	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
E13	The Principal will comply with this condition, relying on information (prepared in order to comply with the Contract) in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
E14	The Principal will comply with this condition. The Contractor must provide safe access reasonably required to enable compliance with this condition.
E15	The Principal will, in conjunction with the Heritage Division and local councils, identify which items are to be salvaged and suitable repository locations. The Principal will advise the Contractor of items to be salvaged, by the Contractor and the location where salvaged items are to be delivered by the Contractor, at the Principal's cost.

Condition Number	Obligation of the Conditions of Approval retained by the Principal
E16	The Principal will comply with this condition, relying on information (prepared in order to comply with the Contract) in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
E17	The Principal will comply with this condition, relying on information (prepared in order to comply with the Contract) in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
E19	The Principal will prepare the Unexpected Heritage Finds Procedure using a suitably qualified and experienced heritage specialist, and include this procedure in the ARD.
E20	The Contractor must notify the Principal immediately that Relic is discovered and must cease work in the affected area until the Principal notifies the Contractor that work may recommence. The Principal will comply with this condition in all other respects.
E21	The Principal will comply with this condition.
E24	The Principal will be responsible for costs incurred for salvage of previously unknown Aboriginal items.
E27	The Principal will comply with this condition.
E29	The Principal will comply with this condition in relation to any notifications, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
E32	The Principal will comply with this condition.
E34	The Contractor must comply with all requirements set out in the contract in regard to noise mitigation / hours of working etc. The Principal will be responsible for the cost impact of 'other reasonable requirements' resulting from noise generating works in the vicinity of affected communities.
E41	The Contractor must comply with all requirements set out in the Contract in regard to noise mitigation / hours of working etc. The Principal will be responsible for the cost impact of 'other reasonable requirements' resulting from noise generating works in the vicinity of affected communities.

Condition Number	Obligation of the Conditions of Approval retained by the Principal
E42	The Contractor must comply with all requirements set out in the contract in regard to noise mitigation / hours of working etc. The Principal will be responsible for the cost impact of 'other additional mitigation' resulting from noise generating works in the vicinity of affected receivers.
E47	The Principal will submit the out of hours work (OOHW) protocol for approval to the Secretary, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
E62	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
E63	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
E64	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
E67	The Principal will comply with this condition except that the Contractor must engage Site Auditor services to provide a Site Audit Statement and Site Audit Report required to comply with the condition.
E68	The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.
E71	The Principal will comply with this condition and requires the Contractor to comply with the TfNSW sustainability guidelines
E72	The Principal will comply with this condition.
E73	The Principal will comply with this condition.
E74	The Principal will comply with this condition.

Condition Number	Obligation of the Conditions of Approval retained by the Principal
E77	The Principal will comply with this condition.
E78	The Principal will comply with this condition.
E81	<p>The Principal will comply with this condition.</p> <p>The Principal will notify the Contractor of the CTMF approval once it is received from the Secretary, and provide a copy of the approved CTMF to the Contractor.</p>
E84	The Principal will comply with this condition.
E87	<p>The Principal will comply with this condition, relying on information in respect of the Works and the Contractor's Activities provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this condition.</p>
E89	The Principal will comply with this condition.
E90	<p>The Principal will comply with this condition except the Contractor must undertake road dilapidation surveys, limited to the immediate vicinity of the construction works and access points as follows:</p> <ul style="list-style-type: none"> <li>- Regent Street from intersection with Cleveland Street to Wellington Street</li> <li>- Regent Street at the entrance and exit to the bus layover</li> <li>- the entrance to Sydney Yard from Eddy Avenue. Location to be restricted to the bus and taxi lanes at the entrance only</li> <li>- the full access road from Eddy avenue and platform 15 including road surface, edge of platform, barriers, overhead signs etc</li> </ul>
E97	The Principal will comply with this condition.
E98	The Principal will comply with this condition.
E100	The Principal will comply with this condition.

**Part B - Mitigation Measures**

**Table 2 - Extent of Principal's responsibility for implementation of the Mitigation Measures**

Mitigation Measure Number	Extent of Principal's responsibility for implementation of the Mitigation Measure
T5	The Principal will implement this measure.
T7	The Principal will retain all obligations in relation implementation of Items 2 and 3 of this measure. The Contractor must assist with and attend community education events as required.
T11	The Principal will coordinate with the CBD Coordination Office (for relevant locations), Roads and Maritime Services and the organisers of each special event to develop specific traffic measures for the special events. The Principal will advise the Contractor of the specific traffic measures to be implemented in each case by the Contractor.
T22	Note: The Contractor is to comply with this condition noting that the only affected footpath is on Regent Street. As this is removed as part of the permanent works no condition survey is required prior to removal. The Contractor will consult with the relevant council in relation to any requirement for temporary walking / cycling routes.
NV6	The Principal will engage an Independent Acoustic Advisor.
BI1	The Principal will implement this measure.
BI2	The Principal will implement this measure.
NAH1	The Principal will comply with this condition.
NAH3	The Principal will comply with this condition except with regard to the implementation of the policy.
NAH6	The Principal will implement this measure.
NAH9	The Principal will implement this measure.
GWG1	The Principal will implement this measure.
B2	The Principal will implement this measure.
CU1	The Principal will implement this measure.

## Schedule E4. Requirements of Third Party Agreements

(Clauses 1.1 and 2.11)

### Schedule E4 Part 1

#### No limitation on Contract

1. Nothing in this Schedule E4 limits the Principal's rights or affects the Contractor's obligations under any clause of this Contract.

### Schedule E4 Part 2

#### 2. Third Party Agreements

- (a) The Contractor acknowledges that the Principal has entered into the following Third Party Agreements:

- (i) Global Safety Interface Agreement dated 28 June 2013 with Sydney Trains (**Global Safety Interface Agreement**);
- (ii) Licence for Access with State Transit Authority of NSW dated 23 December 2016 (**Licence for Access with STA**),

- (b) together referred to in this Schedule E4 as the **Third Party Agreements**. The Contractor acknowledges and agrees that each Third Party Agreement referred to in this Schedule E4 is set out in Schedule E5. The Contractor acknowledges that the Principal will enter into agreements on the terms of the following Draft Third Party Agreements:

- (i) Adjoining Owner Deed with Monsgrove Developers Pty Limited;
- (ii) Works Authorisation Deed - Sydney Metro City & Southwest with Roads and Maritime Services,

together referred to in this Schedule E4 as the **Draft Third Party Agreements**. The Contractor acknowledges and agrees that each Draft Third Party Agreement referred to in this Schedule E4 is set out in Schedule E5.

- (c) The Contractor:

- (i) must, in performing the Contractor's Activities comply with, satisfy, carry out and fulfil all of the obligations, conditions and requirements of the Third Party Agreements and Draft Third Party Agreements as if it were named as the Principal in the Third Party Agreements and Draft Third Party Agreements so as to ensure that the Principal is able to fully meet its obligations under the Third Party Agreements and Draft Third Party Agreements or otherwise at law except to the extent that the tables below, for each Third Party Agreement or Draft Third Party Agreement:
  - A. provide that the Principal will comply with, satisfy, carry out and fulfil an obligation, condition or requirement; or

- B. limit the Contractor's obligation in respect of that obligation, condition or requirement; and
  - (ii) must comply with and fulfil any conditions, obligations or requirements allocated to the Contractor in this Schedule E4 that are additional to or more stringent or onerous than the conditions and requirements described in section 2(c)(i) of this Schedule E4;
  - (iii) must assist the Principal in any way that the Principal reasonably requires to enable the Principal to perform the obligations identified for the Principal to perform in the tables below; and
  - (iv) may not exercise any of the Principal's discretions or rights under any Third Party Agreement or Draft Third Party Agreement unless agreed by the Principal in writing.
- (d) Where a Third Party Agreement or Draft Third Party Agreement provides for the Principal to provide a document, notice or information to a Third Party, the Contractor:
  - (i) must subject to clause 2(i), not provide any such document, notice or information directly to the Third Party; and
  - (ii) must provide such document, notice or information to the Principal within a reasonable time sufficient for the Principal to review and comment on the document, notice or information and provide it to the Third Party within the time period required by the Third Party Agreement or Draft Third Party Agreement.
- (e) The Contractor must, in carrying out the Contractor's Activities:
  - (i) comply with any reasonable directions of the Principal's Representative in relation to compliance with the conditions and requirements of the Third Party Agreement or Draft Third Party Agreement or other requirements of the Third Party;
  - (ii) ensure that no act or omission of the Contractor constitutes, causes or contributes to any breach by the Principal of its obligations to a Third Party under a Third Party Agreement or Draft Third Party Agreement or otherwise at law; and
  - (iii) otherwise act consistently with the terms of the Third Party Agreement or Draft Third Party Agreement.
- (f) Whenever, pursuant to the terms of a Third Party Agreement or Draft Third Party Agreement, the Principal makes an acknowledgment or gives a release or warranty, indemnity, or covenant to a Third Party then, subject to what is provided in this Schedule E4 and the other terms of this Contract, the Contractor is deemed to make the same acknowledgement or give the same release or warranty, indemnity, or covenant to the Principal on the same terms and conditions as the acknowledgement, release or warranty, indemnity, or covenant made or given by the Principal under the Third Party Agreement or Draft Third Party Agreement in

the same way as if the relevant terms of the acknowledgement, release or warranty, indemnity or covenant were set out in full in this Contract.

- (g) The Contractor acknowledges that to the extent that a Third Party Agreement or Draft Third Party Agreement contains a provision pursuant to which the relevant Third Party is stated to make no representation as to a state of affairs, the Contractor agrees that the Principal similarly makes no representation to the Contractor in respect of that state of affairs in the same way as if the relevant terms of the Third Party Agreement or Draft Third Party Agreement were set out fully in this Contract.
- (h) Nothing in the Third Party Agreements, Draft Third Party Agreements or this Schedule E4 limits the Principal's rights or the Contractor's obligations in relation to Completion or the rectification of Defects under this Contract.
- (i) When the Contractor is obliged to provide a notice in accordance with clause 3.4 of the Global Safety Interface Agreement, the Contractor must:
  - (i) provide the notice direct to Sydney Trains; and
  - (ii) provide a copy to the Principal.

### Third Party Agreements

#### Global Safety Interface Agreement (Attachment 1 to Schedule E5)

Clause No	Extent of Principal's responsibility for clause specified
2(b)	All.
3.1(a)	All.
3.1(c)	The Principal will be responsible for the obligations under this clause, provided that the Contractor must provide a representative to attend any joint risk workshops if required by the Principal.
3.1(e)	All.
3.2(a)(i)	All.
3.3(a)	All.
3.3(b)	All.
3.5	All.

4(a)	The Principal will be responsible for the obligations under this clause only to the extent that they relate to infrastructure or land other than: (i) the Site and any other areas affected by the Contractor's Activities; (ii) the Works and the Temporary Works; or (iii) any other place where any part of the Contractor's Activities is being carried out (including Extra Land).
4(b)	All.
5(a)	All.
5(b)	The Principal will be responsible for complying with all of the obligations under this clause, except to the extent that the Contractor must provide all documents, assistance and cooperation reasonably requested by the Principal (and in the time requested by the Principal) in connection with an Issue under this clause.
6.2	The Principal's obligations under this clause are limited to the extent that they relate to the obligations retained by the Principal under this Schedule E4.
6.5	All.

**Licence for Access with STA (Attachment 2 to Schedule E5)**

Condition No	Extent of Principal's responsibility for condition specified
Licence Fee	All.
Legal Costs	All.
The Works	The Principal's obligations under this condition will be to obtain the written consent of the Licensor for any extension to the Termination Date, to the extent that the Contractor is entitled to an extension of time under clause 10.6 of the General Conditions.
Special Condition 7(a)	The Principal obligations under this condition are limited to submitting the traffic management plan to STA only.
Special Condition 7(e)	The Principal's obligations under this condition are limited to submitting the traffic management plan to STA only.

**Draft Third Party Agreements**

**Draft Adjoining Owner Deed with Monsgrove Developers Pty Limited (Attachment 3 to Schedule E5)**

Clause No	Extent of Principal's responsibility for clause specified
Clause 7.3	All.
Clause 16	The Principal will be responsible for complying with all of the obligations under this clause, except to the extent that the Contractor must provide all documents, assistance and cooperation reasonably requested by the Principal (and in the time requested by the Principal) in connection with a dispute under this clause.
Clause 19	All.
Clause 21	All.
Clause 23.1	The Principal's obligations under this clause are limited to the extent that they relate to payment of the Licence Fees.

**Draft Works Authorisation Deed - Sydney Metro City & Southwest with Roads and Maritime Services (Attachment 4 to Schedule E5)**

Clause No	Extent of Principal's responsibility for clause specified
3	All.
4.2	All.
4.4(b)	All, relying on information provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this clause.
7.2	The Principal's obligations under this clause are limited to obtaining the Planning Approval.
8	The Principal's obligations under this clause are limited to the extent that the Principal retains responsibility for obligations under the Works Authorisation Deed as specified in this table.
13.3(a)	The Principal's obligations under this clause are limited to effecting, maintaining, and providing evidence of currency of those insurances that it is required to effect under the Contract (excluding the Works Authorisation Deed).
13.3(b)	The Principal's obligations under this clause are limited to obtaining the Planning Approval.

Clause No	Extent of Principal's responsibility for clause specified
17.1(b)	All, relying on information provided by the Contractor to the Principal. The Contractor must provide adequate information in a timely manner to enable the Principal to comply with this clause.
18.8	All.
19.3	All.
21.4	All, in relation to the use of the SYAB after Completion.
26	The Principal's obligations under this clause are limited to effecting, maintaining, and providing evidence of currency of those insurances that it is required to effect under the Contract (excluding the Works Authorisation Deed).
27.1	All.
27.2(a)	All, in relation to actions of the Principal.
29	The Principal will be responsible for complying with all of the obligations under this clause, except the Contractor must provide all documents, assistance and cooperation reasonably requested by the Principal (and in the time requested by the Principal) in connection with a dispute under this clause.
30.2 and 30.3	All.
31.1(a)	All. The Principal will notify the Contractor of relevant details.
32	All.
34.1	All.
35.7	All.
36	All.



## Schedule E5. Third Party Agreements

(Clauses 1.1, 2.11)

**Attachment 1 to Schedule E5 - Global Safety Interface Agreement with Sydney Trains**















































































**Attachment 2 to Schedule E5 - Licence for Access with State Transit Authority of NSW**



















**Attachment 3 to Schedule E5 - Draft Adjoining Owner Deed with Monsgrove  
Developers Pty Limited**



Transport  
for NSW



# Adjoining Owner Deed

Transport for NSW

ABN 18 804 239 602

and

Monsgrove Developers Pty Ltd

ABN 37 002 766 065

66-70 Regent Street, Chippendale NSW 2008

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**Annexure**

A	Not Used
B	Deed of Covenant
C	Adjoining Owner Deed
D	Not Used

**THIS DEED** is made on

**BETWEEN:**

- (1) **Transport for NSW** ABN 18 804 239 602 (**TfNSW**); and
- (2) **Monsgrove Developers Pty Ltd** ABN 37 002 766 065 (the **Owner**).

**RECITALS:**

- (A) TfNSW is the registered proprietor of the Works Site and proposes to carry out the Works at the Works Site for the purposes of the Sydney Metro City & Southwest project (**Project**).
- (B) The Owner is the registered proprietor of the Adjoining Land.
- (C) TfNSW has requested and the Owner has consented to TfNSW accessing and encroaching on the Adjoining Land for the purposes of the Works on the terms set out in this deed.
- (D) TfNSW has agreed to pay to the Owner the Licence Fee for the rights to access and encroach on the Adjoining Land in accordance with the terms of this deed.

**THE PARTIES AGREE AS FOLLOWS:**

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this deed.

**Access Licence Fee** means the fee payable in respect of the rights granted under clause 2.1 being the amount specified in Item 4 of the Contract Particulars.

**Access Period** means the period of the licence granted under clause 2.1 as specified in Item 3 of the Contract Particulars, commencing on the date specified in the Notice given in respect of the licence under clause 2.1.

**Additional Access Licence Fee** means the additional licence fee payable in respect of any extension of the Access Period under clause 7.4(a) in the amount specified in Item 5 of the Contract Particulars.

**Additional Demolition and Construction Licence Fee** means the additional licence fee payable in respect of any extension of the Demolition and Construction Period under clause 7.4(a) in the amount specified in Item 17 of the Contract Particulars.

**Additional Licence Fee** means, as applicable, each of the following:

- (a) the Additional Access Licence Fee;
- (b) the Additional Demolition and Construction Licence Fee; and
- (c) the Additional Scaffolding Zone Licence Zone.

**Additional Scaffolding Zone Licence Fee** means the additional licence fee payable in respect of any extension of the Scaffolding Zone Period under clause 7.4(a) in the amount specified in Item 14 of the Contract Particulars.

**Adjoining Land** means the land specified in Item 2 of the Contract Particulars and, where the context requires, includes the Building.

**Authority** means any:

- (a) government, government department or government agency;
- (b) governmental, semi-governmental or judicial person; or
- (c) other person (whether autonomous or not) who is charged with the administration of a law.

**Building** means the building and other structures (or any part of the building or other structures) on the Adjoining Land from time to time.

**Business Day** means any day other than a Saturday, Sunday, public holiday in New South Wales or 27, 28, 29, 30 or 31 December.

**Contract Particulars** means Schedule 1 of this deed.

**Demolition and Construction Licence Fee** means the fee payable in respect of the rights granted under clause 6.1 being the amount specified in Item 16 of the Contract Particulars.

**Demolition and Construction Period** means the period of the licence granted under clause 6.1 as specified in Item 15 of the Contract Particulars, commencing on the date specified in the Notice given in respect of the licence under clause 6.1.

**Demolition and Construction Works** means the demolition, tunnelling, excavation, construction and other ancillary works as identified in the Project Approval.

**Dispute** means any dispute, disagreement, difference of opinion or conflict between the parties arising out of, or in connection with, this deed, except for those clauses of this deed which are expressly excluded from the operation of clause 16.

**Good Design and Construction Practice** means practices followed when works are undertaken:

- (a) with due care and skill and applying professional standards in accordance with all laws, approvals, NSW Government policies, codes and guidelines in respect of building design, engineering and construction practices;
- (b) with due expedition and without unnecessary and unreasonable delays;
- (c) in accordance with all laws; and
- (d) using materials of merchantable quality which are fit for their intended purpose.

**GST** means the same as "GST" means in the GST Law.

**GST Law** means the same as "GST law" means in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Impact** means noise, dust, vibration, obstruction or contamination affecting the Adjoining Land or the Building caused by the carrying out of the Works beyond the permitted standards, limits and procedures applicable under the Project Approvals.

**Law** means Commonwealth, New South Wales or local government legislation, including ordinances, instruments, codes of practice, policy and statutory guidance (but excluding the Building Code 2013 issued under subsection 27(1) of the *Fair Work (Building Industry) Act 2012* (Cth), or any subsequent code of practice which takes effect and supersedes the

Building Code 2013, any other building codes or Standards Australia codes), requirements, regulations, by-laws and other subordinate legislation.

**Licence Fee** means, as applicable, each of the following:

- (a) Access Licence Fee;
- (b) Demolition and Construction Licence Fee; and
- (c) Scaffolding Zone Licence Fee.

**Licence Period** means, as applicable, each of the following:

- (a) Access Period;
- (b) Demolition and Construction Period;
- (c) Scaffolding Zone Period.

**Maximum Owner's Consultants Fees** means the amount specified in Item 20 of the Contract Particulars.

**Notice** means the notice issued in accordance with clause 10.

**Occupier** means any person who is legally entitled and authorised to occupy any part of the Building.

**Owner's Consultant** means:

- (a) the Owner's Representative, in carrying out its functions under this deed; and
- (b) geotechnical, structural or other relevant specialist engaged by the Owner to review reports and materials provided by TfNSW to the Owner and, where relevant, assess any Impacts and advise the Owner in relation to such assessment, to the extent that such reports, materials and Impacts are relevant to the Building.

