

Central Place P1 Public Works Deed

Dated 24 February 2023 | 10:15:38 AM AEDT

Transport for NSW (ABN 18 804 239 602) (**State**)

Dexus CPA Pty Ltd (ABN 90 160 685 156) as trustee for the Dexus CPA Commercial Property Trust No. 3 and Gateway Building Nominees Pty Limited (ACN 081 951 822) as trustee for the Gateway Building Trust (**Developer**)

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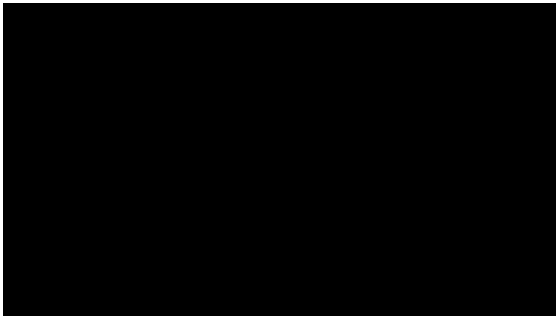
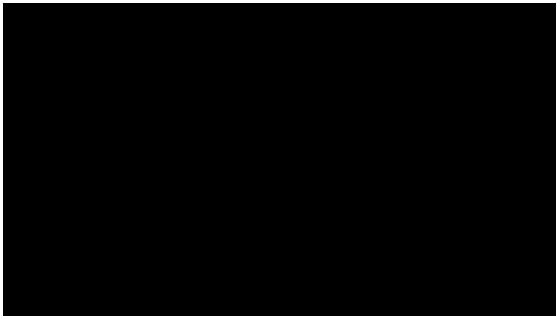


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Central Place P1 Public Works Deed

Details

Parties	State and Developer	
State	Name	Transport for NSW
	ABN	18 804 239 602
	Address	
	Attention	
Developer	Name	Dexus CPA Pty Ltd (ABN 90 160 685 156) as trustee for the Dexus CPA Commercial Property Trust No. 3 and Gateway Building Nominees Pty Limited (ACN 081 951 822) as trustee for the Gateway Building Trust
	Address	
	Attention	
Recitals	A	On or about the date of this deed the State, the Developer and other related parties entered into the Project Development Agreement under which the Developer will carry out or procure the carrying out of the Works on the Development Land.
	B	The State and the Developer have agreed that the rights and obligations of the parties in relation to the Pavilion Works and the IDF Fitout Works would be contained in a separate deed which would be protected by the registration of appropriate covenants created pursuant to section 88E of the <i>Conveyancing Act 1919</i> (NSW).
	C	The State and the Developer have agreed that the obligation to enter into the   would be contained in a separate deed which would also be protected by the registration of the Public Positive Covenants.

Central Place P1 Public Works Deed

General terms

1 Definitions and Interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears:

Acquisition Land has the meaning given in the PDA.

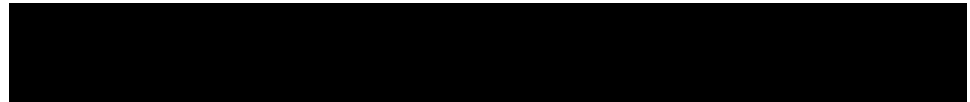
Approvals means any approvals, consents, certificates, permits, endorsements, licences, conditions or requirements which may be required by law for the commencement and carrying out of the Works or which may be lawfully imposed on the Improvements by any Public Authority and any variations or modifications to them, including approvals under the EP&A Act, the *National Parks and Wildlife Act 1974* (NSW), TAO Authorisation, Construction Certificates, Occupation Certificates and Complying Development Certificates.

Approved Design Documentation has the meaning given in the PDA.

Asset Lifecycle has the meaning given in the PDA.

Asset Management Branch or **AMB** means the unit within Transport for NSW which sets, controls, maintains, owns and publishes the network and asset standards for Transport Assets.

Business Day means a day on which banks are open for general banking business in Sydney (not being a Saturday, Sunday or public holiday).



Central Over Station Development means the potential development of the Central Station Significant Precinct as currently contemplated in the State Significant Precinct Study, which includes a place strategy, Urban Design framework, master planning and proposed new planning framework, submitted by Transport for NSW to the NSW Department of Planning and Environment in August 2022.

Central Precinct has the meaning given in the PDA.

Certificate of Practical Completion has the meaning given in the PDA.

Complex means the buildings and other improvements erected or to be erected by the Developer pursuant to the PDA.

Complying Development Certificate means a complying development certificate referred to in section 4.27 of the EP&A Act.

Conditions Precedent has the meaning given to that term in clause 3.2 of the PDA.

Consequential or Indirect Loss means:

- (a) any Loss that does not flow directly and naturally from the relevant breach of this deed or a duty of care; and
- (b) any loss of income, loss of revenue, loss of profit, loss of financial opportunity, loss of contract (other than this deed), loss of goodwill, loss of use, loss of production or failure to realise anticipated savings (whether the loss is direct or indirect).

Construction Certificate means a construction certificate referred to in section 6.4(a) of the EP&A Act.

Costs include reasonable costs, charges and expenses, including those incurred in connection with external advisers and consultants.

Date of Practical Completion has the meaning given in the PDA.

Design Documentation has the meaning given in the PDA.

Developer includes any person to whom this deed is novated pursuant to clause 5.2.

Developer Rejection Right (Pavilion) [REDACTED]

Developer's Employees and Agents has the meaning given in the PDA.

Development Land has the meaning given in the PDA.

EP&A Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Force Majeure Event has the meaning given in the PDA.

Fourth Sunset Date [REDACTED]

GST includes amounts defined as "GST" under the GST Act and:

- (a) amounts payable on account of a notional liability under Division 177 of the GST Act; and
- (b) "GST equivalents" payments under the *Intergovernmental Agreement Implementation (GST) Act 2000* (NSW) (or similar payments under corresponding legislation of any State or Territory).

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

GST Amount has the meaning given to that term in clause 7.3.

IDF Fitout Works means that part of the P1 Public Works identified as 'IDF P1 Public Works' in the Public Works Brief, as amended pursuant to the PDA and clause 3.12.

IDF Fitout Works Trigger Notice has the meaning given in clause 3.7(a).

IDF Fitout Works Trigger Notice Period has the meaning given in clause 3.7(b).

IDF Operational Plan means the management plan in relation to the management, use and operation of the Integrated Distribution Facility approved in accordance with clause 3.13.

Independent Certifier means the independent certifier appointed under the PDA or, in the circumstances referred to in clause 1.6(b), an independent certifier appointed under that clause.

Integrated Distribution Facility or **IDF** means the integrated distribution facility which provides centralised servicing and a loading dock, as detailed in the Public Works Brief.

Intended Purpose has the meaning given in the PDA.

Law means:

- (a) Commonwealth, New South Wales or local government legislation, including ordinances, instruments, codes of practice, policy and statutory guidance (but excluding the Building Code of Australia, any other building codes, or Standards Australia codes), requirements, regulations, by-laws and other subordinate legislation with which the Developer is legally required to comply;
- (b) principles of law or equity established by decisions of courts; and
- (c) Approvals (including any condition or requirement under them).

Occupation Certificate means a final occupation certificate to be issued under Part 6 of the EP&A Act to enable the occupation or use of a Works Portion in accordance with the EP&A Act, and which is to issue on Practical Completion of a Works portion (if relevant), but excludes any further or additional occupation certificate which may be issued in connection with any further development within a Works portion after a final occupation certificate has been issued in relation to a Works portion.

OSD Interface Elements (IDF) means the part of the Central Over Station Development that will be permitted to use services provided by the Integrated Distribution Facility as described in the Subdivision Strategy.

P1 Public Works means that part of the Public Works identified as 'OSD Related (P1) Public Works' in section 5 of the Public Works Brief and comprises the Pavilion Works and the IDF Fitout Works.

Pavilion means the pavilion as further identified in the Public Works Brief.

Pavilion Wind Analysis means the completion of a suitable wind tunnel test and analysis by a qualified wind engineer that if the Pavilion is removed from the Project and replaced with stairs, covered escalators and public space that includes Wind Mitigation Components and planting (within the Public Works Lot and within close proximity of the Public Works Lot) that provides connection to the Central Over Station Development, the wind environment conditions within the Western Gateway Sub-Precinct, including adjacent elevated terraces, will be in accordance with and meet the requirements of the Western Gateway Design Guide including the Figure 8: "Wind Criteria Map".

Wind tunnel testing of the Western Gateway Sub-Precinct to be undertaken for the following scenarios:

- (a) existing and proposed development of the Western Gateway Sub-Precinct; and
- (b) the existing and proposed development within the Central Precinct located to the east, south-east and south of the Western Gateway Sub-Precinct.

Pavilion Works means that part of the P1 Public Works identified as ‘P1 Public Works – Pavilion Works’ in section 5.4 of the Public Works Brief, as amended pursuant to clause 3.10 or clause 3.11.

Pavilion Works Trigger Notice A has the meaning given in clause 18.10(a) of the PDA.

Pavilion Works Trigger Notice A Sunset Date [REDACTED].

Pavilion Works Trigger Notice B has the meaning given in clause 3.3(a).