**Owner's Representative** means the person appointed by the Owner from time to time pursuant to this deed to liaise with TfNSW.

**Project Approval** means the project approval to be issued by the Minister for Planning subsequent to the date of this deed authorising, amongst other things, the demolition of the existing building at the Works Site, the tunnelling and station excavation works within the Works Site and any subsequent construction and other ancillary works.

**Scaffolding** means a temporary structure (including access platforms, working platforms, catch platforms, landing platforms, chainmesh and shade cloth mesh) incorporating elements of scaffolding systems as detailed using the principles of engineering design supported on:

- (a) the ground;
- (b) a class B hoarding structure;
- (c) a cantilevered support structure;
- (d) adjacent property roof structure(s); or
- (e) any combination of the above,

as may be applicable, and braced as required using scaffold ties, anchorages and components as determined by principles of engineering design.

**Scaffolding Zone** means the zone on the Adjoining Land:

- (a) immediately adjacent to or in front of the Building;
- (b) above the Building; or
- (c) any combination of the above two locations,

within a distance of 2 metres from the boundary of the Works Site.

**Scaffolding Zone Licence Fee** means the fee payable in respect of the rights granted under clause 5.1 being the amount specified in Item 13 of the Contract Particulars.

**Scaffolding Zone Period** means the period of the licence granted under clause 5.1 as specified in Item 12 of the Contract Particulars, commencing on the date specified in the Notice given in respect of the licence under clause 5.1.

**TfNSW's Agents** means every agent, employee, contractor (and each of their subcontractors at any level) and consultant of TfNSW.

**TfNSW's Representative** means the person appointed by TfNSW from time to time pursuant to this deed to liaise with the Owner's Representative.

**Works** means the works to be carried out by TfNSW and TfNSW's Agents on the Works Site in accordance with the Project Approval.

**Works Site** means the land specified in Item 1 of the Contract Particulars.

## 1.2 **Rules for interpreting this deed**

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this deed, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document (including this deed) or agreement, or a provision of a document (including this deed) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iii) a party to this deed or to any other document or agreement includes a successor in title, permitted substitute or a permitted assignee of that party;
  - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
  - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.

- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) A reference to information is to information of any kind in any form or medium, whether formal or informal, written or unwritten, for example, computer software or programs, concepts, data, drawings, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets.
- (g) The word agreement includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (h) Words and terms defined in the GST Law have the same meaning in clauses concerning GST.
- (i) On the basis that TfNSW is notionally liable to pay GST under the GST Law, a reference in this deed to a liability to pay GST or an entitlement to an input tax credit includes any notional GST liability or input tax credit entitlement.
- (j) If a person is a member of a GST group, references to GST which the person must pay and to input tax credits to which the person is entitled to claim include GST which the representative member of the GST group of which the party is a member must pay and input tax credits to which the representative member is entitled.

### 1.3 **Non Business Days**

If the day on or by which a party must do something under this deed is not a Business Day, the party must do it on the next Business Day.

### 1.4 **The rule about "contra proferentem"**

This deed is not to be interpreted against the interests of a party merely because that party proposed this deed or some provision of it or because that party relies on a provision of this deed to protect itself.

## 2. **ACCESS LICENCE**

### 2.1 **Licence**

The Owner grants to TfNSW and TfNSW's Agents a non-exclusive licence during the Access Period to access the Adjoining Land for the purpose of undertaking site surveys, site investigations and due diligence enquiries.

### 3. **NOT USED**

### 4. **NOT USED**

## 5. **SCAFFOLDING ZONE LICENCE**

### 5.1 **Licence**

The Owner grants to TfNSW and TfNSW's Agents a non-exclusive licence to access and encroach the Scaffolding Zone during the Scaffolding Zone Period for the purpose of installing and maintaining the Scaffolding.

### 5.2 **TfNSW's obligations**

Without limiting clause 7, in exercising its rights under clause 5.1, TfNSW must:

- (a) prior to any encroachment in the Scaffolding Zone or the erection of any Scaffolding in or on the Scaffolding Zone, provide the Owner with details of the extent of the Scaffolding, including access paths through and around the Scaffolding where there may be an impact on the access to the Adjoining Land;
- (b) ensure that the Scaffolding is maintained in good repair and in a safe condition;
- (c) not use the Scaffolding Zone for any purpose other than in accordance with the licence granted under this clause 5;
- (d) maintain adequate safety arrangements in respect of the Scaffolding Zone to:
  - (i) mitigate risk of harm to members of the public caused by the activities of TfNSW; and
  - (ii) maintain adequate safety arrangements in respect of the Scaffolding Zone to secure the Building from being accessed from any part of the Scaffolding; and
- (e) remove the Scaffolding as soon as reasonably practicable, once it is no longer required.

### **5.3 Permitted extension of Scaffolding Zone**

If, due to TfNSW's obligations under clauses 5.2(d) and 7.1(c)(i), TfNSW is required to increase the Scaffolding Zone, then TfNSW may, by written notice to the Owner, seek the Owner's approval for an expansion of the area of Scaffolding Zone. In such circumstances, the Owner must not unreasonably withhold or delay its consent.

## **6. FURTHER ACCESS AND ENCROACHMENT**

### **6.1 Licence**

Subject to clauses 2 to 5 (inclusive), the Owner grants to TfNSW and TfNSW's Agents a non-exclusive licence to access and encroach on the Adjoining Land during the Demolition and Construction Period for the following purposes:

- (a) to carry out the Demolition and Construction Works on the Works Site;
- (b) carry out works to protect existing services located in, on, under and attached to the Adjoining Land;
- (c) install, remove or relocate utility services; and
- (d) rectify any defects to the Demolition and Construction Works.

### **6.2 TfNSW's obligations**

Without limiting clause 7, in exercising its rights under clause 6.1, TfNSW must:

- (a) prior to accessing or encroaching on the Adjoining Land, provide the Owner with no less than 5 Business Days' prior written notice of the details and extent of the access or encroachment, frequency of the access or encroachment and estimated duration of the access or encroachment; and
- (b) prior to and as a precondition of any access or encroachment on the Adjoining Land, obtain the Owner's written consent to proceed with the access or

encroachment detailed in the information provided under paragraph (a), which consent shall not unreasonably be withheld or delayed.

## **7. TfNSW'S OBLIGATIONS**

### **7.1 Exercise of licence rights**

In exercising its rights under clauses 2.1, 5.1 and 6.1 (as applicable), TfNSW must:

- (a) obtain all relevant approvals from any Authority (to the extent required);
- (b) make good any damage to the Adjoining Land caused by TfNSW or TfNSW's Agents; and
- (c) carry out all works:
  - (i) in a proper and workmanlike manner and in accordance with Good Design and Construction Practice; and
  - (ii) so as to cause as little inconvenience as is reasonably practicable to the Owner and any Occupier.

### **7.2 TfNSW acknowledgments**

If rights of access or encroachment have been granted to TfNSW under this deed, TfNSW acknowledges and agrees that:

- (a) it will take all necessary steps to minimise any adverse interference to the Owner and the Occupier and to any activities being carried out on the Adjoining Land by or on behalf of the Owner or the Occupiers;
- (b) when providing information to the Owner under clauses 5.2(a) and 6.2(a) (as applicable), TfNSW will also provide any further or additional information reasonably requested by the Owner;
- (c) it will comply with the Owner's reasonable requirements and instructions relating to such access and encroachment;
- (d) it will comply with all relevant Law and the Planning Approval relating to such access and encroachment; and
- (e) it will make good any damage to the Adjoining Land caused by TfNSW and TfNSW's Agents.

### **7.3 Licence Fees**

- (a) In consideration of the granting of the rights under clauses 2.1, 5.1 and 6.1 (as applicable), TfNSW agrees to pay to the Owner each applicable Licence Fee for the duration of each relevant Licence Period.
- (b) TfNSW must pay each Licence Fee by electronic transfer to a bank account nominated by the Owner no later than 15 Business Days after the later of:
  - (i) TfNSW giving a Notice in accordance with clause 11.1(a) in respect of the licence to which the Licence Fee relates; and
  - (ii) the date on which the Owner issues a valid tax invoice to TfNSW in respect of the licence to which the Licence Fee relates.

#### 7.4 **Adjustment of Licence Period**

- (a) TfNSW may, by written notice (**Licence Period Adjustment Notice**) to the Owner prior to the end of a Licence Period, extend that Licence Period.
- (b) TfNSW may serve more than one Licence Period Adjustment Notice in respect of any Licence Period during the term of this deed, if required.
- (c) If TfNSW serves a Licence Period Adjustment Notice, TfNSW must, in that notice, specify the Licence Period which is being extended and the period of such extension.

#### 7.5 **Adjustment of Licence Fee if Licence Period is extended**

- (a) If a Licence Period is extended by TfNSW under clause 7.4(a), TfNSW must, upon being invoiced by the Owner, pay to the Owner the applicable Additional Licence Fee for the duration of the extended Licence Period.
- (b) The Owner may invoice TfNSW in respect of the Additional Licence Fee at the end of each one month period during the extended Licence Period and TfNSW must pay that Additional Licence Fee within 20 Business Days of the Owner's invoice. If the final invoice period of the extended Licence Period is less than one month, the Owner may issue an invoice for the applicable number of weeks or part thereof at the end of that period.

### 8. **TFNSW'S RIGHT TO SUBLICENCE AND SUBCONTRACT**

#### 8.1 **Right to sublicence**

- (a) The Owner agrees that the licences granted to TfNSW under clauses 2 to 6 (inclusive) include the right of TfNSW to sublicence to any of TfNSW's Agents.
- (b) Any sublicence will be granted on a royalty free basis.
- (c) Notwithstanding paragraph (a), the grant of any such sublicence shall not relieve TfNSW of any of its obligations under this deed.

#### 8.2 **Right to subcontract**

TfNSW:

- (a) intends to engage one or more third parties to undertake and deliver the Project, or parts of the Project, including the Works;
- (b) may engage such third parties from time to time in relation to the Project and the Works as TfNSW sees fit;
- (c) remains fully responsible to the Owner for all of its obligations under this deed, despite any engagement by TfNSW of such third parties and the acts and omissions of a third party engaged by TfNSW in connection with the Project or the Works are considered to be the acts and omissions of TfNSW; and
- (d) may subcontract with any such third parties for the purpose of each relevant third party carrying out any obligations of TfNSW or exercising any right of TfNSW under this deed.

### 9. **TEMPORARY STRUCTURAL REPAIRS**

#### 9.1 **Temporary structural repairs**

For the purposes of this clause 9, the term "structural repairs" means technically appropriate temporary structural repairs, in line with standard industry practice, for demolition and construction works of this nature.

## 9.2 **When temporary structural repairs would be required**

- (a) During the Demolition and Construction Works, TfNSW will:
  - (i) assess, on an ongoing basis, whether an exposed part or parts of the Building require temporary structural repairs; and
  - (ii) promptly report to the Owner on the outcome of its assessments.
- (b) If, during the Demolition and Construction Works, the Owner and TfNSW agree that, due to the Demolition and Construction Works, an exposed part or parts of the Building require temporary structural repairs, then TfNSW will (at TfNSW's cost) undertake temporary structural repairs once requested in writing to do so by the Owner.
- (c) Once the temporary structural repairs are no longer required for the Building (as determined by TfNSW, acting reasonably), TfNSW will remove the temporary structural repairs.
- (d) If requested by TfNSW, the Owner must, as soon as reasonably practicable, provide to TfNSW the as-built documentation of the Building façade or other elements of the Building (as required), to enable TfNSW to design an appropriate solution for the required temporary structural repairs.

## 10. **OWNER'S OBLIGATIONS**

The Owner covenants that it will not carry out any works to the Building or on or from the Adjoining Land (such as excavation below the Adjoining Land) that may delay or otherwise interfere with the Works or adversely affect the Works Site during the Demolition and Construction Period without the prior written approval of TfNSW (which TfNSW will not unreasonably withhold or delay).

## 11. **NOTICE**

### 11.1 **Notice regarding commencement of licence**

- (a) TfNSW must, during the Demolition and Construction Period, give a notice to the Owner setting out:
  - (i) the commencement date of the relevant licence period set out in clauses 2.1 5.1 and 6.1 (as applicable); and
  - (ii) the date on which TfNSW will cease exercising its rights under clauses 2.1 5.1 and 6.1 (as applicable),and TfNSW is entitled to access and encroach upon the Adjoining Land in accordance with the terms of this deed.
- (b) The parties agree that only those licences that are required at the relevant time will be set out in that Notice.

### 11.2 **Notice period**

TfNSW must provide a notice referred to in clause 11.1 to the Owner at least 20 Business Days prior to the commencement of the relevant licence.

12. **LICENCE FEE**

The Owner accepts payment of the Licence Fee in full and final satisfaction of any claim for compensation that the Owner may have or, but for the entry into this deed, would have had in respect of TfNSW exercising its rights under this deed.

13. **NOT USED**

14. **INSURANCE**

14.1 **Insurance**

Prior to commencing the Demolition and Construction Works, TfNSW must effect and maintain, or procure its contractor effects and maintains:

- (a) a public and products liability policy of insurance for not less than the amount of \$50 million per occurrence which covers TfNSW's liability to third parties; and
- (b) contracts works insurance to cover the value of works contemplated by clause 9.

14.2 **Certificates of currency**

On request, TfNSW must provide the Owner with a certificate of currency for each of the policies.

15. **COMMUNICATION**

- (a) On or before the date of this deed TfNSW must give to the Owner the telephone number of a 24 hour contact for TfNSW (which may be a person engaged by TfNSW as its contractor or agent) which the Owner may use to contact TfNSW whilst TfNSW is undertaking the Works.
- (b) To facilitate transparent and open communication and consultation, TfNSW provides the following methods for communication:
  - Phone: 1800 171 386
  - Email: [sydneymetro@transport.nsw.gov.au](mailto:sydneymetro@transport.nsw.gov.au)
  - Mail: PO Box 588  
North Ryde BC NSW 1670
  - Website: [sydneymetro.info](http://sydneymetro.info)
- (c) The Owner will give to TfNSW the telephone number of the Owner's Representative who is a 24 hour contact for the Owner.
- (d) TfNSW must consult regularly with the Owner's Representative as reasonably requested by the Owner's Representative and in any event:
  - (i) no less than once a month during the Demolition and Construction Period; or
  - (ii) otherwise as agreed by the parties (including during the Demolition and Construction Period).
- (e) TfNSW will endeavour to give the Owner's Representative not less than 5 Business Days prior written notice of the date of commencement of the Demolition and Construction Works.

16. **DISPUTE RESOLUTION**

- (a) Where a dispute arises between the parties in relation to this deed, and to the extent that the mechanism for resolving that dispute is not otherwise expressly addressed elsewhere in this deed, the parties agree to be bound by the dispute resolution procedure set out in this clause.
- (b) If a dispute arises out of or in connection with this deed, including any dispute as to breach or termination of this deed or to any claim in tort, in equity or under any legislation, a party cannot commence any court proceedings relating to the dispute unless and until that party has complied with the following clauses. The only exception is where that party seeks urgent interlocutory relief.
- (c) A party claiming that a dispute has arisen must serve a notice on the other party specifying the nature of the dispute in accordance with the notification provisions set out in clause 20.
- (d) On receipt of that notice by that other party, the parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution techniques such as mediation, expert evaluation or similar techniques agreed by the parties.
- (e) If the parties do not agree within 20 Business Days of service of the notice of dispute, or any further period agreed in writing by them, as to:
  - (i) the dispute resolution forum and procedures to be adopted;
  - (ii) the timetable for all steps in those procedures; and
  - (iii) the selection and compensation to be paid to such independent person or persons required for the dispute resolution forum;
 then the dispute may be referred to resolution by:
  - (iv) an independent expert agreed to by the parties; or
  - (v) failing agreement between the parties within 5 Business Days of seeking to agree on an expert, the parties must mediate the dispute in accordance with the requirements of the Law Society of New South Wales and must request the President of the Law Society of New South Wales or the President's nominee to select the mediator and determine the mediator's remuneration. In selecting the mediator, the President of the Law Society is to have regard to the technical nature of the matter or matters in dispute and appoint a mediator with the appropriate technical qualifications.
- (f) Any determination of a dispute by the expert must be in writing, must contain a statement of reasons in such a form as the expert considers reasonably appropriate having regard to the nature of the dispute and will include a determination as to the award of costs.
- (g) If any expert does not provide the determination, then either party may seek the appointment of a substitute expert to act as an initial expert and paragraph (e) will apply.
- (h) Any determination made by the expert will be final and binding on the parties. The expert will act as an expert and not as an arbitrator. The expert must keep confidential all material and information made available to the expert in respect of the dispute.
- (i) To the extent possible, the parties must continue to perform their obligations under this deed despite the existence of any dispute.

- (j) Both parties must adhere to the dispute resolution procedure set out in this deed. Except in the case where urgent interlocutory relief is required to restrain a breach or threatened breach of this deed, a party may not commence any court proceedings relating to a dispute unless it has complied with this clause 16.

## 17. INDEMNITY

### 17.1 Indemnity

- (a) Subject to clause 18, TfNSW must at all times indemnify and keep indemnified the Owner against all actions, claims, proceedings, losses, costs, damage and expenses arising from:
  - (i) the use and access of the Adjoining Land by TfNSW;
  - (ii) the use of the Scaffolding Zone for Scaffolding by TfNSW; and
  - (iii) any damage to the Adjoining Land caused by the Demolition and Construction Works.
- (b) TfNSW's liability under the indemnity in paragraph (a) will be reduced proportionally to the extent that such liability was attributable to by the negligent acts or negligent omissions or wilful misconduct of the Owner or any Occupier.

### 17.2 Release

TfNSW uses the Adjoining Land and the Building at its own risk and the Owner accepts no responsibility for any loss or damage to the property of TfNSW. To the extent permitted by law, TfNSW releases the Owner from any claim, action, damage, loss, liability, cost or expense which TfNSW suffers or incurs or is liable for in respect of the Adjoining Land or TfNSW's use of the Adjoining Land, except to the extent that any such loss or damage is caused or contributed to by the negligence or wilful default of the Owner.

## 18. NUISANCE

### 18.1 Release by the Owner

- (a) The Owner acknowledges and agrees that:
  - (i) the use and access of the Adjoining Land by TfNSW;
  - (ii) the use of the Scaffolding Zone for Scaffolding by TfNSW;
  - (iii) the Demolition and Construction Works; and/or
  - (iv) other activities undertaken by TfNSW in accordance with the Project Approval,may cause interference to the Owner's and/or any Occupier's use and enjoyment of the Adjoining Land, including:
  - (v) restricted access to the Adjoining Land; and
  - (vi) dust, noise and vibration.
- (b) Subject to paragraph (c) and to the extent permitted by law, the Owner releases TfNSW from any present or future action, claim, proceeding, loss, cost, damage, expense or liability that the Owner and/or any Occupier suffers or incurs or is liable for arising out of or connected with any interference with the Owner's and/or any

Occupier's use and enjoyment of the Adjoining Land caused by the matters referred to in paragraphs (a)(i) to (a)(iv) (inclusive).

- (c) The release in paragraph (b) does not apply to any right or obligation created by this deed.

## 18.2 **Notice to Occupiers**

The Owner must give notice to all Occupiers if any of the matters referred to in clauses 18.1(a)(i) to 18.1(a)(iv) (inclusive) are likely to cause interference with the Owner's and/or any Occupier's use and enjoyment of the Adjoining Land.