Pavilion Works Trigger Notice B Sunset Date [REDACTED].

Practical Completion has the meaning given in the PDA.

Project means the:

- (a) design, financing, development and delivery of the Development Works; and
- (b) design, financing, development and delivery of the Public Works.

Project Development Agreement or **PDA** means the Project Development Agreement between the State, the Developer, Dexus Funds Management Limited (ABN 24 060 920 783) as responsible entity for Dexus Operations Trust (ABN 69 645 176 383), Dexus Funds Management Limited (ABN 24 060 920 783) as responsible entity for Dexus Property Trust (ABN 24 595 854 202), Frasers Property Australia Pty Limited (ABN 89 600 448 726) in relation to the Project entered into on or about the date of this deed.

Project Documents has the meaning given in the PDA.

Project Scope has the meaning given in the PDA.

Public Authority means a government, semi government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body or other authority or body including a joint regional planning panel, and, where applicable, a registered certifier accredited under section 9.33 of the EP&A Act.

Public Positive Covenant means a public positive covenant substantially in accordance with the draft section 88B instrument forming part of the Subdivision Strategy.

Public Transport Agency means Transport for NSW, the State Transit Authority, Sydney Ferries, Sydney Metro, NSW Trains, Sydney Trains and their public subsidiary corporations.

Public Works Brief means the project brief and plans contained in Schedule 1 of the PDA, as developed or varied in accordance with the PDA including to reflect Acceptable Development Consents.

Public Works Lot means that part of the Acquisition Land being the lot created pursuant to the registration of the Subdivision Documents generally as identified as Lot 3 on the Draft Subdivision Plan.

Qualifying Cause of Delay has the meaning given in the PDA.

Rail Transport Agency means Transport for NSW (and each of its divisions, including the Sydney Co-ordination Office (**SCO**), Traffic Control (**TCS**), AMB, Sydney Trains and NSW Trains) and TAHE.

Relevant Lot means the lots created by registration of the Subdivision Documents (as defined in the PDA) generally identified as Lots 1 and 3 in the Draft Subdivision Plan (as defined in the PDA).

[REDACTED]

[REDACTED]

Stage 1 Development Works has the meaning given in the PDA.

Stage 1 Public Works has the meaning given in the PDA.

Stage 2 Development Works has the meaning given in the PDA.

State Owned Corporation has the meaning contained in the *State Owned Corporations Act 1989* (NSW).

State Pavilion Works Completion Date [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

State Variation (Pavilion) means a Variation requested by the State to any part of the Pavilion Works after the Design Documentation for the Pavilion Works has become Approved Design Documentation under the PDA.

State's Employees and Agents has the meaning given in the PDA.

Subdivision Strategy has the meaning given in the PDA.

TAHE means the Transport Asset Holding Entity of New South Wales constituted under section 4 of the TAA.

TAO Authorisation means an authorisation issued by Transport for NSW in the context of the Technical Supplier Assurance Framework to a legal entity which verifies that it has the relevant systems and technical capability in place to carry out the class of Asset Lifecycle work specified in the authorisation, subject to any conditions of the authorisation.

Technical Supplier Assurance Framework has the meaning given in the PDA.

Transport Assets means those assets which are vested in or owned, managed, controlled, commissioned or funded by the NSW Government, a NSW Government agency or a Public Transport Agency.

Variation means an increase, decrease, deletion or omission, or other change to any part of the Public Works required by this deed or the PDA (provided that design development of the Public Works does not constitute a Variation).

Variation (IDF Fitout) means a Variation requested by the State or the Developer to any part of the IDF Fitout Works after the Design Documentation for the IDF Fitout Works has become Approved Design Documentation under the PDA.

Western Gateway Design Guide has the meaning given in the PDA.

Western Gateway Sub-Precinct has the meaning given in the PDA.

Wind Mitigation Components means the structures and other improvements (including screens and awning) to be installed or constructed which are necessary to mitigate the effects of wind on the Public Works Lot or on the Central Over Station Development deck.

Works means:

- (a) the Stage 1 Public Works;
- (b) the Integration Works;
- (c) the Development Works;
- (d) the Pavilion Works, but only if the State gives the Developer a Pavilion Works Trigger Notice A before the Pavilion Works Trigger Notice A Sunset Date;
- (e) the IDF Fitout Works, but only if the State gives an IDF Fitout Works Trigger Notice to the Developer at least 24 months before the end of an IDF Fitout Works Trigger Notice Period; and

all other work required to be performed or carried out to complete the Project.

1.2 Definitions in the Project Development Agreement

Except as otherwise defined in clause 1.1, terms used in this deed that are defined in the PDA have the same meanings in this deed as in the PDA.