## 19. **COSTS**

- (a) TfNSW must pay, within 20 Business Days of receipt of a valid invoice from the Owner:
  - (i) the reasonable legal fees of the Owner arising from the negotiation, finalisation and execution of this deed; and
  - (ii) the reasonable fees (but up to the Maximum Owner's Consultants Fees) of the Owner's Consultants, arising from the works contemplated by this deed, provided that TfNSW is provided with copies of valid tax invoices relating to the works carried out.
- (b) The Owner must provide detailed invoices substantiating the amounts charged. The Owner must not submit a tax invoice under this clause more frequently than once per month during the Demolition and Construction Period.
- (c) TfNSW must pay its own costs arising from the negotiation, finalisation and execution of this deed and all stamp duty and any costs arising from the stamping of this deed.

## 20. **NOTICES**

### 20.1 **Notices**

- (a) A notice, consent or other communication under this deed is only effective if it is in writing, signed and either left at the addressee's address or sent to the addressee by mail or fax. If it is delivered, it is taken to have been received when it has been left at the addressee's address. If it is sent by mail, it is taken to have been received three Business Days after it is posted. If it is sent by fax, it is taken to have been received when the addressee actually receives it in full and in legible form.
- (b) A person's address and fax number are those set out below, or as the person notifies the sender:

#### **TfNSW**

Address: South Building, 22 Giffnock Avenue  
Macquarie Park, NSW 2113  
Fax number: 02 8265 9501  
Attention: **[insert]**

#### **Owner**

Address: [insert]  
Fax number [insert]  
Attention: [insert]

**21. AMENDMENT, ASSIGNMENT AND ACCESSION**

**21.1 Amendment**

This deed can only be amended or replaced by another document executed by the parties.

**21.2 Assignment**

- (a) Except in the case of a sale, transfer or other disposition of the Adjoining Land which is dealt with in clause 21.3, the Owner may only assign, encumber, declare a trust over or otherwise deal with its rights under this deed with the prior written consent of TfNSW (which consent will not be unreasonably withheld).
- (b) If TfNSW requires a deed of accession of this deed to be entered into, then the Owner will, on request by TfNSW, enter into a deed of accession in a form and substance to the satisfaction of TfNSW, acting reasonably, to add the transferee of part of the Works Site as a party to this deed.

**21.3 Sale of Adjoining Land**

If the Owner intends to sell, transfer or otherwise dispose of the Adjoining Land prior to the expiry of the Demolition and Construction Period, the Owner must, prior to such sale, transfer or disposal, obtain from the proposed purchaser, transferee or donee (**New Party**) a deed of covenant in a form and substance to the satisfaction of TfNSW, acting reasonably, but substantially in the form of the document at Annexure B.

**21.4 Owner's costs and expenses**

- (a) If TfNSW requires the Owner to enter into a deed of covenant under clause 21.3 or a deed of accession under clause 21.2(b), then TfNSW will in the respective document procure the New Party or transferee (as applicable) to agree to reimburse the Owner for the Owner's reasonable costs and expenses incurred in respect of the negotiation and execution of that document.
- (b) TfNSW will procure the New Party or transferee (as applicable) to agree to indemnify the Owner against stamp duty (if any) that may be payable on the novation agreement or the deed of accession.
- (c) If TfNSW fails to procure such agreement under paragraph (a) or paragraph (b), TfNSW agrees to indemnify the Owner in respect of the costs and expenses incurred by the Owner as set out in those clauses (as applicable).

**21.5 Subdivision of Works Site**

If, at any time prior to the expiry of the Demolition and Construction Period, the Works Site is subdivided (including any stratum subdivision) the Owner acknowledges that the "Works Site" for the purposes of this deed will comprise all of the lots in the subdivision that were, prior to the subdivision, part of the Work Site.

**22. GST**

**22.1 Interpretation**

- (a) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause.
- (b) Unless otherwise expressly stated, all consideration to be provided under this deed is exclusive of GST. Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purpose of this clause.

#### **22.2 GST payable**

- (a) If GST is or will be payable in relation to a supply made by a party (the **Supplier**) under or in connection with this deed, then the party who is the recipient of the supply (the **Recipient**) must pay an additional amount to the Supplier equal to the amount of GST payable on the supply (**GST Amount**) at the same time as any other consideration is to be first provided for that supply.
- (b) The Supplier must provide a tax invoice to the Recipient for the supply no later than the time at which the GST Amount for that supply is to be paid in accordance with this clause.

#### **22.3 Evidence**

TfNSW may request the Owner to provide evidence, in a form satisfactory to TfNSW, that the Owner is registered for GST and that it is receiving the Licence Fee in the course of an enterprise.

#### **22.4 Adjustments**

- (a) If the GST Amount payable in relation to a supply made under or in connection with this deed varies from the GST Amount paid by the Recipient, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient subject to the issue of an adjustment note.
- (b) If an adjustment event occurs in relation to a supply made under or in connection with this deed, the Supplier must give the Recipient an adjustment note as soon as reasonably practicable after the Supplier becomes aware of the adjustment event, but no later than 28 days after the adjustment event.

#### **22.5 Reimbursements**

Costs actually or estimated to be incurred or revenue actually or estimated to be earned or lost by a party that is required to be reimbursed or indemnified by another party or used as the basis for calculation of consideration for a supply under this deed must exclude the amount of GST referable to the cost to the extent to which an entitlement arises to claim an input tax credit and in relation to revenue must exclude any amount in respect of GST referable to the revenue. The Owner will be deemed to be entitled to full input tax credits unless the Owner provides evidence to the contrary to TfNSW.

#### **22.6 ABN withholding**

The Owner warrants that it has an Australian Business Number and that its number is as stated above.

#### **22.7 No merger**

This clause will not merge on completion or termination of this Agreement.

**23. INTEREST**

**23.1 Interest for late payment**

Any amount which is due and payable by TfNSW to the Owner and becomes overdue will incur interest for each day the amount is overdue, calculated at the end of each month and compounded on a daily basis at a rate equal to 2% above the corporate reference rate (or the rate that replaces the corporate reference rate) of the Commonwealth Bank of Australia on the last Business Day of the month in which the payment is due.

**24. GENERAL**

**24.1 Governing law**

- (a) This deed is governed by the laws of the State of New South Wales.
- (b) Each party submits to the jurisdiction of the courts of that State and of any court that may hear appeals from any of those courts for any proceedings in connection with this deed.

**24.2 Giving effect to documents**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this deed.

**24.3 Successors in title**

Without prejudice to clause 21, each party agrees that this deed will bind it and its successors in title and assigns.

**24.4 Waiver of rights**

A right may only be waived in writing, signed by the party giving the waiver and the following applies:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right or as an estoppel precluding enforcement of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

**24.5 Operation of this deed**

- (a) Subject to paragraph (b), this deed contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this deed and has no further effect.
- (b) Any right that a person may have under this deed is in addition to, and does not replace or limit, any other right that the person may have.
- (c) Any provision of this deed which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this deed enforceable, unless this would materially change the intended effect of this deed.

#### 24.6 **Confidentiality**

Each party agrees that the terms of this deed and all information exchanged between the parties in connection with this deed whether before or after the execution of this deed are confidential and must not be disclosed to any person except:

- (a) with the prior written consent of the other party;
- (b) to the extent required by a lawful direction, requirement or order of a Court or Tribunal;
- (c) if required by NSW Government policies and requirements; or
- (d) to the extent required by law.

#### 24.7 **Counterparts**

This deed may be executed in counterparts.

#### 24.8 **Non merger**

A party's obligation which is expressly stated to be of a continuing nature or is not fully satisfied and discharged on completion of the Works does not merge on completion, continues in favour of the other party to which it is owed and remains in full effect.

**THIS DEED** is made on

**EXECUTED** on behalf of **TRANSPORT FOR NSW ABN 18 804 239 602** by its authorised delegate in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised delegate

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name and position of authorised delegate

**EXECUTED** by **MONSGROVE DEVELOPERS PTY LTD ABN 37 002 766 065** in accordance with section 127 of the *Corporations Act 2001* (Cth);

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director / secretary

\_\_\_\_\_  
Name of director

\_\_\_\_\_  
Name of director / secretary

## SCHEDULE 1

### Contract Particulars

**Item 1**  
(Clause 1.1)

**Works Site**

Lot 1 in Deposited Plan 224852, being the whole of the land in Certificate of Title Folio Identifier 1/224851 and Lot 10 in Deposited Plan 224852, being the whole of the land in Certificate of Title Folio Identifier 10/224851, known as 56 Regent Street, Chippendale NSW 2008;

Lot 2 in Deposited Plan 224852, being the whole of the land in Certificate of Title Folio Identifier 2/224851 and Lot 9 in Deposited Plan 224852, being the whole of the land in Certificate of Title Folio Identifier 9/224851, known as 58 Regent Street, Chippendale NSW 2008;

Lot 3 in Deposited Plan 224852, being the whole of the land in Certificate of Title Folio Identifier 3/224851 and Lot 8 in Deposited Plan 224852, being the whole of the land in Certificate of Title Folio Identifier 8/224851, known as 60 Regent Street, Chippendale NSW 2008;

Lot 4 in Deposited Plan 224852, being the whole of the land in Certificate of Title Folio Identifier 4/224851 and Lot 7 in Deposited Plan 224852, being the whole of the land in Certificate of Title Folio Identifier 7/224851, known as 62 Regent Street, Chippendale NSW 2008; and

Lot 5 in Deposited Plan 224852, being the whole of the land in Certificate of Title Folio Identifier 5/224851 and Lot 6 in Deposited Plan 224852, being the whole of the land in Certificate of Title Folio Identifier 6/224851, known as 64 Regent Street, Chippendale NSW 2008.

**Item 2**  
(Clause 1.1)

**Adjoining Land**

Lot 4 in Deposited Plan 804113, being the whole of the land in Certificate of Title Folio Identifier 4/804113, Lot 1 in Deposited Plan 76176, being the whole of the land in Certificate of Title Folio Identifier 1/76176, Lot 1 in Deposited Plan 100281, being the whole of the land in Certificate of Title Folio Identifier 1/100281 and Lot 10 in Deposited Plan 512094, being the whole of the land in Certificate of Title Folio Identifier 10/512094, known as 66-70 Regent Street, Chippendale NSW 2008.

**Item 3**  
(Clause 1.1)

**Access Period**

[insert] weeks

**Item 4**  
(Clause 1.1)

**Access Licence Fee**

\$(insert) per week (exclusive of GST)

<b>Item 5</b> (Clause 1.1)	<b>Additional Access Licence Fee</b> \$[ <i>insert</i> ] per week (exclusive of GST)
<b>Item 6</b> (Clause 1.1)	<b>Not used</b>
<b>Item 7</b> (Clause 1.1)	<b>Not used</b>
<b>Item 8</b> (Clause 1.1)	<b>Not used</b>
<b>Item 9</b> (Clause 1.1)	<b>Not used</b>
<b>Item 10</b> (Clause 1.1)	<b>Not used</b>
<b>Item 11</b> (Clause 1.1)	<b>Not used</b>
<b>Item 12</b> (Clause 1.1)	<b>Scaffolding Zone Period</b> [ <i>insert</i> ] weeks
<b>Item 13</b> (Clause 1.1)	<b>Scaffolding Zone Licence Fee</b> \$[ <i>insert</i> ] per week (exclusive of GST)
<b>Item 14</b> (Clause 1.1)	<b>Additional Scaffolding Zone Licence Fee</b> \$[ <i>insert</i> ] per week (exclusive of GST)
<b>Item 15</b> (Clause 1.1)	<b>Demolition and Construction Period</b> [ <i>insert</i> ] weeks
<b>Item 16</b> (Clause 1.1)	<b>Demolition and Construction Licence Fee</b> \$[ <i>insert</i> ] per week (exclusive of GST)
<b>Item 17</b> (Clause 1.1)	<b>Additional Demolition and Construction Licence Fee</b> \$[ <i>insert</i> ] per week (exclusive of GST)
<b>Item 18</b> (Clause 1.1)	<b>Not Used</b>
<b>Item 19</b> (Clause 1.1)	<b>Not Used</b>
<b>Item 20</b> (Clause 19(a)(ii))	<b>Maximum Owner's Consultants Fees</b> \$[ <i>insert</i> ] (exclusive of GST)



**ANNEXURE A**

**Not Used**

**ANNEXURE B**  
**Deed of Covenant**

## Deed of Covenant on Sale

**[*insert vendor*]**

ACN [*to be inserted*]

and

**[*insert purchaser*]**

ACN [*to be inserted*]

and

Transport for NSW

ABN 18 804 239 602

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**THIS DEED** is made on

**BETWEEN:**

- (1) **[insert vendor]** [ABN/ACN/ARBN] [number] (the **Vendor**); and
- (2) **[insert purchaser] Alt**[ABN/ACN/ARBN] [number] (the **Purchaser**); and
- (3) **Transport for NSW** ABN 18 804 239 692 (**TfNSW**).

**RECITALS:**

- (A) The Vendor is the registered owner of the Property.
- (B) The Vendor and the Purchaser have agreed to sell and buy the Property under the Contract.
- (C) The Vendor has entered into the Adjoining Owner Deed with TfNSW.
- (D) The Adjoining Owner Deed requires the Vendor to procure the Purchaser to enter into this document.

**THE PARTIES AGREE AS FOLLOWS:**

**1. INTERPRETATION**

**1.1 Definitions**

The following definitions apply in this document.

**Adjoining Owner Deed** means the adjoining owner deed between the Vendor and TfNSW dated [date of contract], a copy of which forms Annexure A.

**Business Day** means any day other than a Saturday, Sunday, or public holiday in New South Wales or 27, 28, 29, 30 or 31 December.

**Contract** means the contract of sale between the Vendor and the Purchaser for the sale and purchase of the Property dated [date of contract].

**Date for Completion** means the date for completion of the Contract.

**Property** means [description of property].

**1.2 Rules for interpreting this document**

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) A legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;

- (iii) a party to this document or to any other document or agreement includes a successor in title, permitted substitute or a permitted assignee of that party;
  - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
  - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
  - (c) A word which suggests one gender includes the other genders.
  - (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
  - (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

### 1.3 **Non Business Days**

If the day on or by which a party must do something under this document is not a Business Day, the person must do it on the next Business Day.

### 1.4 **Multiple parties**

If a party to this document is made up of more than one person, or a term is used in this document to refer to more than one party:

- (a) an obligation of those persons is joint and several;
- (b) a right of those persons is held by each of them severally; and
- (c) any other reference to that party or term is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking is given by each of them separately.

## 2. **COVENANTS**

### 2.1 **Covenant by Vendor**

The Vendor must continue to perform the obligations of the 'Owner' under the Adjoining Owner Deed up to and including the Completion Date.

### 2.2 **Covenant by Purchaser**

With effect from the Completion Date, on and from and including the day after the Completion Date the Purchaser must perform the obligations of the 'Owner' under the Adjoining Owner Deed as if it executed the Adjoining Owner Deed originally as the 'Owner'.

### 2.3 **Covenant by TfNSW**

TfNSW acknowledges that:

- (a) it will continue to comply with its obligations under the Adjoining Owner Deed; and

- (b) with effect from and including the date after the Completion Date, the Purchaser is entitled to enforce the obligations of TfNSW under the Adjoining Owner Deed as if the Purchaser executed the Adjoining Owner Deed originally as the 'Owner'.

#### 2.4 Indemnity

The Purchaser indemnifies the Vendor against any claim, action, damage, loss, liability, cost or expense which the Vendor incurs or is liable for in connection with:

- (a) any default or breach by the Purchaser of the Adjoining Owner Deed; or
- (b) the Purchaser's failure to comply with this document.

#### 2.5 Subsequent sale

If the Purchaser sells, transfers or otherwise disposes of the Property to a third party during the term of the Adjoining Owner Deed, the Purchaser and the third party must enter into a deed containing the same terms as this document.

### 3. NOTICES

#### 3.1 How to give a notice

A notice, consent or other communication under this document is only effective if it is in writing, signed and either left at the addressee's address or sent to the addressee by mail or fax.

#### 3.2 When a notice is given

A notice given to a person in accordance with this clause is treated as having been given and received:

- (a) if delivered, on the day of delivery if delivered before 5.00 pm on a Business Day, otherwise on the next Business Day;
- (b) if sent by pre-paid mail, on the third Business Day after posting; or
- (c) if transmitted by facsimile and a correct and complete transmission report is received, on the day of transmission if the report states that transmission was completed before 5.00 pm on a Business Day, otherwise on the next Business Day.

#### 3.3 Address for notices

A person's address and fax number are those set out below, or as the person notifies the sender:

##### **Purchaser**

Address: [insert]  
Fax number: [insert]  
Attention: [insert]

##### **Vendor**

Address: [insert]  
Fax number: [insert]  
Attention: [insert]

**TfNSW**

Address: South Building  
22 Giffnock Avenue  
Macquarie Park NSW 2113  
Fax number: 02 8265 9501  
Attention: [insert]

**4. GENERAL**

**4.1 Governing law**

This document is governed by the laws of the State of New South Wales.

**4.2 Liability for expenses**

- (a) Subject to clause 4.2(b), each party must pay its own costs and expenses incurred in negotiating and executing this document.
- (b) The Purchaser must pay the Vendor's reasonable legal costs and expenses in connection with negotiating and executing this document.

**4.3 Giving effect to this document**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the other party may reasonably require to give full effect to this document.

**EXECUTED** as a deed.

**EXECUTED** by *[insert purchaser]*  
**Ait**[ABN/ACN/ARBN] [number]:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED** by *[insert vendor]*  
**Ait**[ABN/ACN/ARBN] [number]:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED** on behalf of **TRANSPORT  
FOR NSW ABN 18 804 239 602** by its  
authorised delegate in the presence of:

\_\_\_\_\_  
Signature of authorised delegate

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name and position of authorised delegate

\_\_\_\_\_  
Name of witness

**ANNEXURE A**  
**Adjoining Owner Deed**

**ANNEXURE C**

**Not Used**

**Attachment 4 to Schedule E5 – Draft Works Authorisation Deed - Sydney Metro  
City & Southwest with Roads and Maritime Services**













































































































































## Schedule E6. EPL Requirements

(Clauses 1.1, 4.3)

### 1. Definitions

The following definitions apply in this Schedule E6:

- (a) **Environmental Incident Reporting Protocol** means the protocol attached at Annexure A of this Schedule E6.
- (b) **Environmental Incident** means an occurrence or set of circumstances, as a consequence of which one or more of the following has occurred, is occurring or is likely to occur:
  - (i) pollution including air, water, noise, or land pollution;
  - (ii) an adverse or unauthorised environmental impact including contamination, harm to threatened or endangered flora and fauna (either individual species or communities), damage to heritage items and adverse community impacts; or
  - (iii) a breach of environmental legislation or a statutory instrument (including approvals, licences, codes or standards, notices, orders and other instruments of a legislative character made or in force under environmental legislation).
- (c) **EPL** means the environment protection licence held by Sydney Trains, a copy of which is set out in Annexure B to this Schedule E6.
- (d) **Executive Director, SEQR** means such person holding that role, or an equivalent role, from time to time at Sydney Trains.
- (e) **Occupied Land** means land occupied by Sydney Trains forming part of the rail corridor for the purposes of providing passenger services which is not within the Sydney Trains Rail Network.
- (f) **POEO Act** means the *Protection of the Environment Operations Act 1997* (NSW).
- (g) **Principal Manager Sustainability, Environment and Planning** means Stuart Hodgson or such person holding that role, or an equivalent role, from time to time at TfNSW
- (h) **Relevant Authorities** has the meaning given in the *Protection of the Environment Operations Act 1997* (NSW) (**POEO Act**).
- (i) **Sydney Metro Project** means the project to deliver a railway line from Bankstown to Chatswood, including the upgrade and conversion of the existing Bankstown line to metro standard, a stabling yard and maintenance depot, stations, tunnels, viaduct, bridges, earthworks, landscaping,

equipment, systems, trackwork and support structures, rolling stock and ancillary infrastructure.

- (j) **Sydney Trains Rail Network** means the premises identified in condition A2 of the EPL, as amended or varied from time to time.