1.3 References to certain general terms

In this deed, unless the contrary intention appears:

- (a) anything (including an amount) is a reference to the whole and each part of it;
- (b) an agreement, representation or warranty in favour of 2 or more persons is for the benefit of them jointly and each of them individually;
- (c) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to it;
- (d) a document (including this deed) includes any variation or replacement of it;

- (e) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (f) an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
- (g) Australian dollars, dollars, \$ or A\$ is a reference to the lawful currency of Australia;
- (h) a time of day is a reference to Sydney time;
- (i) the singular includes the plural and vice versa;
- (j) the word "person" includes an individual, a firm, a body corporate, an unincorporated association and an authority;
- (k) a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (l) the words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (m) where a word is defined in this deed by reference to another document, the reference to that document is that document as at the date of this deed, or where that document has been amended with the consent of the parties to this deed, to that document as so amended;
- (n) the obligations of the State under and in connection with this deed are limited to those expressly stipulated in this deed;
- (o) unless the context otherwise requires, defined terms will extend to all parts of speech which are derivative from that term; and
- (p) if a day by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur by the next Business Day.

1.4 Headings

Headings are inserted for convenience and do not affect the interpretation of this deed.

1.5 Inconsistency with PDA

If there is inconsistency between the provisions of this deed and the PDA, the provisions of the PDA will prevail.

1.6 Role of the Independent Certifier

- (a) The parties acknowledge that:
 - (i) an Independent Certifier was appointed pursuant to the PDA; and

- (ii) due to the possible duration of the rights and obligations under this deed, the Independent Certifier may no longer be retained by the parties when a provision of this deed requires a determination or other action by the Independent Certifier.
- (b) In the circumstances referred to in clause 1.6(a)(ii), the parties agree to act in good faith to appoint a new Independent Certifier at the time that the determination or other action is required under this deed.

2 Operation of this deed

2.1 Activation

- (a) Subject to clause 2.1(b), the rights and obligations of the parties under this deed, other than the provisions of:
 - (i) clauses 3.2 to 3.9 (inclusive); and
 - (ii) clause 4,

(Suspended Provisions),

will commence on the date of this deed.
- (b) The Suspended Provisions will commence operation when the Conditions Precedent have been satisfied or waived in accordance with the PDA.

2.3 Operation of the PDA

The parties acknowledge and agree that, subject to the provisions of this deed, the PDA will continue to apply to the conduct of the P1 Public Works until Practical Completion of the Stage 2 Development Works.

3 P1 Public Works

3.1 P1 Public Works – Pavilion Works – Design and Approvals

- (a) The State must:
 - (i) keep the Developer informed about design development and procurement of the Central Over Station Development;
 - (ii) prior to constructing the Wind Mitigation Components, complete the Pavilion Wind Analysis and provide a copy of the Pavilion Wind Analysis to the Developer;
 - (iii) prepare the design of the Wind Mitigation Components; and

- (iv) consult with the Developer regarding the Pavilion Wind Analysis and the design of the Wind Mitigation Components and, acting reasonably, address all comments made by the Developer in that regard.
- (b) The Developer must, in consultation with the State, prepare the design for the Pavilion Works in accordance with clause 18.9 of the PDA.
- (c) Despite any provision of this deed or the PDA, the State (and not the Developer) is responsible for:
 - (i) preparing, lodging and managing all applications for all necessary Approvals for the Pavilion Works; and
 - (ii) obtaining all Approvals or authorisations necessary to enable the carrying out of the Pavilion Works.

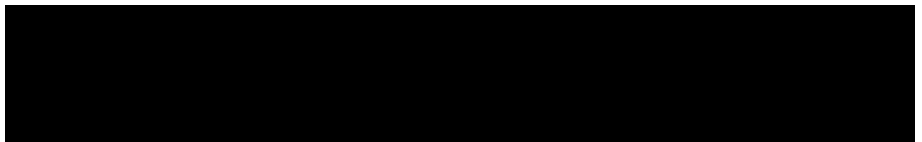
3.2 P1 Public Works – Pavilion Works Trigger Notice A

If the State gives the Developer a Pavilion Works Trigger Notice A before the Pavilion Works Trigger Notice A Sunset Date, then the provisions of clause 18.10 of the PDA will apply.

3.3 P1 Public Works – Pavilion Works Trigger Notice B

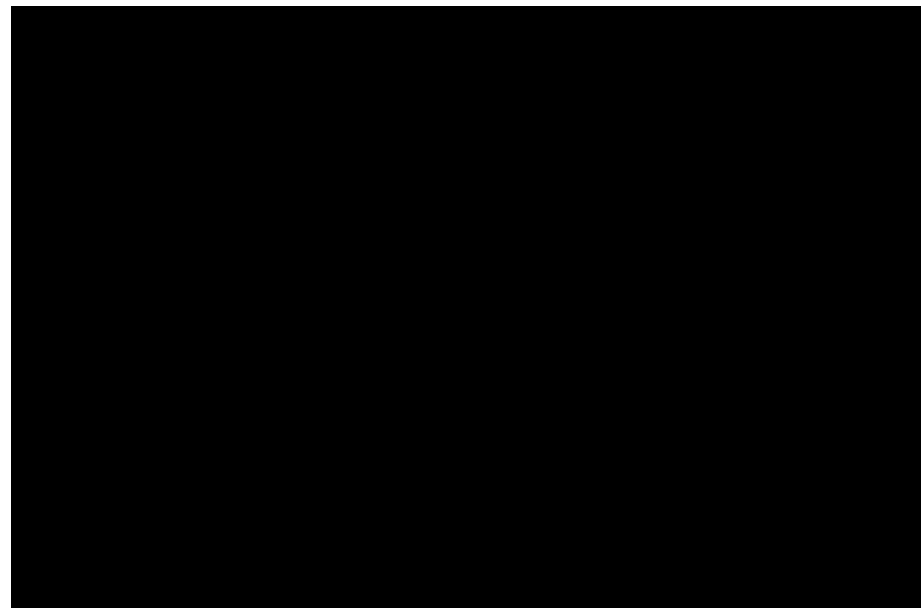
- (a) If the State does not give to the Developer a Pavilion Works Trigger Notice A by the Pavilion Works Trigger Notice A Sunset Date, the State may elect for the State to carry out the Pavilion Works by giving to the Developer a trigger notice (**Pavilion Works Trigger Notice B**) before the Pavilion Works Trigger Notice B Sunset Date. In the Pavilion Works Trigger Notice B, the State must give to the Developer not less than 12 months' notice of the commencement of the Pavilion Works by the State.

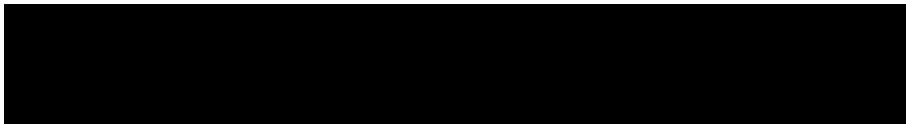
(b)



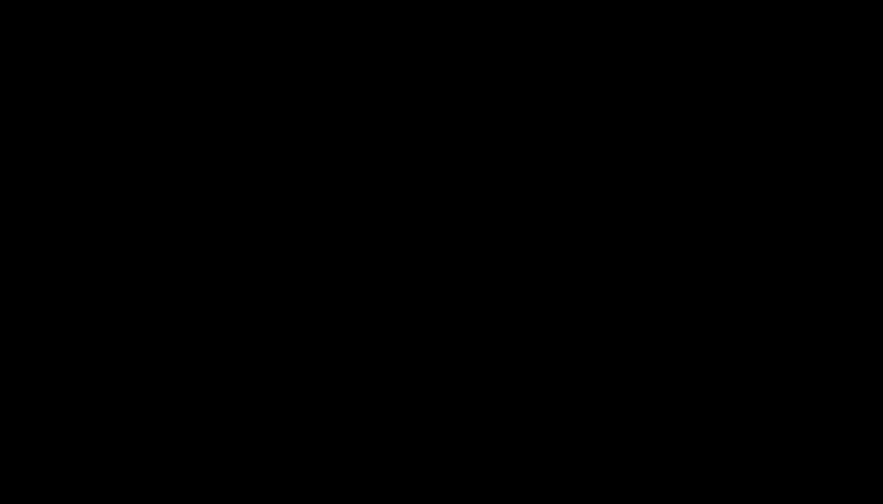
- (c) Despite any other provision of this deed, the State must comply with clause 3.4 before it is entitled to give to the Developer a Pavilion Works Trigger Notice B.

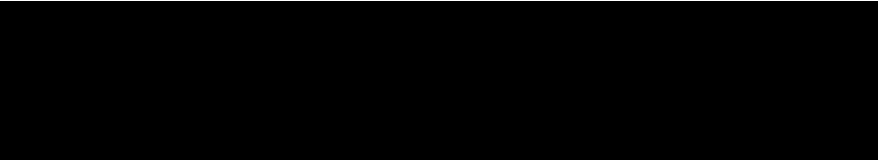
(d)





(e) In carrying out the Pavilion Works, the State must minimise interference with the use of the Acquisition Land by the Developer and the owners, lessees and sub-lessees of the Acquisition Land and their invitees and other claiming through or under them.