## 2. Process for the EPL

The parties agree to follow the process set out below in this clause 2 of Schedule E6 in order to satisfy the requirements of the EPL where a Sydney Metro Project impacts on Sydney Trains' ability to satisfy those requirements.

- (a) The Contractor will contact the Principal Manager Sustainability, Environment and Planning in relation to any environmental requests or queries associated with the Contractor's activities and is within the Sydney Trains Rail Network or the operation or interpretation of the EPL.
- (b) The Principal Manager Sustainability, Environment and Planning will contact the Contractor's Environment Manager, Chris McCallum (or such person holding that role, or an equivalent role, from time to time at the Contractor), in relation to any environmental requests or queries associated with the Contractor's activities within the Sydney Trains Rail Network.
- (c) The Contractor will comply with the conditions and requirements of the EPL and will comply with all applicable laws when accessing, and conducting activities within, the Sydney Trains Rail Network.
- (d) The Contractor will not, and will ensure that its contractors do not, do anything which would have the effect of placing Sydney Trains or the Principal in breach of any conditions or requirements of the EPL.
- (e) The Contractor will promptly, and no later than 4 days from the date of request from the Principal Manager Sustainability, Environment and Planning, provide the Principal Manager Sustainability, Environment and Planning with any information the Principal Manager Sustainability, Environment and Planning requests to demonstrate the Contractor's compliance with this Schedule E6.
- (f) The Contractor agrees to comply with any complaint management process established by the Principal for activities undertaken by, for or on behalf of the Contractor (or contractors generally) within the Sydney Trains Rail Network as notified by the Principal to the Contractor from time to time.
- (g) The Principal (or its nominee) may conduct regular environmental inspections of the Contractor's activities within the Sydney Trains Rail Network. The Contractor must:
- 1) if requested by the Principal, assist with and attend an environmental inspection; and

- 2) notify, and seek approval from, the Principal if the Contractor wishes to attend an environmental inspection where a request to attend has not been issued by the Principal.
- (h) The Contractor must undertake its own regular environmental inspections of the Contractor's activities within the Sydney Trains Rail Network.
- (i) The Contractor must direct its contractors working within the Sydney Trains Rail Network to comply with the EPL and any directions from the Principal and is responsible for ensuring that compliance.

### 3. Environmental Incident Management

- (a) If a significant Environmental Incident occurs, the Contractor agrees to follow the Environmental Incident Reporting Protocol.
- (b) The Contractor must direct all of its contractors working within the Sydney Trains Rail Network or on Occupied Land to follow the Environmental Incident Reporting Protocol if an Environmental Incident occurs.
- (c) If a significant Environmental Incident occurs which requires the Contractor to notify all Relevant Authorities (as defined in the *Protection of the Environment Operations Act 1997* (NSW) (**POEO Act**)), the Contractor must notify the Principal and Sydney Trains as soon as possible after that notification.
- (d) The Contractor will comply with any notice or direction issued by any relevant authority (including, but not limited to, the Environment Protection Authority) in relation to activities carried out by the Contractor or its contractors within the Sydney Trains Rail Network or on Occupied Land, provided that complying with such a notice or direction does not adversely affect Sydney Trains' operations or Sydney Trains' compliance with any Laws or the EPL. If Sydney Trains or the Principal seeks to exercise any rights of appeal against or seek review of a notice or direction, the Contractor must provide all documents, assistance and co-operation reasonably requested by Sydney Trains or the Principal (and in the time required by Sydney Trains or the Principal) in connection with the notice or direction).
- (e) If Sydney Trains or the Principal requests the Contractor to provide further information in respect of a significant Environmental Incident, the Contractor must provide that information to Sydney Trains and the Principal as soon as possible following such a request.

Annexure A

Environmental Incident Reporting Protocol

	Contractor's Staff	Contractor's Site Supervisor / Manager
<b>'First Actions' and escalation</b>	<ul style="list-style-type: none"> <li>• <b>IMMEDIATELY</b> report the incident to your Site Supervisor/Manager</li> <li>• Assess the risk to human health, the environment, assets and operations</li> <li>• If threats have been identified:               <ul style="list-style-type: none"> <li>○ control threats, if safe to do so</li> <li>○ exclude all non-essential personnel from affected areas</li> <li>○ get help if you need it, including calling (0) 000, if required</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Call the Rail Management Centre <b>IMMEDIATELY</b> on <b>(02) 9739 1743</b> if:               <ul style="list-style-type: none"> <li>○ external emergency services needed (eg Fire + Rescue NSW)</li> <li>○ incident could affect train operations</li> </ul> </li> <li>• Otherwise report the incident <b>IMMEDIATELY</b> to the Incident and Injury Hotline on <b>1800 772 7792</b></li> <li>• Advise TfNSW and Sydney Trains</li> </ul>
<b>Incident management</b>	<ul style="list-style-type: none"> <li>• Understand the environmental threats/impacts (use MSDS, locate drains, neighbours, sensitive sites, weather changes, etc)</li> <li>• Control immediate threats and impacts, if safe to do so (eg use PPE, spill kits, etc)</li> <li>• Activate any local incident plan</li> </ul>	
<b>Site restorations</b>	<ul style="list-style-type: none"> <li>• Exclude or restrict all non-essential personnel and work from area until restored</li> <li>• Disposal of wastes appropriately</li> </ul>	
<b>Incident investigation and continual improvement</b>	<ul style="list-style-type: none"> <li>• Provide information, advice and support, as required</li> <li>• Complete assigned improvement actions, as directed</li> </ul>	

## ANNEXURE B

Copy of EPL (Licence No. 12208) attached

# Environment Protection Licence



Licence - 12208

## Licence Details

Number: 12208  
Anniversary Date: 01-July

## Licensee

SYDNEY TRAINS  
PO BOX K349  
HAYMARKET NSW 1238

## Premises

SYDNEY TRAINS  
PO BOX K349  
HAYMARKET NSW 1238

## Scheduled Activity

Railway systems activities

## Fee Based Activity

Railway systems activities

## Scale

Any capacity

## Region

Metropolitan Infrastructure  
Level 13, 10 Valentine Ave  
PARRAMATTA NSW 2150  
Phone: (02) 9995 5000  
Fax: (02) 9995 6900  
  
PO Box 668 PARRAMATTA  
NSW 2124

# Environment Protection Licence

Licence - 12208



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# Environment Protection Licence



Licence - 12208

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# Environment Protection Licence

Licence - 12208



## Information about this licence

### Dictionary

A definition of terms used in the licence can be found in the dictionary at the end of this licence.

### Responsibilities of licensee

Separate to the requirements of this licence, general obligations of licensees are set out in the Protection of the Environment Operations Act 1997 ("the Act") and the Regulations made under the Act. These include obligations to:

- ensure persons associated with you comply with this licence, as set out in section 64 of the Act;
- control the pollution of waters and the pollution of air (see for example sections 120 - 132 of the Act);
- report incidents causing or threatening material environmental harm to the environment, as set out in Part 5.7 of the Act.

### Variation of licence conditions

The licence holder can apply to vary the conditions of this licence. An application form for this purpose is available from the EPA.

The EPA may also vary the conditions of the licence at any time by written notice without an application being made.

Where a licence has been granted in relation to development which was assessed under the Environmental Planning and Assessment Act 1979 in accordance with the procedures applying to integrated development, the EPA may not impose conditions which are inconsistent with the development consent conditions until the licence is first reviewed under Part 3.6 of the Act.

### Duration of licence

This licence will remain in force until the licence is surrendered by the licence holder or until it is suspended or revoked by the EPA or the Minister. A licence may only be surrendered with the written approval of the EPA.

### Licence review

The Act requires that the EPA review your licence at least every 5 years after the issue of the licence, as set out in Part 3.6 and Schedule 5 of the Act. You will receive advance notice of the licence review.

### Fees and annual return to be sent to the EPA

For each licence fee period you must pay:

- an administrative fee; and
- a load-based fee (if applicable).

# Environment Protection Licence

Licence - 12208



The EPA publication “A Guide to Licensing” contains information about how to calculate your licence fees. The licence requires that an Annual Return, comprising a Statement of Compliance and a summary of any monitoring required by the licence (including the recording of complaints), be submitted to the EPA. The Annual Return must be submitted within 60 days after the end of each reporting period. See condition R1 regarding the Annual Return reporting requirements.

Usually the licence fee period is the same as the reporting period.

## Transfer of licence

The licence holder can apply to transfer the licence to another person. An application form for this purpose is available from the EPA.

## Public register and access to monitoring data

Part 9.5 of the Act requires the EPA to keep a public register of details and decisions of the EPA in relation to, for example:

- licence applications;
- licence conditions and variations;
- statements of compliance;
- load based licensing information; and
- load reduction agreements.

Under s320 of the Act application can be made to the EPA for access to monitoring data which has been submitted to the EPA by licensees.

## This licence is issued to:

SYDNEY TRAINS

PO BOX K349

HAYMARKET NSW 1238

subject to the conditions which follow.

# Environment Protection Licence

Licence - 12208



## 1 Administrative Conditions

### A1 What the licence authorises and regulates

A1.1 This licence authorises the carrying out of the scheduled activities listed below at the premises specified in A2. The activities are listed according to their scheduled activity classification, fee-based activity classification and the scale of the operation.

Unless otherwise further restricted by a condition of this licence, the scale at which the activity is carried out must not exceed the maximum scale specified in this condition.

Scheduled Activity	Fee Based Activity	Scale
Railway systems activities	Railway systems activities	Any capacity

A1.2

Except as expressly provided by another condition of this licence, this licence authorises railway systems activities on the rail network except for the following:

1. the construction of new track in the metropolitan area greater than 1 kilometre in length, including associated ancillary works; and
2. the construction of new track in any other area greater than 5 kilometres in length, including associated ancillary works.

### A2 Premises or plant to which this licence applies

A2.1 The licence applies to the following premises:

Premises Details
SYDNEY TRAINS
PO BOX K349
HAYMARKET
NSW 1238
SEE CONDITION A2.2 FOR FULL DESCRIPTION OF THE LICENSED PREMISES

A2.2 The premises comprises the Sydney Trains (RailCorp) network and is defined in the following rail network diagram at which railway systems activities are carried out:

- Prior 12:01am on 13 June 2016: Rail Network Diagram Version 1:11 issued 7 June 2015.
- After 12:01am on 13 June 2016: Rail Network Diagram Version 1.12 issued 13 June 2016.
- Includes the land on the embankment of the Parramatta River (vested in Roads and Maritime Services) which is adjacent to the Sandown railway siding, as shown on drawing 8662\_1 dated 19 September 2014

Note: *The premises diagram is contained in EPA file EF13/3482.*

# Environment Protection Licence

Licence - 12208



## A3 Information supplied to the EPA

A3.1 Works and activities must be carried out in accordance with the proposal contained in the licence application, except as expressly provided by a condition of this licence.

In this condition the reference to "the licence application" includes a reference to:

- a) the applications for any licences (including former pollution control approvals) which this licence replaces under the Protection of the Environment Operations (Savings and Transitional) Regulation 1998; and
- b) the licence information form provided by the licensee to the EPA to assist the EPA in connection with the issuing of this licence.

## 2 Discharges to Air and Water and Applications to Land

### P1 Location of monitoring/discharge points and areas

P1.1 The following utilisation areas referred to in the table below are identified in this licence for the purposes of the monitoring and/or the setting of limits for any application of solids or liquids to the utilisation area.

## 3 Limit Conditions

### L1 Pollution of waters

L1.1 Except as may be expressly provided in any other condition of this licence, the licensee must comply with section 120 of the Protection of the Environment Operations Act 1997.

### L2 Noise limits

Note: It is an objective of this licence to progressively reduce noise impacts from railway systems activities to the noise level goals of 65 dB(A) $L_{eq}$ , (day and evening time from 7am to 10pm), 60 dB(A) $L_{eq}$ , (night time from 10pm to 7am) and 85 dB(A) (24 hour) max pass-by noise, at one metre from the facade of affected residential receivers.

#### L2.1 Locomotive approvals

The licensee must obtain approval from the EPA prior to permitting operation on the licensed premises of:

- 1. a of type of locomotive, whether new or existing, that is not included in Condition E2; or
- 2. a locomotive that has been substantially modified since it was last used on the licensed premises.

A new class of locomotive of previously approved type may be brought onto the rail network without further approval provided that it is consistent with type and EPA is notified at least 7 days in advance. Condition E6 will then be updated at the next opportunity.

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Note: EPA approval for a new locomotive type will be granted on the basis of compliance with the locomotive noise limits in Conditions L2.5, L2.6 and L2.7, and will require submission of noise test results from a representative number of locomotives from that type.

L2.2 Locomotive types not included in Condition E2 must not operate on the licensed premises.

L2.3 Conditions L2.1 and L2.2 do not apply to the operation of a locomotive solely for the purposes of conducting noise or other tests that are required for the locomotive's approval by the EPA, the licensee or any person concerned with the design, manufacture, supply or acquisition of the locomotive, provided that:

- a) operation of the locomotive is not undertaken for commercial purposes, gain, or to offset any losses; and
- b) more than ten pass-bys in a 24 hour period do not occur within 200m of any one particular noise sensitive receiver in the course of the testing.

L2.4 An application for the approval of a locomotive as required by Condition L2.1 must be made in the form of a licence variation application in accordance with s.58 of the *Protection of the Environment Operations Act 1997* and accompanied by data of type testing of the locomotive.

Note: Type testing of the locomotive must be in accordance with Condition L2.8.

## L2.5 General noise limits for locomotive approvals

Operating Condition	Speed & Location of Measurement	Noise Limit (microphone 1.5m above ground level)
Idle with compressor radiator fans and air conditioning operating at maximum load occurring at idle	Stationary 15 metre contour	70 dB(A) Max
All other throttle settings under self load with compressor radiator fans and air conditioning operating	Stationary 15 metre contour	87 dB(A) Max 95 dB Linear Max
All service conditions	As per Australian Standard AS2377-2002 (Acoustics – Methods for the measurement of railbound vehicle noise) except as otherwise approved by the EPA	87 dB(A) Max 95 dB Linear Max

## L2.6 Limits for tonality

All external noise must be non-tonal. For the purpose of this condition, external noise is non-tonal if the sound pressure level in each unweighted (linear) one-third octave band does not exceed the level of the adjacent bands on both sides by:

- a) 5 dB if the centre frequency of the band containing the tone is above 400 Hz; and
- b) 8 dB if the centre frequency of the band containing the tone is between 160 and 400 Hz, inclusively; and
- c) 15 dB if the centre frequency of the band containing the tone is below 160 Hz.

## L2.7 Limits for low frequency noise

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All external noise must not exhibit an undue low-frequency component. To comply with this requirement, linear noise levels must not exceed the A-weighted noise levels by more than 15 dB.

## L2.8 Locomotive noise emission test methods

Application for approval as required by Condition L2.1 must be supported by type testing of the locomotive using procedures that are consistent with the requirements of Australian Standard AS2377-2002 (Acoustics – Methods for the measurement of railbound vehicle noise) except as otherwise approved by the EPA. The type testing must provide all necessary measurement parameters for demonstrating compliance with the locomotive noise limits in Conditions L2.5, L2.6 and L2.7.

Information supplied to the EPA as part of the application for approval must fulfil the requirements of Section 11 of AS2377-2002 for reporting.

Note: The measurement parameters required in Conditions L2.5, L2.6 and L2.7 differ in some cases from those identified in AS2377 2002. The test procedures, measurement equipment and environmental conditions applied in supporting the application to the EPA for approval are to yield all parameters identified in Conditions L2.5, L2.6 and L2.7 but are otherwise to be applied in a manner that is consistent with the requirements of AS2377-2002. The 15 metre contour specified in Condition L2.5 is to be represented by the 12 measurement points shown in AS2377-2002, Figure 1.

L2.9 The licensee must submit data obtained by type testing of the locomotive required by Condition L2.8 in a format specified by the EPA.

Note: *The format required by Condition L2.9 must include a written report on the results of the testing and an electronic version of the test results in a spreadsheet form nominated by the EPA.*

## L2.10 Approval of locomotives not meeting all EPA limits

The EPA may approve locomotives that do not comply with all limits prescribed by Conditions L2.5, L2.6 and L2.7, if the application for approval demonstrates, to the satisfaction of the EPA, that:

- a) the noise emission performance of the locomotive is consistent with current best practice;
- b) all measures for minimising the extent of any non-compliance have been investigated and those that are identified as reasonable and feasible have been implemented; and
- c) none of the non-compliances will result in significant environmental impacts.

L2.11 An EPA approval for locomotives under this condition is to be taken as an approval for operation of those locomotives on the premises, notwithstanding the requirements of Conditions L2.1, L2.5, L2.6 and L2.7.

## 4 Operating Conditions

### O1 Activities must be carried out in a competent manner

O1.1 Licensed activities must be carried out in a competent manner.

This includes:

- a) the processing, handling, movement and storage of materials and substances used to carry out the activity; and
- b) the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

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## O2 Maintenance of plant and equipment

- O2.1 All plant and equipment installed at the premises or used in connection with the licensed activity:
- a) must be maintained in a proper and efficient condition; and
  - b) must be operated in a proper and efficient manner.

## O3 Dust

- O3.1 Dust generating activities on the premises must be managed to minimise the generation of dust and prevent it going offsite so far as reasonably practicable.

## O4 Waste management

- O4.1 The licensee must assess, classify and manage any waste generated at the premises in accordance with the Waste Classification Guidelines Part 1: Classifying Waste, April 2008 prior to dispatching the waste offsite.
- O4.2 The licensee must not cause, permit or allow any waste generated:
- (a) outside the premises to be received at the premises, except for recycled materials from Sydney Trains' recycling facility (EPL7515) or materials that meet the EPA's Resource Recovery Exemptions for engineered fill purposes.
  - (b) at the premises to be disposed at the premises, except as permitted in Condition 04.3.
- O4.3 Excavated material suitable for re-use within the premises, may be transported from one part of the premises or the Sydney Trains recycling facility to another part by road in accordance with Condition 04.4.
- O4.4 The licensee must ensure that:
- (a) the body of any vehicle or trailer, used to transport waste or excavation spoil from the premises, is covered before leaving the premises to minimise any spill or escape of any dust, waste, or spoil from the vehicle or trailer; and
  - (b) mud, splatter, dust and other material likely to fall from or be cast off the wheels, underside or body of any vehicle, trailer or motorised plant leaving the premises, is removed to the greatest extent practicable before the vehicle, trailer or motorised plant leaves the premises; and
  - (c) road surfaces subject to the tracking of material by vehicles leaving the premises are effectively cleaned at the end of each work day.

## O5 Other operating conditions

### Railway maintenance and construction activities

Note: *The objective of this condition is to minimise noise impacts from railway maintenance and construction activities, recognising that operational and safety factors constrain when these activities can be carried out on the NSW Rail Network. These factors include avoiding disruptions during peak periods for passenger services and ensuring that programmed track closures facilitate the efficient completion of*

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*maintenance activities. Night time and weekend work will be required for some activities.*

- O5.1 So far as is reasonably practicable and where to do so would not adversely affect Sydney Trains' ability to provide safe and reliable rail services or a safe working environment, maintenance or construction activities must be undertaken:
- between the hours of 7:00am and 6:00pm Monday to Friday;
  - between the hours of 8:00am and 1:00pm Saturday; and
  - not on Sundays or public holidays.
- O5.2 Where maintenance or construction activities are undertaken outside of the hours specified in Condition O5.1, noise impacts must be managed in accordance with those provisions of the *Interim Construction Noise Guideline* (DECCW, 2009) which require the licensee to:
- identify noise sensitive receivers that may be affected;
  - identify hours for the proposed activities;
  - identify noise impacts at noise sensitive receivers;
  - select and apply reasonable and feasible work practices to minimise noise impacts; and
  - notify noise sensitive receivers identified by paragraph a) of this condition no less than 5 days before undertaking activities outside the hours specified in Condition O5.1.
- O5.3 When requested by an authorised officer of the EPA, the licensee must provide the following information regarding any proposed maintenance activities on the premises:
- dates and times of the proposed maintenance activity;
  - location of the proposed maintenance activity;
  - type(s) of work to be performed in conducting the proposed maintenance activity;
  - plant and equipment to be used; and
  - contact name and telephone number of a person who will be on site during the activity and who is authorised by the licensee to take action, including the cessation of the activity or any part of it, if so directed by the EPA. A contact person must be contactable 24 hours a day via the supplied telephone number(s) during the whole of the period that the activity takes place outside normal business hours.

## **Railway construction activities**

- O5.4 With regard to construction activities any high noise impact generating works must only be undertaken:
- between the hours of 8:00am and 10:00pm Monday to Friday;
  - between the hours of 8:00am and 6:00pm Saturdays and Sundays; and
  - where the high noise impact generating works are likely to impact the same noise sensitive receivers, in blocks of no more than 3 hours, with at least a 1 hour respite between each block of work.
- O5.5 When requested by an authorised officer of the EPA, the licensee must provide written reasons that demonstrate that construction activities undertaken outside of the hours specified in Condition O5.1 comply with that condition.
- O5.6 With regard to construction activities and the notification required by Condition O5.2e), the notification must be made not less than 5 days and not more than 14 days before those activities are to be undertaken.
- The notification must be:
    - by letterbox drop; and
    - detailed on the project website where one exists.

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b) The notification required by this condition must:

- i) clearly outline the reason that the work is required to be undertaken outside the hours specified in Condition O5.1;
- ii) include a diagram that clearly identifies the location of the proposed works in relation to nearby cross streets and local landmarks;
- iii) include details of relevant time restrictions that apply to the proposed works;
- iv) clearly outline, in plain English, the location, nature, scope and duration of the proposed works;
- v) detail the expected noise impact of the works on noise sensitive receivers;
- vi) clearly state how complaints may be made and additional information obtained; and
- vii) include the number of the telephone complaints line required by this licence, an after hours contact phone number specific to the works, and the project website address where applicable.

## Emergency works

O5.7 Conditions O5.1 to O5.6 do not apply to emergency works.

## Blasting

O5.8 All blasting activities are prohibited unless approved under another condition of this licence.

## Erosion and sediment control

O5.9 The licensee must, before undertaking any maintenance or construction activities, implement and maintain erosion and sediment control measures to prevent pollution of waters in accordance with Landcom's *Soils and Construction: Managing Urban Stormwater 2004* – 'the Blue Book'.

## 5 Monitoring and Recording Conditions

### M1 Monitoring records

- M1.1 The results of any monitoring required to be conducted by this licence or a load calculation protocol must be recorded and retained as set out in this condition.
- M1.2 All records required to be kept by this licence must be:
- a) in a legible form, or in a form that can readily be reduced to a legible form;
  - b) kept for at least 4 years after the monitoring or event to which they relate took place; and
  - c) produced in a legible form to any authorised officer of the EPA who asks to see them.
- M1.3 The following records must be kept in respect of any samples required to be collected for the purposes of this licence:
- a) the date(s) on which the sample was taken;
  - b) the time(s) at which the sample was collected;
  - c) the point at which the sample was taken; and
  - d) the name of the person who collected the sample.

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## M2 Recording of pollution complaints

- M2.1 The licensee must keep a legible record of all complaints made to the licensee or any employee or agent of the licensee in relation to pollution arising from any activity to which this licence applies.
- M2.2 The record must include details of the following:
- a) the date and time of the complaint;
  - b) the method by which the complaint was made;
  - c) any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
  - d) the nature of the complaint;
  - e) the action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant; and
  - f) if no action was taken by the licensee, the reasons why no action was taken.
- M2.3 The record of a complaint must be kept for at least 4 years after the complaint was made.
- M2.4 The record must be produced to any authorised officer of the EPA who asks to see them.

## M3 Telephone complaints line

- M3.1 The licensee must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by the vehicle or mobile plant, unless otherwise specified in the licence.
- M3.2 The licensee must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint.
- M3.3 The preceding two conditions do not apply until 3 months after: the date of the issue of this licence.

## 6 Reporting Conditions

### R1 Annual return documents

#### What documents must an Annual Return contain?

- R1.1 The licensee must complete and supply to the EPA an Annual Return in the approved form comprising:
1. a Statement of Compliance,
  2. a Monitoring and Complaints Summary,
  3. a Statement of Compliance - Licence Conditions,
  4. a Statement of Compliance - Load based Fee,
  5. a Statement of Compliance - Requirement to Prepare Pollution Incident Response Management Plan,
  6. a Statement of Compliance - Requirement to Publish Pollution Monitoring Data,
  7. a Statement of Compliance - Environmental Management Systems and Practices; and
  8. a Statement of Compliance - Environmental Improvement Works.

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At the end of each reporting period, the EPA will provide to the licensee a copy of the form that must be completed and returned to the EPA.

## Period covered by Annual Return

R1.2 An Annual Return must be prepared in respect of each reporting period, except as provided below.

Note: The term "reporting period" is defined in the dictionary at the end of this licence. Do not complete the Annual Return until after the end of the reporting period.

R1.3 Where this licence is transferred from the licensee to a new licensee:

- a) the transferring licensee must prepare an Annual Return for the period commencing on the first day of the reporting period and ending on the date the application for the transfer of the licence to the new licensee is granted; and
- b) the new licensee must prepare an Annual Return for the period commencing on the date the application for the transfer of the licence is granted and ending on the last day of the reporting period.

Note: An application to transfer a licence must be made in the approved form for this purpose.

R1.4 Where this licence is surrendered by the licensee or revoked by the EPA or Minister, the licensee must prepare an Annual Return in respect of the period commencing on the first day of the reporting period and ending on:

- a) in relation to the surrender of a licence - the date when notice in writing of approval of the surrender is given; or
- b) in relation to the revocation of the licence - the date from which notice revoking the licence operates.

## Deadline for Annual Return

R1.5 The Annual Return for the reporting period must be supplied to the EPA by registered post not later than 60 days after the end of each reporting period or in the case of a transferring licence not later than 60 days after the date the transfer was granted (the 'due date').

## Licensee must retain copy of Annual Return

R1.6 The licensee must retain a copy of the Annual Return supplied to the EPA for a period of at least 4 years after the Annual Return was due to be supplied to the EPA.

## Certifying of Statement of Compliance and signing of Monitoring and Complaints Summary

R1.7 Within the Annual Return, the Statements of Compliance must be certified and the Monitoring and Complaints Summary must be signed by:

- a) the licence holder; or
- b) by a person approved in writing by the EPA to sign on behalf of the licence holder.

## R2 Notification of environmental harm

R2.1 Notifications must be made by telephoning the Environment Line service on 131 555.

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R2.2 The licensee must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.

Note: The licensee or its employees must notify all relevant authorities of incidents causing or threatening material harm to the environment immediately after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act.

## R3 Written report

- R3.1 Where an authorised officer of the EPA suspects on reasonable grounds that:
- a) where this licence applies to premises, an event has occurred at the premises; or
  - b) where this licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence, and the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.
- R3.2 The licensee must make all reasonable inquiries in relation to the event and supply the report to the EPA within such time as may be specified in the request.
- R3.3 The request may require a report which includes any or all of the following information:
- a) the cause, time and duration of the event;
  - b) the type, volume and concentration of every pollutant discharged as a result of the event;
  - c) the name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event;
  - d) the name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the licensee has been unable to obtain that information after making reasonable effort;
  - e) action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
  - f) details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event; and
  - g) any other relevant matters.
- R3.4 The EPA may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the EPA within the time specified in the request.

## R4 Other reporting conditions

- R4.1 The licensee must provide a monthly report to the EPA listing all construction projects being undertaken on the premises.
- R4.2 The report referred to in condition R4.1 must be provided on the fifteenth business day of each month or the next business day.

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## 7 General Conditions

### G1 Copy of licence kept at the premises or plant

- G1.1 A copy of this licence must be kept at the premises to which the licence applies.
- G1.2 The licence must be produced to any authorised officer of the EPA who asks to see it.
- G1.3 The licence must be available for inspection by any employee or agent of the licensee working at the premises.
- G1.4 For the purpose of Condition G1.1 the premises is defined as the principal office of the licensee.
- G1.5 For the purpose of G1.3 “available for inspection” includes inspection via electronic means.

## 8 Pollution Studies and Reduction Programs

### U1 Mitigation of wheel squeal

#### U1.1 Angle of Attack Monitoring and Reporting Program

Wheel squeal can be a major source of noise pollution along some sections of the RailCorp network. Wheel squeal is a high pitched noise generated by friction between train wheels and the track and caused by (i) axle misalignment (angle-of-attack) on rolling stock and/or (ii) track conditions.

PRP U1.1 aims to reduce the incidence of wheel squeal through angle-of-attack monitoring to identify rolling stock that have the potential to cause wheel squeal. This monitoring data will be made available to rolling stock operators so that the angle-of-attack anomalies that have the potential to cause wheel squeal can be addressed. The licensee is also required to provide feedback to the EPA on actions that rolling stock operators have taken to address the identified anomalies.

The licensee is required to comply with PRP U1.1 below by completing each described action in the program within the set timeframe.

#### U1.1(a)

##### Action

The licensee will implement and maintain a program which will:

- monitor the angle-of-attack on rolling stock accessing the licensee’s network and passing the Becroft monitoring location; and
- record and store data obtained from angle-of-attack monitoring.

**Timeframe:** Ongoing

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## U1.1(b)

### Action

The licensee will submit to the EPA for approval a comprehensive reporting procedure for advising rolling stock operators and the EPA of the results of angle of attack monitoring from U1.1 (a) and which provides the licensee and the EPA with the results of actions taken by the rolling stock operators in response to that data.

The procedure will require the licensee to:

1. provide monthly reports to rolling stock operators on data collected which highlights angle-of-attack anomalies;
2. obtain quarterly reports from rolling stock operators on actions taken to correct the identified anomalies; and
3. provide the EPA with quarterly reports which includes:
  - monitoring data showing the identified angle-of-attack anomalies, and
  - the information received (from the preceding quarter) from rolling stock operators on remedial actions taken to rectify misaligned axles on rolling stock.

**Timeframe:** Three months from inclusion of the PRP on the licence (i.e. on or before 6 October 2012).

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## U1.1(c)

### Action

The licensee will implement the EPA approved reporting procedure from U1.1(b).

**Timeframe:** Three weeks after EPA approval

## U2 Investigation of the Causes of Wheel Squeal in the Waverton and Wollstonecraft Area

- U2.1 The level of community concern around noise associated with the Sydney Trains passenger fleet on the Sydney Metropolitan Network in the Waverton and Wollstonecraft area has increased over time. Wheel rail interaction is resulting in wheel squeal and flanging due to the tight radius curves at Waverton and Wollstonecraft. The curves, which carry passenger trains only, are some of the tightest radius curves on the NSW network.

Curve squeal is the very loud, tonal noise emitted by the wheels of some rail vehicles negotiating tight radius curves. Flanging noise occurs when there is contact between the wheel flange and the gauge face of the rail.

The purpose of PRP U2 is for the licensee to undertake a program of investigative works to identify the occurrence and cause of curve noise in the Waverton and Wollstonecraft area to allow consideration and application of appropriate mitigation measures.

The licensee is required to comply with PRP U2 outlined in U2.1 below by completing each described action within the set timeframe.

### U2.2 Action 2.0 A

The licensee will undertake or engage an appropriately qualified contractor to undertake the following investigations regarding the occurrence of curve noise from wheel-rail interaction in the Waverton and Wollstonecraft area:

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- a. Assessment of the track in the Waverton and Wollstonecraft area including rail profile, gauge face condition and alignment and comparison of how these activities meet the requirements of the engineering standards set by the Transport for NSW Asset Standards Authority;
- b. Conduct a detailed noise study to assess the contributing factors of curve noise in the area and potential mitigation options. The study must be undertaken over a suitable period to allow collection of a statistically significant data set. The study must:
  - i. identify the track locations from which noise is generated;
  - ii. identify the specific rail components from which noise is generated such as the top of the high or low rail or the gauge corner of the high or low rail and the type of noise generated for each;
  - iii. investigate potential differences in the noise profile of various train types that pass through the area;
  - iv. identify the conditions and variables that can affect rail noise in the area;
- c. Determine the most appropriate locations for noise mitigation options and type of mitigation such as gauge face lubrication, top-of-rail-friction modification and rail profiling.

## Timeframe

The licensee must provide the EPA with a scope of works for review for the investigations required under Action 2.0 A by 31 December 2015 to allow monitoring to commence in the first quarter of 2016.

The licensee must provide the EPA with a report summarising the findings of the investigations required under Action 2.0 A by 30 June 2016.

## 9 Special Conditions

### E1 Completed pollution studies and reduction programs

E1.1 The following pollution studies and reduction programs have been completed by the licensee

PRP Title	Description	Completion Date
1. Noise management on the five priority lines	Help mitigate noise level on five priority lines: <ul style="list-style-type: none"> <li>• Inner West (Lidcombe Junction to Redfern)</li> <li>• North Strathfield to Hornsby</li> <li>• Auburn and Merrylands to Penrith</li> <li>• Erskineville Junction to Waterfall</li> <li>• North Shore</li> </ul>	March 2002
2. Monitoring and reporting for noise management on the five priority lines	To report to EPA the progress of the implementation of PRP 1 above.	July 2006

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3. Whole of network strategies	To review the noise mitigation measures undertaken in PRP 1 above and develop network wide strategies.	December 2003
4. Angle of attack monitoring	Help manage locomotive noise from the NSW rail network by undertaking angle of attack monitoring to identify locomotives or wagons having the potential to cause wheel squeal. Monitoring data was made available to freight operators so that locomotives having anomalies with the potential to cause wheel squeal were able to be identified and appropriately actioned.	20 May 2010
5. Top of rail friction modifier applicators	To refine top of rail friction modifier applicator technology and implement refinements at specified locations.	21 February 2012
6. Audit of the noise performance of locomotives	Help manage locomotive noise from the NSW rail network by monitoring the noise performance of locomotives on the metropolitan rail network and providing noise monitoring data to locomotive operators and the EPA.	21 May 2010
7. Audit of the air performance of locomotives	Help manage exhaust emissions from the NSW rail network by monitoring the exhaust emission performance of XPT passenger locomotives and investigating options for undertaking exhaust emission monitoring on the remainder of RailCorp's passenger locomotive fleet.	7 September 2010
8. Review of safety related procedures that cause a noise nuisance	Help manage noise associated with safety related practices, including horn testing and sounding horns coming in and out of tunnels and road crossings. As a result of this PRP RailCorp removed the requirement to sound a train horn when leaving a station.	19 October 2010

## E2 Locomotives approved for operation on the licensee's premises

E2.1 The following locomotives are approved for operation on the licensee's premises

Class	Approval Path	Approval Date
BK	EPA SDA1 Type approved	16 November 2012
1100	EPA Class approved	13 March 2012
SCT	EPA GT 46 C-ACe Type approved	17 April 2008
LDP	EPA GT 46 C-ACe Type approved	17 April 2008
TT	EPA GT 46 C-ACe Type approved	17 April 2008
TT1	EPA GT 46 C-ACe Type approved	17 April 2008
WH	EPA GT 46 C-ACe Type approved	17 April 2008

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GWA	EPA GT 46 C-ACe Type approved	17 April 2008
92	EPA C43aci & 44aci Type approved	12 August 2009
93	EPA C43aci & 44aci Type approved	12 August 2009
6000	EPA C43aci & 44aci Type approved	12 August 2009
XRN	EPA C43aci & 44aci Type approved	12 August 2009
GWU	EPA C43aci & 44aci Type approved	12 August 2009
CEY	EPA C43aci & 44aci Type approved	12 August 2009
CF	EPA C43aci & 44aci Type approved	12 August 2009
14	EPA Class approved	19 January 2007
Hunter rail car	EPA Class approved	15 August 2006
RL	EPA Class approved	30 November 2007
VL	EPA Class approved	14 April 2008
XR-2/XRB	EPA Class approved	2006
90	Approved under previous legislation	1994
NR	Approved under previous legislation	1996
82	Approved under previous legislation	1994
81	Approved under previous legislation	1982
BL	Approved under previous legislation	1982
G	Approved under previous legislation	1982
Endeavour Car	Approved under previous legislation	1993
Xplorer	Approved under previous legislation	1993
18	Introduced prior to approval processes	Not applicable
22	Introduced prior to approval processes	Not applicable
31	Introduced prior to approval processes	Not applicable
35	Introduced prior to approval processes	Not applicable
42	Introduced prior to approval processes	Not applicable
421	Introduced prior to approval processes	Not applicable
423/1502	Introduced prior to approval processes	Not applicable
43	Introduced prior to approval processes	Not applicable
44	Introduced prior to approval processes	Not applicable
44s	Introduced prior to approval processes	Not applicable
442	Introduced prior to approval processes	Not applicable
442s	Introduced prior to approval processes	Not applicable
45	Introduced prior to approval processes	Not applicable
45s	Introduced prior to approval processes	Not applicable
47	Introduced prior to approval processes	Not applicable
48	Introduced prior to approval processes	Not applicable

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48s	Introduced prior to approval processes	Not applicable
422	Introduced prior to approval processes	Not applicable
49	Introduced prior to approval processes	Not applicable
73	Introduced prior to approval processes	Not applicable
80	Introduced prior to approval processes	Not applicable
80s	Introduced prior to approval processes	Not applicable
600	Introduced prior to approval processes	Not applicable
830	Introduced prior to approval processes	Not applicable
900	Introduced prior to approval processes	Not applicable
930	Introduced prior to approval processes	Not applicable
ALF	Introduced prior to approval processes	Not applicable
AN	Introduced prior to approval processes	Not applicable
B	Introduced prior to approval processes	Not applicable
C	Introduced prior to approval processes	Not applicable
CLF	Introduced prior to approval processes	Not applicable
CLP	Introduced prior to approval processes	Not applicable
D	Introduced prior to approval processes	Not applicable
DC	Introduced prior to approval processes	Not applicable
DL	Introduced prior to approval processes	Not applicable
EL	Introduced prior to approval processes	Not applicable
FL	Introduced prior to approval processes	Not applicable
GL	Introduced prior to approval processes	Not applicable
GM(1-11)	Introduced prior to approval processes	Not applicable
GM(12-47)	Introduced prior to approval processes	Not applicable
HL	Introduced prior to approval processes	Not applicable
JL	Introduced prior to approval processes	Not applicable
KL	Introduced prior to approval processes	Not applicable
MM	Introduced prior to approval processes	Not applicable
PL	Introduced prior to approval processes	Not applicable
LQ	Introduced prior to approval processes	Not applicable
LZ	Introduced prior to approval processes	Not applicable
S	Introduced prior to approval processes	Not applicable
L	Introduced prior to approval processes	Not applicable
K	Introduced prior to approval processes	Not applicable
T	Introduced prior to approval processes	Not applicable
X	Introduced prior to approval processes	Not applicable
XP (XPT)	Introduced prior to approval processes	Not applicable

# Environment Protection Licence

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3200	EPA Class Approved	28 June 2013
BRM	EPA Class Approved	12 July 2013
CFCLA CM	EPA Class Approved	22 January 2014
1200	EPA Class Approved	22 May 2014
FIE	C43/44aci	12 August 2009
5000	C43/44aci	20 January 2006
5020	C43/44aci	12 August 2009
6020	C43/44aci	12 August 2009
AC	C43/44aci	12 August 2009
ACA	C43/44aci	12 August 2009
SSR	GT46C-ACE	17 Apr 2008
N Class	JT22HC-2 - introduced prior to approval process	Not applicable
Cs	GT26C - introduced prior to approval process	Not applicable
CRL	C43/44aci	12 Aug 2009
CSR	SDA1	14 Aug 2012
CFCLA CM	MP33C	22 Jan 2014
Any other MP33C type	MP33C	1 Sept 2014
PB	2GS16B-AU	7 Jan 2015
CS	Windhoff DB690	22 Aug 2002
ACB	EPA C43aci & 44aci Type approved	12 August 2009
MRL	EPA C43aci & 44aci Type approved	12 August 2009
700	EPA Class Approved	21 January 2016
PHC	C43/44aci	4 March 2016

## E3 Special Dictionary

### E3.1 Railway System Licence Dictionary

In this licence, unless the contrary is indicated, the terms below have the following meanings:

Term	Definition
Ancillary works	Has the same meaning as in Clause 33 of Schedule 1 of the Act.
Construction activities	Means erection or installation of new track and ancillary works.
Emergency works	Means unforeseen works: a) to avoid the loss of life or damage to property or to prevent environmental harm; or b) to restore safe and reliable railway passenger and freight services or to prevent imminent interruption to those services.