(f) 

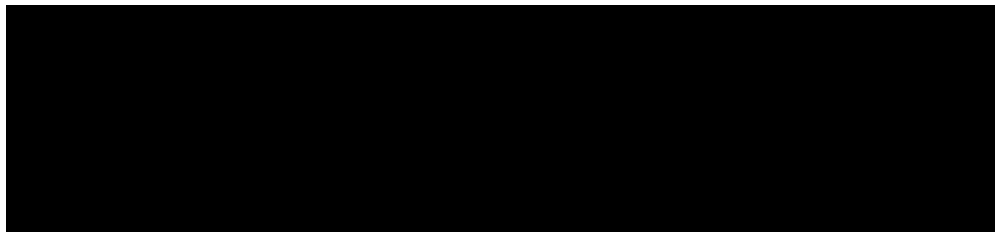
(g) 

3.4 Pre-conditions to service of Pavilion Works Trigger Notice A or B

Despite any other provision of this deed, the State is only entitled to give the Developer a Pavilion Works Trigger Notice A or Pavilion Works Trigger Notice B where all of the following are satisfied at the date of service of the relevant notice:

- (a) the State has prepared the design of the Wind Mitigation Components;
- (b) the State has completed the Pavilion Wind Analysis and provided a copy to the Developer and has complied with clause 3.1(a)(iv);
- (c) the State has obtained both a development approval and (if required) a Construction Certificate in relation to the Pavilion Works pursuant to the EP&A Act; and
- (d) the State has completed temporary wind mitigation measures or the Wind Mitigation Components to the extent recommended in the Pavilion Wind Analysis before the Pavilion can be safely removed.

3.5 State does not give Pavilion Works Trigger Notice A or B



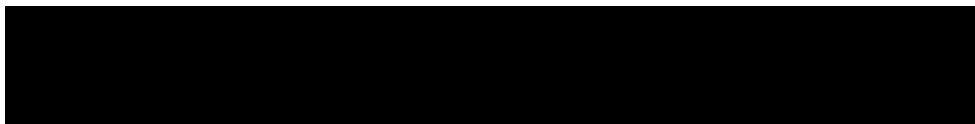
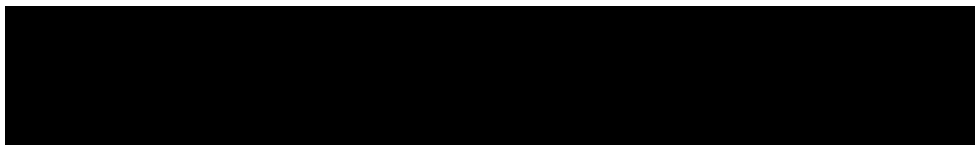


3.6 P1 Public Works – IDF Fitout Works – Design and Approvals

- (a) The parties acknowledge and agree that:
- (i) the provisions of clause 18.11(b) and 18.11(c) of the PDA will only apply until Practical Completion of the Stage 2 Development Works; and
 - (ii) this clause 3.6 will only apply on and from Practical Completion of the Stage 2 Development Works.
- (b) If:
- (i) the State wishes to amend the design of the IDF Fitout Works after the Design Documentation for the IDF Fitout Works has become Approved Design Documentation under the PDA; or
 - (ii) the Developer wishes to amend the design of the IDF Fitout Works after the Design Documentation for the IDF Fitout Works has become Approved Design Documentation under the PDA to reflect the requirements of Law or Public Authorities or changes in technology or operation of the Integrated Distribution Facility,
- the relevant party may request amendments which will be treated as a Variation (IDF Fitout) to which clause 3.12 of this deed will apply.
- (c) The Developer is responsible for:
- (i) preparing, lodging and managing all applications for all necessary Approvals for the IDF Fitout Works; and
 - (ii) obtaining all Approvals or authorisations necessary to enable the carrying out of the IDF Fitout Works.