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High noise impact generating works	Means: a) rail regulating and tamping, jack hammering, grinding, line drilling, pile driving, rock hammering, rock breaking, saw cutting, sheet piling, vibratory rolling; or b) any other activities where those activities in either (a) or (b) above generate offensive noise (as defined in the Dictionary to the Protection of the Environment Operations Act 1997) at noise sensitive receivers, because of their impulsive, intermittent, low frequency or tonal characteristics.
Locomotive	A powered vehicle primarily intended for hauling freight and/or passenger rolling stock or a rail vehicle comprising part of a diesel-multiple unit, but does not include: <ul style="list-style-type: none"> <li>• a vehicle used for maintenance of track or other infrastructure; or</li> <li>• a vehicle used or intended to be used solely for heritage purposes.</li> </ul>
Maintenance activities	Means repair, upgrading or alteration of existing track and ancillary works on the licensed premises.
Metropolitan area	Has the same meaning as defined in Clause 50 of Schedule 1 of the Act.
Noise sensitive receivers	Means buildings used as residence, hospital, school, child care centre, places of public worship and nursing homes.
Railway systems activities	Has the same meaning as in Clause 33 of Schedule 1 of the Act.
Rolling Stock	Has the same meaning as in Part 3 of Schedule 1 of the Act.
Substantially modified	The major upgrading, replacement, restructuring or reconfiguration of one or more of the principal noise-emitting components of a locomotive, including where applicable: <ul style="list-style-type: none"> <li>• the combustion engine;</li> <li>• the engine exhaust system;</li> <li>• the traction system, including traction motors and gearboxes;</li> <li>• the electrical supply system, including alternators, invertors and control equipment;</li> <li>• cooling systems; and</li> <li>• the dynamic braking system;</li> </ul> but does not include routine maintenance of the locomotive.

# Environment Protection Licence



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## Dictionary

### General Dictionary

<b>3DGM [in relation to a concentration limit]</b>	Means the three day geometric mean, which is calculated by multiplying the results of the analysis of three samples collected on consecutive days and then taking the cubed root of that amount. Where one or more of the samples is zero or below the detection limit for the analysis, then 1 or the detection limit respectively should be used in place of those samples
<b>Act</b>	Means the Protection of the Environment Operations Act 1997
<b>activity</b>	Means a scheduled or non-scheduled activity within the meaning of the Protection of the Environment Operations Act 1997
<b>actual load</b>	Has the same meaning as in the Protection of the Environment Operations (General) Regulation 2009
<b>AM</b>	Together with a number, means an ambient air monitoring method of that number prescribed by the <i>Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales</i> .
<b>AMG</b>	Australian Map Grid
<b>anniversary date</b>	The anniversary date is the anniversary each year of the date of issue of the licence. In the case of a licence continued in force by the Protection of the Environment Operations Act 1997, the date of issue of the licence is the first anniversary of the date of issue or last renewal of the licence following the commencement of the Act.
<b>annual return</b>	Is defined in R1.1
<b>Approved Methods Publication</b>	Has the same meaning as in the Protection of the Environment Operations (General) Regulation 2009
<b>assessable pollutants</b>	Has the same meaning as in the Protection of the Environment Operations (General) Regulation 2009
<b>BOD</b>	Means biochemical oxygen demand
<b>CEM</b>	Together with a number, means a continuous emission monitoring method of that number prescribed by the <i>Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales</i> .
<b>COD</b>	Means chemical oxygen demand
<b>composite sample</b>	Unless otherwise specifically approved in writing by the EPA, a sample consisting of 24 individual samples collected at hourly intervals and each having an equivalent volume.
<b>cond.</b>	Means conductivity
<b>environment</b>	Has the same meaning as in the Protection of the Environment Operations Act 1997
<b>environment protection legislation</b>	Has the same meaning as in the Protection of the Environment Administration Act 1991
<b>EPA</b>	Means Environment Protection Authority of New South Wales.
<b>fee-based activity classification</b>	Means the numbered short descriptions in Schedule 1 of the Protection of the Environment Operations (General) Regulation 2009.
<b>general solid waste (non-putrescible)</b>	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997

# Environment Protection Licence



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<b>flow weighted composite sample</b>	Means a sample whose composites are sized in proportion to the flow at each composite time of collection.
<b>general solid waste (putrescible)</b>	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
<b>grab sample</b>	Means a single sample taken at a point at a single time
<b>hazardous waste</b>	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
<b>licensee</b>	Means the licence holder described at the front of this licence
<b>load calculation protocol</b>	Has the same meaning as in the Protection of the Environment Operations (General) Regulation 2009
<b>local authority</b>	Has the same meaning as in the Protection of the Environment Operations Act 1997
<b>material harm</b>	Has the same meaning as in section 147 Protection of the Environment Operations Act 1997
<b>MBAS</b>	Means methylene blue active substances
<b>Minister</b>	Means the Minister administering the Protection of the Environment Operations Act 1997
<b>mobile plant</b>	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
<b>motor vehicle</b>	Has the same meaning as in the Protection of the Environment Operations Act 1997
<b>O&amp;G</b>	Means oil and grease
<b>percentile [in relation to a concentration limit of a sample]</b>	Means that percentage [eg.50%] of the number of samples taken that must meet the concentration limit specified in the licence for that pollutant over a specified period of time. In this licence, the specified period of time is the Reporting Period unless otherwise stated in this licence.
<b>plant</b>	Includes all plant within the meaning of the Protection of the Environment Operations Act 1997 as well as motor vehicles.
<b>pollution of waters [or water pollution]</b>	Has the same meaning as in the Protection of the Environment Operations Act 1997
<b>premises</b>	Means the premises described in condition A2.1
<b>public authority</b>	Has the same meaning as in the Protection of the Environment Operations Act 1997
<b>regional office</b>	Means the relevant EPA office referred to in the Contacting the EPA document accompanying this licence
<b>reporting period</b>	For the purposes of this licence, the reporting period means the period of 12 months after the issue of the licence, and each subsequent period of 12 months. In the case of a licence continued in force by the Protection of the Environment Operations Act 1997, the date of issue of the licence is the first anniversary of the date of issue or last renewal of the licence following the commencement of the Act.
<b>restricted solid waste</b>	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
<b>scheduled activity</b>	Means an activity listed in Schedule 1 of the Protection of the Environment Operations Act 1997
<b>special waste</b>	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
<b>TM</b>	Together with a number, means a test method of that number prescribed by the <i>Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales</i> .

# Environment Protection Licence



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<b>TSP</b>	Means total suspended particles
<b>TSS</b>	Means total suspended solids
<b>Type 1 substance</b>	Means the elements antimony, arsenic, cadmium, lead or mercury or any compound containing one or more of those elements
<b>Type 2 substance</b>	Means the elements beryllium, chromium, cobalt, manganese, nickel, selenium, tin or vanadium or any compound containing one or more of those elements
<b>utilisation area</b>	Means any area shown as a utilisation area on a map submitted with the application for this licence
<b>waste</b>	Has the same meaning as in the Protection of the Environment Operations Act 1997
<b>waste type</b>	Means liquid, restricted solid waste, general solid waste (putrescible), general solid waste (non - putrescible), special waste or hazardous waste

Mr David Featherston

Environment Protection Authority

(By Delegation)

Date of this edition: 17-December-2004

# Environment Protection Licence



Licence - 12208

## End Notes

- 1 Licence fee period changed by notice 1043177 on 17-Dec-2004.
- 2 Licence varied by notice 1044735, issued on 21-Apr-2005, which came into effect on 22-Apr-2005.
- 3 Licence varied by notice 1048848, issued on 27-Jun-2005, which came into effect on 27-Jun-2005.
- 4 Licence varied by notice 1058748, issued on 28-Aug-2006, which came into effect on 28-Aug-2006.
- 5 Licence varied by notice 1077085, issued on 22-Aug-2007, which came into effect on 22-Aug-2007.
- 6 Licence varied by notice 1082393, issued on 12-Feb-2008, which came into effect on 12-Feb-2008.
- 7 Condition A1.3 Not applicable varied by notice issued on <issue date> which came into effect on <effective date>
- 8 Licence varied by notice 1507145 issued on 06-Jul-2012
- 9 Licence varied by notice 1510586 issued on 21-Mar-2013
- 10 Licence varied by notice 1514864 issued on 13-Jun-2013
- 11 Licence fee period changed by notice 1515160 on 24-Jun-2013
- 12 Licence transferred through application 1515298 approved on 30-Jun-2013 , which came into effect on 01-Jul-2013
- 13 Licence varied by notice 1517239 issued on 29-Oct-2013
- 14 Licence varied by notice 1519322 issued on 10-Jan-2014
- 15 Licence varied by notice 1519943 issued on 10-Feb-2014
- 16 Licence format updated on 26-Feb-2014
- 17 Licence varied by notice 1522517 issued on 04-Jun-2014
- 18 Licence varied by notice 1524149 issued on 15-Aug-2014
- 19 Licence varied by notice 1525455 issued on 08-Oct-2014
- 20 Licence varied by notice 1526648 issued on 26-Nov-2014
- 21 Licence varied by notice 1528187 issued on 11-Feb-2015
- 22 Licence varied by notice 1529616 issued on 02-Apr-2015
- 23 Licence varied by notice 1530626 issued on 21-May-2015

# Environment Protection Licence

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24 Licence varied by notice 1535588 issued on 13-Nov-2015

25 Licence varied by notice 1540967 issued on 27-May-2016

## Schedule E7. Sydney Trains Interface

(Clauses 1.1, 2.15)

### Sydney Trains' Accreditation

The Contractor must:

- (a) cooperate with Sydney Trains in relation to Sydney Trains' compliance with its Accreditation obligations under the Rail Safety National Law;
- (b) not put Sydney Trains in breach of its obligations as a Rail Infrastructure Manager or Rolling Stock Operator under the Rail Safety National Law;
- (c) comply with all reasonable requirements of Sydney Trains in relation to compliance with the Accreditation of Sydney Trains; and
- (d) not do anything (or fail to do anything) which jeopardises the Accreditation of Sydney Trains.

### 2. Interfaces with the Works

The Contractor must initiate interface co-ordination meetings with Sydney Trains during the design and construction phases of the Works to consider any relevant design and construction interfaces.

## **PART F – FINANCIAL**

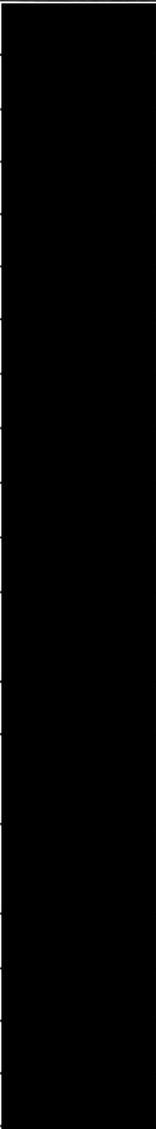
**Schedule F1. Payment Breakdown Schedule**

(Clauses 7.3 and 11)

**Original Contract Price Details**

**Cost Centre D1 – Design**

The following Cost Centre is for payment for the performance of the Contractor's obligations to prepare all Design Documentation for each design element or component of the Works set out in the schedule.

ITEM	DESCRIPTION	TOTAL (A\$) EXCLUDING GST	
<b>General</b>			
D1.01	Project management of the design phase		
D1.01A	Site investigations		
D1.02	Temporary Works design		
D1.03	Service adjustments and relocations design		
D1.04	Heritage design and advice		
D1.05	Urban and landscape design		
<b>Bridge and Structure Works</b>			
D1.06	Architectural design		
D1.07	Geotechnical design, including retaining walls		
D1.08	Bridge and structural design		
<b>Road Works</b>			
D1.09	Road design, including horizontal, vertical alignments and cross sections		
D1.10	Subgrade and pavement design		
D1.11	Drainage design, including surface drainage, pavement drainage and water quality measures		
D1.12	Signage, delineation and traffic control design, including vehicle arrestor		
<b>Rail Works</b>			
D1.13	Track design (including alignment, formation and drainage)		
D1.14	OHW design		
D1.15	Signalling design		
<b>Other</b>			

ITEM	DESCRIPTION	TOTAL (A\$) EXCLUDING GST
	Studies and Reports	
<b>COST CENTRE D1 TOTAL</b>		

**Payment Constraints:**

With respect to any item in the Design Payment Schedule, the Principal will pay the Contractor for progressive completion of the item determined based on the proportion as follows:

1. Submission of initial design to TfNSW – [REDACTED] of the item value.
2. Submission of design for CCB Gate 3 – [REDACTED] of the item value.
3. Approval of the design for CCB Gate 3 – [REDACTED] of the item value.
4. Approval of the design for CCB Gate 4 – [REDACTED] of the item value.

**Cost Centre C1: Preliminaries and General Requirements**

The following Cost Centre is for payment for the performance of the Contractor's obligations that do not relate directly to any other Cost Centre in this schedule.

ITEM	DESCRIPTION	TOTAL (A\$) EXCLUDING GST
C1.01	Mobilisation and demobilisation of general plant, equipment, personnel and establishment of site facilities	
C1.02	Provision of insurances (excluding professional indemnity and workers compensation), fees, levies	
C1.03	Not used	
C1.04	Provision of long service leave levy	
C1.05	Provision of bank guarantees	
C1.06	Provision of pre-construction ground and infrastructure condition survey	
C1.07	Provision of post-construction ground and infrastructure condition survey	
C1.08	Provision of all staff (including all personnel from foremen and above)	
C1.09	Provision of all attendant site establishment labour (including all gatemen, storemen, first-aiders and nippers)	
C1.10	Provision and maintenance of all site accommodation (including all offices, sheds, ablutions, lunch sheds and stores)	
C1.11	Provision of all site services (including communications, computing, telephones, networks, stationary, printing, and general running expenses)	
C1.12	Provision and maintenance of all site vehicles	
C1.13	Attendance by designers at Contractor's construction activities	
C1.14	Provision of requirements in respect of safety, traffic control, site security and other risks and obligations not included elsewhere	
C1.15	Provision of requirements in respect of environmental	

ITEM	DESCRIPTION	TOTAL (A\$) EXCLUDING GST
	management.	
C1.16	Management Plans: (a) prepare, initially submit and amend Management Plans; (b) ongoing development, amendment and updating of Management Plans	
C1.17	Maintenance during construction	
C1.18	Final completion survey	
C1.19	Operation and maintenance manuals	
C1.20	As constructed drawings	
C1.21	Additional and/or balancing items required to complete the work in this cost centre	
	<b>COST CENTRE C1 TOTAL</b>	

**Payment Constraints:**

- For items C1.02, C1.04, C1.05, C1.08, C1.09, C1.10, C1.11, C1.12, C1.13, C1.14, C1.15, and C1.17 in this Cost Centre C1, the proportion of the value of the item that will be certified for any monthly payment of the Contract will be in the same proportion as the value certified for that monthly payment with respect to Cost Centres C2 of this Payment Breakdown Schedule is to the total value of Cost Centres C2 of this Payment Breakdown Schedule.
- For item C1.01 in this Cost Centre C1, mobilisation shall be considered as [REDACTED] of the Milestone and demobilisation as [REDACTED].
- For items C1.06, C1.07, C1.16, C1.18, C1.19 and C1.20 in this Cost Centre C1, certification will be made as the relevant certificates, payment receipts, letters or reports are provided.
- With respect to any item in this Cost Centre C1, the Principal is not required to pay the Contractor any more than [REDACTED] of the value of the item until the Contractor has provided all "operations and maintenance manuals" and "as constructed drawings" relating to the Milestone C1.19 & C1.20 in this Cost Centre C1.

**Cost Centre C2: Construction**

This Cost Centre C2 is for performance of the Contractor's obligations relating to construction of the Works.

ITEM	DESCRIPTION	TOTAL (A\$) EXCLUDING GST
<b>General</b>		
C2.01	Temporary Works	
C2.02	Service adjustments and relocations (both inside and outside the rail corridor)	
C2.03	Demolition	
C2.04	Removal and disposal of contamination and hazardous waste	
C2.05	Environmental works (including erosion and sediment control, topsoil stripping and stockpiling, surface drainage)	
C2.06	Urban design and landscaping	
C2.07	Fencing and gates	
C2.08	Security building, CCTV and intruder detection	
<b>Bridge and Structures</b>		
C2.09	Bridge foundations (including earthworks, piling, pile caps)	
C2.10	Bridge piers, headstocks, abutments and approach slabs	
C2.11	Bridge superstructure	
C2.12	Bridge surfacing (including waterproofing and pavement)	
C2.13	Bridge finishes (including furniture, barriers, linemarking and drainage)	
C2.14	Other structures (including retaining walls, foundations, drainage structures)	
<b>Roadworks</b>		
C2.15	Roadworks (including earthworks, drainage and pavements)	
C2.16	Furniture, medians, barriers, sign posting and delineation	

ITEM	DESCRIPTION	TOTAL (A\$) EXCLUDING GST
C2.17	Vehicle arrestor	
<b>Rail Works</b>		
C2.18	Trackworks including track slews, buffer stops and ballast crossings	
C2.19	Track drainage	
C2.20	OHW works including structures and wiring	
C2.21	Cable routes and service adjustments (within the rail corridor)	
C2.22	Signalling works	
<b>Other</b>		
C2.23	In ground services locating and relocation to the bridge area	
C2.24	Provision of a trafficable entrance and exit for the new temporary ballast crossing, including adjustment and relocation of services	
C2.25	Prepare Mortuary Siding construction area by removal of signalling infrastructure	
C2.26	Track shortening of up shunting neck, including track removal, removal of catchpoints, track drainage adjustments, new buffer stop and signalling changes	
C2.27	Relocate section of airline adjacent to pier 1 into the GLT route	
C2.28	Additional and/or balancing items required to complete the work in this Cost Centre not included elsewhere	
<b>COST CENTRE C2 TOTAL</b>		

**Payment Constraints:**

With respect to any item in this Cost Centre C2, the Principal will pay the Contractor for progressive completion of the item determined on a monthly basis having regard to the value of work carried out in accordance with the Contract.

**Schedule F2. Prices and Rates for valuation of Changes, Direct Costs and Overhead Costs**

**Part A - Prices and Rates for valuation of Changes and Direct Costs**

(Clauses 1.1, 2.3(b), 2.3(d), 2.3(e), 2.4(c), 2.11(c), 3.1(e)(ii), 3.8(d), 3.9(e)(i), 3.9(f)(i), 6.2(a), 6.4(b), 6.5(c), 6.7, 7.3(b), 10.1(f), 10.13(b), 10.14(e)(ii), 12.1(h), 13.3)

All rates included in Schedule F2 exclude GST.

**1. Contamination – Pre-Agreed Disposal Rates**

The prices and rates referred to as the pre-agreed disposal rates in clauses 3.9(e)(i) and 3.9(f)(i) of the Contract are those set out in the table below:

ITEM	DESCRIPTION	UNIT	RATE (A\$/Unit)
	(In accordance with Department of Environment, Climate Change and Water NSW Waste Classification Guidelines)		
	Rates include haulage and tipping of the materials and any other material handling costs		
1.	General Solid Waste (non-putrescible) <u>excluding</u> : a) glass, plastic, rubber, plasterboard, ceramics, bricks, concrete or metal; b) paper and cardboard; c) household waste from municipal clean ups that does not contain food waste; d) grit, sediment, litter and gross pollutants from stormwater treatment devices that does not contain free liquids; e) garden waste; f) wood waste; g) virgin excavated natural material; and h) building and demolition waste.	Tonne	
2.	General Solid Waste (putrescible)	Tonne	
3.	Restricted Solid Waste	Tonne	
4.	Hazardous Waste	Tonne	
5.	Special Waste – Asbestos	Tonne	

## 2. Labour and Plant Rates

For the purposes of valuing Changes or Direct Costs, the prices and rates to be used are defined as follows (by order of precedence) unless otherwise specified in the Contract:

1. The prices and rates in Rawlinsons "Australian Construction Handbook" Edition 34 limited to the following sections:
  - a) Detailed Prices, Wage Rates (Sydney) pp696
  - b) Detailed Prices, Plant Hire Rates pp699-703

Subject to where a range of prices is stated, the average of the range must be used.

2. The prices and rates included in the Schedule of Specific Rates for Labour and the Schedule of Specific Rates for Plant as follows:

### Schedule of Specific Rates for Labour

Description	Normal Time (per hour)	Time and a Half (per hour)	Double Time (per hour)
1. Project Manager			
2. Site Manager/Engineer			
3. Site Foreman/Supervisor			
4. Leading Hand			
5. General Labourer			
6. Plant Operator (not otherwise included in rate for plant)			
7. Truck Driver (not otherwise included in rate for plant)			
8. Carpenter			
9. Concreter			
10. Electrician			
11. Plumber			

For the purposes of the Schedule of Specific Rates for Labour, the following definitions apply:

- a) "Normal Time" is hours worked within normal business hours being Monday to Friday 6am to 6pm; or other hours (including shift work) where there is no uplift applied to pay;
- b) "Time and a Half" is hours worked outside of "Normal Time" where there is an uplift applied to pay, including night time and weekend working;
- c) "Double Time" is hours outside of Normal Time during designated periods that attract double time uplift to the pay for labour. The Contractor must demonstrate that the uplift is payable under the relevant award; and
- d) Labour rates are deemed to include for travel, accommodation, living away from home allowances, meal allowances, clothing and other personal equipment.

**Schedule of Specific Rates for Plant**

Description	Rate (\$/hr)
<b>Major civil construction plant</b>	
Semi-trailer (40 T trailer)	
Rigid trucks	
<ul style="list-style-type: none"> <li>• 15T Tippers</li> </ul>	
<ul style="list-style-type: none"> <li>• 12T Bogey Tippers</li> </ul>	
Concrete truck (6m3, 3 axle)	
Concrete pump (18-20m boom)	
Piling rig:	
<ul style="list-style-type: none"> <li>• Bored 600dia</li> </ul>	
<ul style="list-style-type: none"> <li>• Bored 900dia</li> </ul>	
Franna crane	
<ul style="list-style-type: none"> <li>• 12T</li> </ul>	
<ul style="list-style-type: none"> <li>• 14T</li> </ul>	
<ul style="list-style-type: none"> <li>• 16T</li> </ul>	
Mobile crane	
<ul style="list-style-type: none"> <li>• 16T</li> <li>• Mobilisation &amp; demobilisation (each)</li> </ul>	
<ul style="list-style-type: none"> <li>• 80T</li> <li>• Mobilisation &amp; demobilisation (each)</li> </ul>	
<ul style="list-style-type: none"> <li>• 160T</li> <li>• Mobilisation &amp; demobilisation (each)</li> </ul>	
<ul style="list-style-type: none"> <li>• 250T</li> </ul>	

Description	Rate (\$/hr)
<ul style="list-style-type: none"> <li>Mobilisation &amp; demobilisation (each)</li> </ul>	
<ul style="list-style-type: none"> <li>300T</li> <li>Mobilisation &amp; demobilisation (each)</li> </ul>	
<ul style="list-style-type: none"> <li>400T</li> <li>Mobilisation &amp; demobilisation (each)</li> </ul>	
<ul style="list-style-type: none"> <li>750T</li> <li>Mobilisation &amp; demobilisation (each)</li> </ul>	
Crawler Crane 750T Mobilisation & demobilisation (each)	
<b>Major Plant required for track</b>	
Hi-rail trucks	
Hi-rail supersucker 4.5kL waste capacity	
Supersucker 5.0kL waste capacity	
Hi-rail concrete truck	
Welder's Trucks	
Flat top trucks	
Dump truck balloon tired 5t	
Water cart	
Ballast Box	
Track Jacks	
Turnout tamper (per 8 hour shift) Mobilisation & demobilisation (each)	
Tamper (per 8 hour shift) Mobilisation & demobilisation (each)	
Regulator (per 8 hour shift) Mobilisation & demobilisation (each)	
Rail Grinder (per 8 hour shift) Mobilisation & demobilisation (each)	
Hiab Gang Trucks	
Thermit Welding equipment (per 8 hour shift)	
<b>Major Plant required for Overhead Wiring</b>	
All terrain cranes 40T	
Hi-rail crane	
Hi-rail cable trucks or wiring train	
Hi-rail elevated work platform	
Hi-rail cherry pickers	

For the purposes of the Schedule of Specific Rates for Plant, the following definitions apply:

- a) Plant rates must allow for operators, fuel, maintenance and consumables, unless specified as “Dry”.
- b) Mobilisation (and demobilisation separately) is deemed to be the value of 4 hours hire unless stated otherwise.
- c) Plant that is not specified in Rawlinsons as per references above and the Schedule of Specific Rates for Plant will be deemed at the cost rate plus 10%.

### 3. Design Resources Rates

For the purposes of valuing Changes or Direct Costs, the prices and rates included in the Schedule of Specific Rates for Design are to be used:

Schedule of Specific Rates for Design

Description	Rate (per hour)
1. Senior Project Manager (design)	
2. Project Manager (design)	
3. Principal Structural Engineer	
4. Senior Structural Engineer	
5. Experienced Structural Engineer	
6. Principal Track Engineer	
7. Senior Track Engineer	
8. Principal Electrical Engineer	
9. Senior Electrical Engineer	
10. Senior Architect	
11. Architect	
12. Principal Engineer (all other categories)	
13. Senior Engineer (all other categories)	
14. Engineer (all other categories)	
15. Senior Draftsman	
16. Draftsman	

For the purposes of the Schedule of Specific Rates for Design, the following definitions apply:

1. Design rates are deemed to include for office facilities, IT, travel, accommodation, living away from home allowances, meal allowances, clothing and other personal equipment, other than Overhead Costs.
2. All engineers architects and scientists nominated within the schedule must have (as a minimum) a bachelor degree in an appropriate field of engineering.
  - a) **Principal** – Typically greater than 15 years' experience in the same or similar role to that nominated. Must have had a high performance within positions held, and appropriate formal education level for the position. Resource must have worked on projects in a similar role to that nominated within the last 5 years.
  - b) **Senior** - Senior resource with greater than 10 years' experience in a similar role to that nominated. Must have had high performance within positions held, and appropriate formal education level for position. Resource must have worked on projects in a similar role to that nominated within the last 5 years.
  - c) **Experienced** – Resource with greater than 5 years' experience in a similar role to that nominated. Must have appropriate formal education level for position. Resource must have worked on projects in a similar role to that nominated within the last 5 years.
  - d) **Designer/Engineer/Scientist** - Qualified resource with greater than 2 years of relevant and recent (within past 5 years) experience.

## Part B – Overhead Costs

(Clauses 1.1, 6.4(b), 6.7, 7.3(b) and 14.10(a))

### 1. On-site overheads

The on-site overheads are those overhead costs and expenses which are specific to the Site including:

- (a) on-site personnel with project management, site supervision, administration and support functions;
- (b) site accommodation including amenities and parking facilities;
- (c) phones lease and installation, rental and charges including mobiles;
- (d) storage area and facilities;
- (e) office supplies and consumables;
- (f) site services;
- (g) furniture and office fittings;
- (h) site-based computers;
- (i) printing, photocopying and stationery;
- (j) reproduction of drawings;
- (k) project specific insurances only (and not corporate held insurances);
- (l) project specific software, data processing and network systems;
- (m) security;
- (n) cleaning;
- (o) postage;
- (p) site communications;
- (q) first aid and personnel protective equipment for the personnel referred to in paragraph (a);
- (r) small tools; and
- (s) waste disposal associated with site accommodation, including amenities and parking facilities (excluding waste disposal associated with construction activities).

### 2. Off-site overheads

The off-site overheads are on account of costs and expenses related to off-site business functions of the Contractor (in respect of the Works) including the following matters:

- (a) safety and quality;
- (b) research and development;
- (c) financial, legal, human resources and commercial;
- (d) executive management;
- (e) corporate infrastructure and support;
- (f) parent company fees;
- (g) corporate head offices running costs and payroll;
- (h) bonds and bank guarantees.

**Schedule F3. Unconditional Undertaking**

(Clauses 2.7 and 11.7(b))

**THIS DEED POLL (Undertaking)** made the \_\_\_\_\_ day of \_\_\_\_\_ 20

**IN FAVOUR OF:** Transport for NSW (ABN 18 804 239 602) (the Principal)

**GIVEN BY:** \_\_\_\_\_ (Financial Institution)

The Contractor: » .....

ABN » .....

Security Amount \$ » .....

The Contract: The Contract between the Principal and the Contractor

Contract Title: Sydney Metro City & Southwest – Sydney Yard Access Bridge Project

Contract Number: ».....

Other words and phrases in this Undertaking have the meanings given in the Contract.

**Undertaking**

1. At the request of the Contractor, and in consideration of the Principal accepting this Undertaking from the Financial Institution in connection with the Contract, the Financial Institution unconditionally undertakes to pay on demand any amount or amounts demanded by the Principal to the maximum aggregate sum of the Security Amount.
2. The Financial Institution unconditionally agrees that, if notified in writing by the Principal (or someone authorised by the Principal) that it requires all or some of the Security Amount, the Financial Institution will pay the Principal at once, without reference to the Contractor and despite any notice from the Contractor not to pay.
3. The Principal must not assign this Undertaking without the prior written agreement of the Financial Institution, which must not be unreasonably withheld.
4. This Undertaking continues until one of the following occurs:
  - (a) the Principal notifies the Financial Institution in writing that the Security Amount is no longer required;
  - (b) this Undertaking is returned to the Financial Institution; or
  - (c) the Financial Institution pays the Principal the whole of the Security Amount, or as much as the Principal may require overall.



- 5. At any time, without being required to, the Financial Institution may pay the Principal the Security Amount less any amounts previously paid under this Undertaking, and the liability of the Financial Institution will then immediately end.
- 6. This Undertaking is governed by the laws of the State of New South Wales.

**SIGNED** as a deed poll.

**Signed sealed and delivered** for and on behalf of **[insert name of Financial Institution]** by its Attorney under a Power of Attorney dated \_\_\_\_\_, and the Attorney declares that the Attorney has not received any notice of the revocation of such Power of Attorney, in the presence of:

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Attorney in full

\_\_\_\_\_  
Name of Witness in full

## Schedule F4. Parent Company Guarantee

(Clauses 1.1 and 2.7)

**Deed of Guarantee and Indemnity** made at Sydney on 20 January 2017

**Transport for NSW** (ABN 18 804 239 602), a NSW Government agency, a corporation constituted by section 3C of the *Transport Administration Act 1988* (NSW), of 22 Giffnock Avenue Macquarie Park NSW 2113 (**Principal**)

Laing O'Rourke Australia Pty Ltd ABN 71 111 023 431 of Level 4, 100 Arthur Street North Sydney NSW 2060 (**Guarantor**)

### RECITALS

- A. The Principal has agreed to enter into the Contract with the Contractor on the condition that the Guarantor provide this Guarantee.
- B. The Guarantor has agreed on the following terms and conditions to guarantee to the Principal all of the Obligations and to indemnify the Principal against any loss arising from any failure by the Contractor to perform the Obligations.
- C. The Guarantor considers that by providing this guarantee there will be a commercial benefit flowing to it.

### THIS DEED PROVIDES

#### 1. Definitions

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##### 1.1 Definitions and Interpretation

In this Deed:

**Contract** means the Sydney Yard Access Bridge Contract dated on or about the date of this Deed between the Principal and the Contractor.

**Contractor** means Laing O'Rourke Australia Construction Pty Ltd (ABN 39 112 099 000).

**Event of Default** means any event which constitutes a breach of, or is duly and properly declared to be an event of default (howsoever described) by, the Contract.

**Guaranteed Money** means all money the payment or repayment of which from time to time forms part of the Obligations.

**Insolvency Provision** means any Law relating to insolvency, sequestration, liquidation or bankruptcy (including any Law relating to the avoidance of conveyances in fraud of creditors or of preferences, and any Law under which a liquidator or

trustee in bankruptcy may set aside or avoid transactions), and any provision of any agreement, arrangement or scheme, formal or informal, relating to the administration of any of the assets of any person.

**Obligations** means all the liabilities and obligations of the Contractor to the Principal under or arising out of or in any way in connection with the Contract or the work to be carried out or performed by the Contractor under the Contract, and includes any liabilities or obligations which:

- (a) are liquidated or unliquidated;
- (b) are present, prospective or contingent;
- (c) are in existence before or come into existence on or after the date of this Deed;
- (d) relate to the payment of money or the performance or omission of any act;
- (e) sound in damages only; or
- (f) accrue as a result of any Event of Default,

and irrespective of:

- (g) whether the Contractor is liable or obligated solely, or jointly, or jointly and severally with another person;
- (h) the circumstances in which the Principal comes to be owed each liability or obligation and in which each liability or obligation comes to be secured by this Deed, including any assignment of any liability or obligation or of this Deed; or
- (i) the capacity in which the Contractor and the Principal comes to owe or be owed such liability or obligation,

and **Obligation** means any liability or obligation forming part of the Obligations.

**Power** means any right, power, authority, discretion, remedy or privilege conferred on the Principal by the Contract, by statute, by law or by equity.

**Security** means a mortgage, charge, pledge, lien, hypothecation, guarantee (including this Deed), indemnity, letter of credit, letter of comfort, performance bond, contractual right of set-off or combination or other assurance against loss which secures the Guaranteed Money or the performance of any other Obligation, and whether existing at the date of this Deed or at any time in the future.

**Specified Rate** means the rate which is ██████ above the rate expressed as a percentage per annum:

- (a) which is the average of the bid rates shown at approximately 10.15 am on reference rate page "BBSY" on the Reuters Monitor System on the day the relevant amount was due and payable for bank accepted bills having a tenor of 30 days; or

- (b) if for any reason the rate referred to in paragraph (a) is no longer available or if there is no rate displayed for that period at that time, then the average of the buying rates quoted by 3 banks selected by the Principal at or about 10.15 am on the relevant date referred to in paragraph (a) for bills accepted by such banks having a tenor of 30 days.

## 1.2 Defined terms

Terms used in this Deed which are not otherwise defined will have the meaning given to them in the Contract.

## 1.3 Interpretation

In this Deed unless the context otherwise requires:

- (a) references to a person include an individual, a body politic, the estate of an individual, a firm, a corporation, an authority, an association or joint venture (whether incorporated or unincorporated), or a partnership;
- (b) the words "including", "includes" and "include" will be read as if followed by the words "without limitation";
- (c) a reference to any party to this Deed includes that party's executors, administrators, successors, and permitted substitutes and assigns, including any person taking part by way of novation;
- (d) a reference to any Authority, institute, association or body is:
  - (i) if that Authority, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that Authority, institute, association or body are transferred to another organisation, deemed to refer to the reconstituted, renamed or replaced organisation or the organisation to which the powers or functions are transferred, as the case may be; and
  - (ii) if that Authority, institute, association or body ceases to exist, deemed to refer to the organisation which serves substantially the same purposes or objects as that Authority, institute, association or body;
- (e) a reference to this Deed or to any other deed, agreement, document or instrument is deemed to include a reference to this Deed or such other deed, agreement, document or instrument as amended, novated, supplemented, varied or replaced from time to time;
- (f) a reference to any legislation or to any section or provision of it includes:
  - (i) any statutory modification or re-enactment of, or any statutory provision substituted for, that legislation, section or provision; and
  - (ii) ordinances, by-laws, regulations of and other statutory instruments issued under that legislation, section or provision;

- (g) words in the singular include the plural (and vice versa) and words denoting any gender include all genders;
- (h) headings are for convenience only and do not affect the interpretation of this Deed;
- (i) a reference to:
  - (i) a party or clause is a reference to a party or clause of or to this Deed; and
  - (ii) a paragraph or a sub-paragraph is a reference to a paragraph or sub-paragraph in the clause in which the reference appears;
- (j) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (k) for all purposes (other than where designated as a Business Day), "day" means calendar day;
- (l) a reference to "\$" is to Australian currency;
- (m) no rule of construction applies to the disadvantage of a party on the basis that the party put forward or drafted this Deed or any part; and
- (n) any reference to "information" will be read as including information, representations, statements, data, samples, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated.

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## **2. Guarantee**

### **2.1 Guarantee**

The Guarantor irrevocably and unconditionally guarantees to the Principal the due and punctual performance by the Contractor of all the Obligations.

### **2.2 Payment by Guarantor**

If the Contractor does not pay the Guaranteed Money when due, the Guarantor must on demand pay to the Principal the Guaranteed Money which is then due and unpaid or which later becomes due, owing or payable.

### **2.3 Perform Obligations**

If the Contractor defaults in the performance or observance of any of the Obligations, the Guarantor must, in addition to its obligations under clause 2.2 of this Guarantee, on demand from time to time by the Principal, immediately perform any of the Obligations then required to be performed by the Contractor in the same manner as the Contractor is required to perform the Obligations.

### 3. Indemnity

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As a covenant separate and distinct from that contained in clause 2.1, the Guarantor irrevocably and unconditionally agrees to indemnify the Principal and at all times to keep the Principal indemnified against any loss or damage suffered by the Principal arising out of or in connection with:

- (a) any failure by the Contractor to perform the Obligations duly and punctually; or
- (b) any obligation or liability that would otherwise form part of the Obligations being void, voidable or unenforceable against or irrecoverable from the Contractor for any reason, and whether or not the Principal knew or ought to have known of that reason.

### 4. Liability as guarantor and indemnifier

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A reference in this Deed to the obligations or liabilities of the Guarantor is a reference to the Guarantor's obligations or liabilities as either guarantor or indemnifier (or both) under this Deed. The use of the expression "Guarantor" in this Deed in relation to a party must not be construed as diminishing that party's obligations as an indemnifier under this Deed.

### 5. Nature and preservation of liability

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#### 5.1 Absolute liability

- (a) The liability of the Guarantor under this Deed is absolute and is not subject to the performance of any condition precedent or subsequent by the Contractor or the Guarantor.
- (b) This Deed binds each person who has executed it, notwithstanding that:
  - (i) any person, whether named as a party or not, does not execute this Deed;
  - (ii) the execution of this Deed by any person is invalid, forged or irregular in any way; or
  - (iii) this Deed is or becomes unenforceable, void or voidable against any other person.