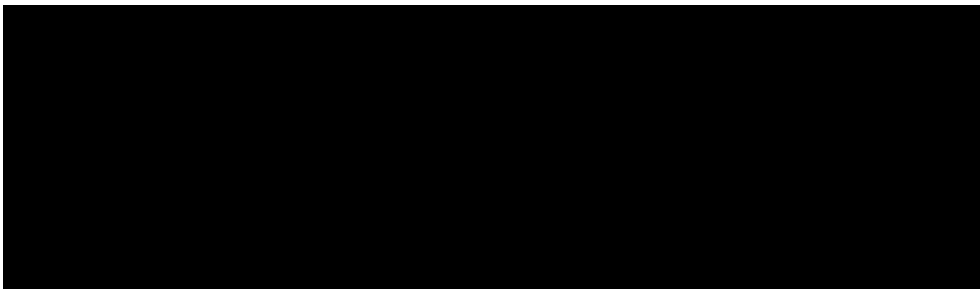
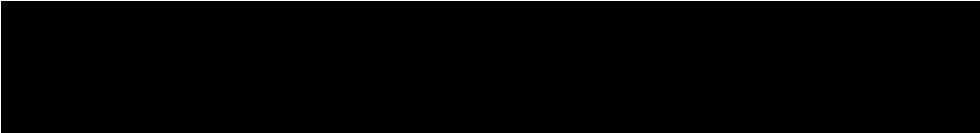
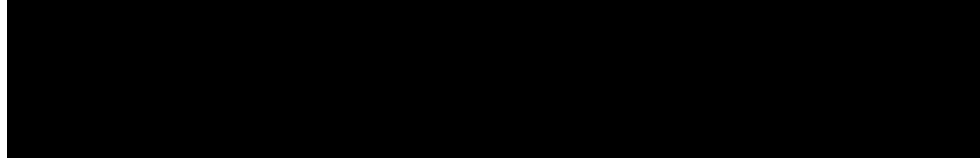
3.7 P1 Public Works – IDF Fitout Works Trigger Notice

- (a) If the State requires the Developer to carry out the IDF Fitout Works, the State must give a trigger notice to the Developer (**IDF Fitout Works Trigger Notice**) at least 24 months before the end of an IDF Fitout Works Trigger Notice Period.