#### 5.2 Unconditional liability

The liability of the Guarantor under this Deed will not be affected by any act, omission, matter or thing which, but for this clause 5.2, might operate in law or in equity to release the Guarantor from that liability or to reduce the Guarantor's liability under this Deed, including any of the following:

- (a) the occurrence before, on or at any time after the date of this Deed, of any Insolvency Event in relation to the Contractor or the Guarantor;
- (b) the receipt by the Principal of any payment, dividend or distribution under any Insolvency Provision in relation to the Contractor or the Guarantor;
- (c) the occurrence of any Event of Default;
- (d) the Contract or any payment or other act, the making or doing of which would otherwise form part of the Obligations being or becoming or being conceded to be frustrated, illegal, invalid, void, voidable, unenforceable or irrecoverable in whole or in part for any reason whether past, present or future;
- (e) the Principal accepting or declining to accept any Security from any person at any time;
- (f) the Principal granting time, waiver or other indulgence or concession to, or making any composition or compromise with, the Contractor or the Guarantor;
- (g) the Principal not exercising or delaying (whether deliberately, negligently, unreasonably or otherwise) in the exercise of any remedy or right it has for the enforcement of the Contract or any Obligation;
- (h) any laches, acquiescence or other act, neglect, default, omission or mistake by the Principal;
- (i) the determination, rescission, repudiation or termination, or the acceptance of any of the foregoing, by the Principal or the Contractor or the Guarantor of the Contract or any Obligation;
- (j) any variation to the Contract or any Obligation, whether or not that variation is substantial or material, or imposes any additional liability on or disadvantages the Contractor or the Guarantor;
- (k) the full, partial or conditional release or discharge by the Principal or by operation of law, of the Contractor or the Guarantor from the Contract or any Obligation;
- (l) any change in membership (whether by death or retirement of an existing member, admission of a new member, or otherwise) or in the name of any partnership, firm or association in which the Contractor or the Guarantor is a member;
- (m) the transfer, assignment or novation by the Principal or the Contractor or the Guarantor of all or any of its rights or obligations under the Contract or under any other Obligation;
- (n) any failure by the Principal to disclose to the Guarantor any material or unusual fact, circumstance, event or thing known to, or which ought to have been known by, the Principal relating to or affecting the Contractor or the

Guarantor at any time before or during the currency of this Deed, whether prejudicial or not to the rights and liabilities of the Guarantor and whether or not the Principal was under a duty to disclose that fact, circumstance, event or thing to the Guarantor or to the Contractor;

- (o) the Principal agreeing with the Contractor or the Guarantor not to sue, issue process, sign or execute judgment, commence proceedings for bankruptcy or liquidation, participate in any administration, scheme or deed of arrangement or reconstruction, prove in any bankruptcy or liquidation, or do anything else in respect of the liability of the Contractor or the Guarantor;
- (p) (where the Guarantor is an individual) the death or mental incapacity of the Guarantor; or
- (q) the provisions of section 440J of the Corporations Act 2001 (Cth) operating to prevent or delay:
  - (i) the enforcement of this Deed against any Guarantor; or
  - (ii) any claim for contribution against any Guarantor.

### **5.3 No merger**

- (a) This Deed is in addition to and does not merge with, postpone, lessen or otherwise prejudicially affect the Contract or any other Power of the Principal.
- (b) The Principal will hold any judgment or order obtained by it against any person in respect of the Guaranteed Money or the Obligations collaterally with this Deed, and this Deed will not merge in that judgment or order.

### **5.4 No obligation to gain consent**

No consent is required from any Guarantor nor is it necessary for the Guarantor to or be made aware of any event referred to in clause 5.2, any transaction between the Principal and the Contractor, or any particulars concerning any Obligation.

### **5.5 Appropriation**

- (a) The Principal is under no obligation to marshal or appropriate in favour of any Guarantor, or to exercise, apply, transfer or recover in favour of any Guarantor, any Security or any funds or assets that the Principal holds, has a claim on, or has received or is entitled to receive, but may do so in the manner and order as the Principal determines in its absolute discretion.
- (b) The Principal may hold in a suspense account (without liability to pay interest) any money which it receives from the Guarantor, or which it receives on account of the Guarantor's liability under this Deed, and which the Principal may, at its discretion, appropriate in reduction of the Guarantor's liability under this Deed.

## 5.6 Void or voidable transactions

If:

- (a) the Principal has at any time released or discharged:
  - (i) the Guarantor from its obligations under this Deed; or
  - (ii) any assets of the Guarantor from a Security,
  - (iii) in either case in reliance on a payment, receipt or other transaction to or in favour of the Principal; or
- (b) any payment or other transaction to or in favour of the Principal has the effect of releasing or discharging:
  - (i) the Guarantor from its obligations under this Deed; or
  - (ii) any assets of the Guarantor from a Security; and
- (c) that payment, receipt or other transaction is subsequently claimed by any person to be void, voidable or capable of being set aside for any reason, including under an Insolvency Provision or under the general law; and
- (d) that claim is upheld or is conceded or compromised by the Principal,

then:

- (e) the Principal will immediately become entitled against the Guarantor to all rights (including under any Security) as it had immediately before that release or discharge;
- (f) the Guarantor must immediately do all things and execute all documents as the Principal may reasonably require to restore to the Principal all those rights; and
- (g) the Guarantor must indemnify the Principal against costs, losses and expenses suffered or incurred by the Principal in or in connection with any negotiations or proceedings relating to the claim or as a result of the upholding, concession or compromise of the claim.

## 5.7 No set-off, counterclaim

The liability of the Guarantor under this Deed will not be reduced or avoided by any defence, set-off or counterclaim available to the Contractor against the Principal.

## 5.8 Claim on the Guarantor

The Principal is not required to make any claim or demand on the Contractor, or to enforce the Contract, or any other right, power or remedy against the Contractor, before making any demand or claim on the Guarantor.

## 5.9 No representation by Principal etc.

The Guarantor acknowledges that it has not entered into this Deed as a result of any representation, promise, statement or inducement to the Guarantor by or on behalf of the Principal, the Contractor or any other person.

## 6. Representations and Warranties

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### 6.1 General representations and warranties

The Guarantor or, if there is more than one Guarantor, each Guarantor represents and warrants to the Principal:

- (a) this Deed constitutes a valid and legally binding obligation of the Guarantor in accordance with its terms;
- (b) the execution, delivery and performance of this Deed by the Guarantor does not breach any law, or any document or agreement to which the Guarantor is a party or which is binding on it or any of its assets;
- (c) no litigation, arbitration, mediation, conciliation, criminal or administrative proceedings are current, pending or, to the knowledge of the Guarantor, threatened, which, if adversely determined, may have a material adverse effect on the business assets or financial condition of the Guarantor;
- (d) all information relating to the Guarantor provided to the Principal in connection with this Deed is true in all material respects and is not, by omission or otherwise, misleading in any material respect; and
- (e) the Guarantor has not entered into this Deed as the trustee of any trust.

### 6.2 Corporate representations and warranties

The Guarantor, or if there is more than one Guarantor, each Guarantor, that is or purports to be a body corporate, further represents and warrants to the Principal that:

- (a) it is duly incorporated and has the corporate power to own its property and to carry on its business as is now being conducted;
- (b) the execution, delivery and performance of this Deed does not breach the Constitution of the Guarantor and, if the Guarantor or any of its subsidiaries is listed on the Australian Securities Exchange Limited or on any other stock exchange, those listing requirements or business rules;
- (c) it has the power, and has taken all corporate and other action required, to enter into this Deed and to authorise the execution and delivery of this Deed and the performance of its obligations under this Deed; and

- (d) the Guarantor has filed all corporate notices and effected all registrations with the Australian Securities and Investments Commission and all of those filings and registrations are current, complete and accurate.

### **6.3 Representations and warranties repeated**

Each representation and warranty in this Deed will be repeated on each day whilst any of the Guaranteed Money remains outstanding (whether or not then due for payment) with reference to the facts and circumstances then subsisting, as if made on each such day.

## **7. Payments**

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### **7.1 On demand**

All money payable by the Guarantor under this Deed must be paid by the Guarantor on demand by the Principal in immediately available funds to the account and in the manner notified by the Principal to the Guarantor.

### **7.2 Payment in gross**

All money received or recovered by the Principal on account of the Guaranteed Money will be treated as payments in gross without any right on the part of the Guarantor to claim the benefit of any money received or recovered by the Principal or any Security, until the Principal has been paid 100 cents in the dollar in respect of the Guaranteed Money.

### **7.3 Interest**

As a liability separate and distinct from the Guarantor's liability under clauses 2 and 3, the Guarantor must on demand by the Principal pay interest on all amounts due and payable by it and unpaid under or in respect of this Deed. Interest will accrue on those amounts from day to day from the due date up to the date of actual payment, before and (as a separate and independent obligation) after judgment, at the Specified Rate for successive 90 day interest periods commencing on the date of default and, if not paid when due, will itself bear interest in accordance with this clause 7.3.

### **7.4 Merger**

If the liability of the Guarantor to pay to the Principal any money under this Deed becomes merged in any judgment or order, then, as an independent obligation, the Guarantor will pay interest on the amount of that money at the rate which is the higher of that payable under clause 7.3 and that fixed by or payable under the judgment or order.

### **7.5 No set-off or deduction**

All payments by the Guarantor to the Principal under this Deed must be:

- (a) free of any set-off or counterclaim; and

- (b) without deduction or withholding for or on account of any present or future Taxes, unless the Guarantor is compelled by law to make any deduction or withholding.

If the Guarantor is compelled by law to make any deduction or withholding for or on account of any present or future Taxes (not being Taxes on the overall net income of the Principal), then the Guarantor must:

- (c) pay to the Principal any additional amounts necessary to enable the Principal to receive (after all deductions and withholdings for those Taxes) a net amount equal to the full amount which would otherwise be payable to the Principal if no deduction or withholding was required to be made;
- (d) promptly (and within the time prescribed by law) pay to the relevant taxing authority the amount of those Taxes which it is compelled by law to deduct or withhold, and indemnify the Principal for any Taxes and interest or penalties to which the Principal may become liable consequent on the failure of the Guarantor to pay those Taxes; and
- (e) deliver to the Principal, promptly on request from the Principal, a copy of any receipt issued by the relevant taxing authority on payment of those Taxes.

## **7.6 Currency indemnity**

- (a) The Australian Dollar is the currency of payment by the Guarantor under or in connection with this Deed, except that payment by the Guarantor of or in relation to any Obligation which is denominated in a foreign currency must be made in that foreign currency.
- (b) If for any reason any amount payable by the Guarantor under or in connection with this Deed is received by the Principal in a currency (Payment Currency) other than the currency (Agreed Currency) in which that amount is required to be paid under this Deed (whether as a result of any judgment or order, the liquidation of the Guarantor or otherwise), and the amount obtained (net of charges) by the Principal on its conversion of the amount of the Payment Currency received into the Agreed Currency is less than the amount payable under this Deed in the Agreed Currency, then the Guarantor will, as an independent and additional obligation, indemnify the Principal for that deficiency and for any loss sustained as a result of that deficiency.

## **8. Expenses and stamp duties**

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### **8.1 Expenses**

The Guarantor must on demand reimburse the Principal for and keep the Principal indemnified against all expenses, including legal fees, costs and disbursements on a solicitor/own client basis (or on a full indemnity basis, whichever is the higher)

assessed without the necessity of taxation, incurred by the Principal in connection with:

- (a) the preparation, negotiation and execution of this Deed and any subsequent consent, agreement, approval, waiver, amendment to or discharge of this Deed; and
- (b) any exercise, enforcement or preservation, or attempted exercise, enforcement or preservation, of any rights under this Deed.

## **8.2 Stamp duties**

- (a) The Guarantor must pay all stamp duties, transaction, registration and similar Taxes, including fines and penalties, financial institutions duty and debits tax which may be payable to or required to be paid by any appropriate authority, or determined to be payable in connection with the execution, delivery, performance or enforcement of this Deed or any payment, receipt or other transaction contemplated by this Deed; and
- (b) the Guarantor must indemnify the Principal against any loss or liability incurred or suffered by it as a result of the delay or failure by the Guarantor to pay Taxes.

## **8.3 Goods and Services Tax**

If the Principal is or becomes liable to pay any GST (including any penalty) in respect of any supply it makes under, or in connection with, this Deed (GST Liability) then:

- (a) to the extent that an amount is payable by the Guarantor to the Principal under this Deed for that supply - the amount will be increased by the full amount of the GST Liability; and
- (b) otherwise - the Guarantor will indemnify and keep the Principal indemnified for the full amount of the GST Liability.

## **9. Assignment**

The Principal may assign, novate or otherwise transfer all or any part of its rights under this Deed and may disclose to a proposed assignee or transferee any information in the possession of the Principal relating to the Guarantor.

## **10. Governing law, jurisdiction and arbitration**

### **10.1 Governing law**

This Deed and where applicable, the arbitration reference contained in clause 10.3, is governed by and will be construed according to the laws of New South Wales.

## 10.2 Jurisdiction

- (a) This clause 10.2 only applies where clauses 10.3 to 10.7 do not apply.
- (b) The Guarantor irrevocably submits to the non-exclusive jurisdiction of the courts and appellate courts of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought relating in any way to this Deed.
- (c) The Guarantor irrevocably waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceeding has been brought in an inconvenient forum, where that venue falls within paragraph (b) of this clause.

## 10.3 Reference to arbitration

- (a) Clauses 10.3 to 10.7 will only apply where the Guarantor is a foreign company (as defined in section 9 of the *Corporations Act 2001 (Cth)*).
- (b) Any controversy, claim or dispute directly or indirectly based upon, arising out of, relating to or in connection with this Deed (including but not limited to any question relating to the existence, validity or termination of this Deed) shall be referred to and finally resolved by arbitration in accordance with the arbitration rules of the Australian Centre for International Commercial Arbitration (known as the ACICA Arbitration Rules).
- (c) The seat of the arbitration will be Sydney.
- (d) The number of arbitrators will be one.
- (e) The language of the arbitration will be English.

## 10.4 Powers of the arbitrator

The arbitral tribunal has the power to grant all legal, equitable and statutory remedies, except punitive damages.

## 10.5 Consolidation

The parties agree that section 24 of the *International Arbitration Act 1974 (Cth)* will apply in respect of consolidations.

## 10.6 Joinder

The arbitral tribunal has the power, on the application of any party to this arbitration agreement, to allow a third party who the arbitrator considers has a sufficient interest in the outcome of the arbitration to be joined in the arbitration as a party. Each party to this Deed hereby consents to such joinder. In the event of such joinder of parties in the arbitration, the arbitrator has the power to make a single final award, or separate awards, in respect of all parties so joined in the arbitration.

## 10.7 Award final and binding

Any award will be final and binding upon the parties.

## 11. Miscellaneous

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### 11.1 Notices

- (a) Any notices contemplated by this Deed must be in writing and delivered to the relevant address or sent to the facsimile number as set out below (or to any new address or facsimile number that a party notifies to the others).
  - (i) to the Principal: 22 Giffnock Avenue Macquarie Park NSW 2113  
Fax: (02) 8265 9501
  - (ii) to the Guarantor: Level 4, 100 Arthur Street North Sydney NSW 2060  
Fax: (02) 9903 0333
- (b) A notice sent by post will be taken to have been received at the time when, in due course of the post, it would have been delivered at the address to which it is sent.
- (c) A notice sent by facsimile will be taken to have been received on the next day after the day shown on the transmission record showing the number of the person to whom it is addressed in accordance with paragraph (a), which is a Business Day.

### 11.2 Continuing obligation

This Deed is a continuing obligation notwithstanding any termination by the Guarantor, settlement of account, intervening payment, express or implied revocation or any other matter or thing, and the Principal will continue to be entitled to the benefit of this Deed as regards the due and punctual performance of all the Obligations until a final discharge has been given to the Guarantor.

### 11.3 Further assurance

The Guarantor must immediately on the request of the Principal, and at the cost of the Guarantor, do and perform all further acts and things and execute and deliver all further documents as the Principal reasonably requires, or as are required by law, to perfect or to give effect to the rights and powers of the Principal created, or intended to be created, by this Deed.

### 11.4 Form of demand

A demand on the Guarantor for payment under this Deed may be in the form and contain any information as the Principal determines. It need not specify the amount of the Guaranteed Money, nor the method or basis of calculation of all or any part of the Guaranteed Money, including amounts of, or in the nature of, interest.

### **11.5 Entire agreement**

This Deed constitutes the entire agreement and understanding between the parties and will take effect according to its tenor despite, and supersede:

- (a) any prior agreement (whether in writing or not), negotiations and discussions between the parties in relation to the subject matter of this Deed; or
- (b) any correspondence or other documents relating to the subject matter of this Deed that may have passed between the parties prior to the date of this Deed and that are not expressly included in this Deed.

### **11.6 Joint and several liability**

The obligations of the Guarantor, if more than one person, under this Deed, are joint and several. Each person constituting the Guarantor acknowledges and agrees that it will be causally responsible for the acts and omissions (including breaches of this Deed) of the other as if those acts or omissions were its own and the Principal may proceed against any or all of them. This Deed binds each person who signs as a "Guarantor" even if another person who was intended to become a "Guarantor" does not become a "Guarantor" or is not bound by this Deed.

### **11.7 Severance**

If at any time any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Deed; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Deed.

### **11.8 Remedies cumulative**

Each Power is cumulative and in addition to each other Power available to the Principal.

### **11.9 Waiver**

- (a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this Deed by the Principal will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this Deed.
- (b) Any waiver or consent given by the Principal under this Deed will only be effective and binding on the Principal if it is given or confirmed in writing by the Principal.

- (c) No waiver by the Principal of:
- (i) a breach of any term of this Deed; or
  - (ii) any other failure by the Guarantor to comply with a requirement of this Deed,

will operate as a waiver of another breach of that term or failure to comply with that requirement or of a breach of any other term of this Deed or failure to comply with any other requirement of this Deed.

#### **11.10 Consents**

Any consent of the Principal referred to in, or required under, this Deed may be given or withheld, or may be given subject to any conditions, as the Principal (in its absolute discretion) thinks fit, unless this Deed expressly provides otherwise.

#### **11.11 Moratorium legislation**

To the fullest extent permitted by law, the provisions of all laws operating directly or indirectly to lessen or affect in favour of the Guarantor any obligation under this Deed, or to delay or otherwise prevent or prejudicially affect the exercise of any Power, are expressly waived.

#### **11.12 Set-off**

- (a) The Principal may (without prior notice at any time) set off any obligation then due and payable by the Guarantor under this Deed against any obligation (whether or not due and payable) by the Principal to the Guarantor, regardless of the place or currency of payment of either obligation or the office or branch through which either obligation is booked. If the obligations are in different currencies, the Principal may convert either obligation into the currency of the other obligation at a market rate of exchange determined by it for the purpose of the set-off. If either obligation is unliquidated or unascertained, the Principal may affect the set off in an amount estimated by it in good faith to be the amount of that obligation.
- (b) The Principal is not obliged to exercise any right of set off pursuant to clause 11.12(a), which is in addition to its other rights of combination of account, set-off or lien (by contract or operation of law).
- (c) On its exercise of any set off pursuant to clause 11.12(a) against the Guarantor, the Principal will promptly notify the Guarantor of details of that set-off.

#### **11.13 Variations**

This Deed may only be varied by a document signed by or on behalf of both the Principal and the Guarantor.

#### 11.14 Provisions limiting or excluding liability

Any provision of this Deed which seeks to limit or exclude a liability of the Principal or the Guarantor is to be construed as doing so only to the extent permitted by law.

#### 11.15 Counterparts

- (a) This Deed need not be executed by the Principal.
- (b) If the Guarantor is more than one person, a Guarantor may execute this Deed in one or more separate counterparts, each of which constitutes the deed of that Guarantor.

**Executed** as a deed.

**Executed by Laing O'Rourke Australia Pty Ltd** (ABN 71 111 023 431) in accordance with s127 of the *Corporations Act 2001* (Cth):

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Signature of Director

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Signature of Secretary/other Director

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Name of Director in full

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Name of Secretary/other Director in full



## Schedule F5. Insurance Policies

(Clauses 13.4 and 13.5)

Not used.

Alternative 2 applies – Contractor to insure

## **Exhibit 1. Reference Documents for Sydney Metro Requirements**

Refer to enclosed CD.



Transport  
for NSW



## Sydney Metro City & SouthWest

ACCESS BRIDGE PROJECT

Contract Number: SMCSW-141

Contract Schedules



### EXHIBIT 1 – REFERENCE DOCUMENTS FOR SYDNEY METRO REQUIREMENTS

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