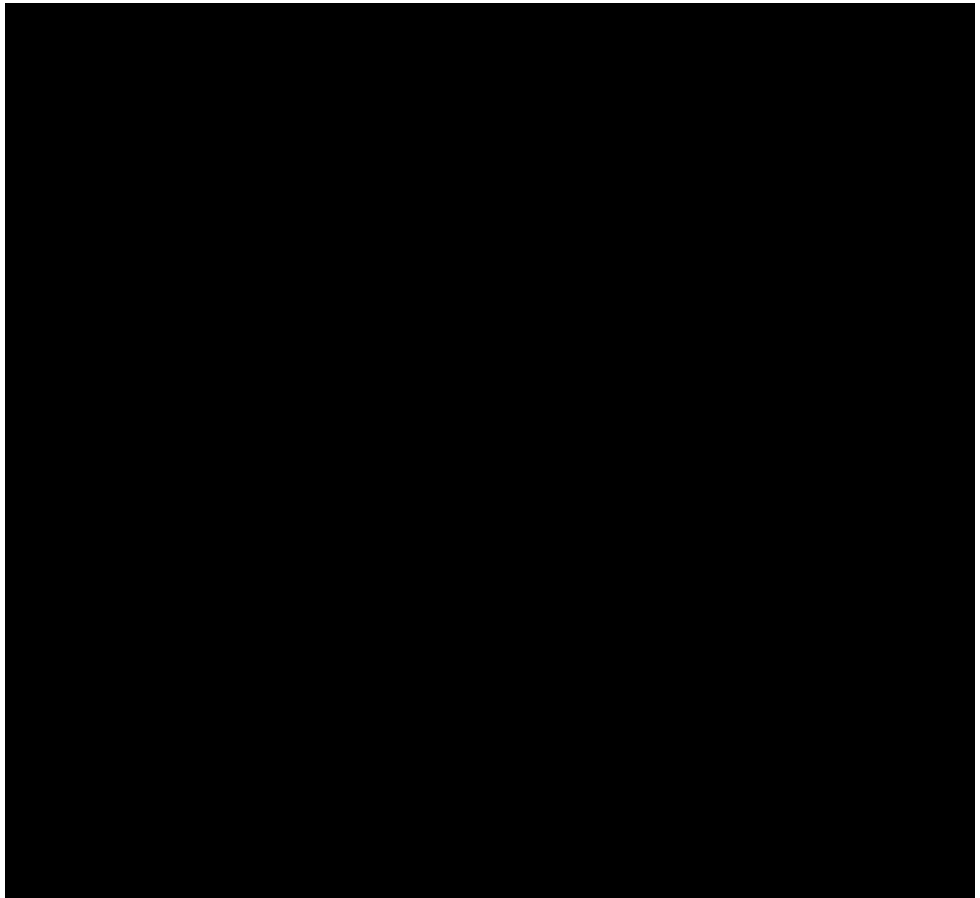


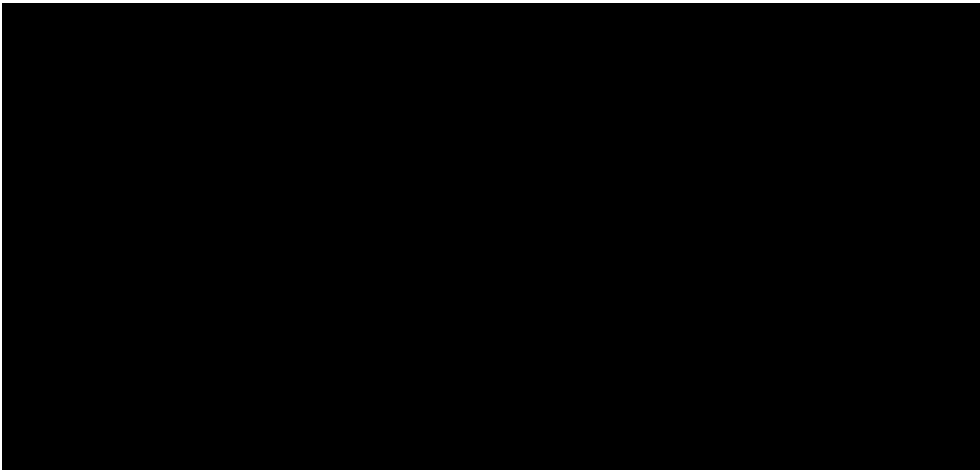


- (d) The Developer may claim an extension of time to the Fourth Sunset Date in accordance with the provisions of clause 3.14.



3.8 Impact on covenants





3.9 Extension of the State Pavilion Works Completion Date



- (b) The State may only claim an extension of time:
 - (i) if the State gives to the Developer and the Independent Certifier details of the number of days claimed, the date the cause of the delay first arose and the date the delay ceased, within 20 Business Days after the earlier of the day the State became aware, and the day the State ought reasonably to have become aware, of the delay ceasing;
 - (ii) to the extent the delay has not been caused or contributed to by the State or the State's Employees and Agents (including any subcontractor or proposed tenant);
 - (iii) if the State has used its reasonable endeavours to remedy the cause of the delay and to minimise the delay, provided the State is not obliged to incur any Costs in doing so; and
 - (iv) if the State has actually been delayed in carrying out the Pavilion Works.
- (c) If it is not practicable or possible to include the information referred to in clause 3.9(b)(i) in the notice referred to in this clause 3.9, then the State must provide the remainder of the information as soon as practicable after issuing the notice.
- (d) If, in respect of the Pavilion Works, more than one event set out in clause 3.9(a) causes concurrent delays, then to the extent that the delays are concurrent the State is not entitled to an additional extension

of time due to the fact that more than one delay referred to in clause 3.9(a) occurred during the period of concurrency.

- (e) In determining whether the State is or is likely to be delayed in achieving completion of the Pavilion Works by the State Pavilion Works Completion Date, the Independent Certifier:
 - (i) may take into account whether the State has taken all reasonable steps to preclude the occurrence of the cause and minimise the consequences of the delay provided the State is not obliged to incur any Costs in doing so; and
 - (ii) may not take into account whether the State can achieve the completion of the Pavilion Works by the State Pavilion Works Completion Date without an extension of time.
- (f) The State and the Developer acknowledge and agree that the State will be entitled to an extension of time if the Independent Certifier determines that the State is entitled to an extension of time.
- (g) If, in the reasonable opinion of the State, the Independent Certifier fails to make its determination in accordance with clause 3.9(f) or fails to give sufficient reason for refusing to grant an extension of time, then the State may regard the circumstances as constituting a dispute between the State and the Developer for the purposes of clause 38 of the PDA.

3.10 Amendments to design of Pavilion Works – prior to the Pavilion Works Trigger Notice A Sunset Date

The parties acknowledge and agree that the PDA applies to any amendments requested by the State to the design of the Pavilion Works:

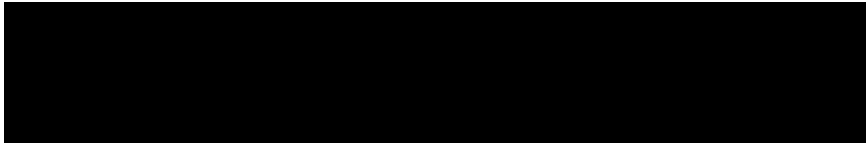
- (a) on or before the Pavilion Works Trigger Notice A Sunset Date; or
- (b) after the Pavilion Works Trigger Notice A Sunset Date where the State has given a Pavilion Works Trigger Notice A.

3.11 Amendments to design of Pavilion Works – after the Pavilion Works Trigger Notice A Sunset Date where State has not given Pavilion Works Trigger Notice A

- (a) The parties acknowledge and agree that this clause 3.11 only applies where the State does not give to the Developer a Pavilion Works Trigger Notice A by the Pavilion Works Trigger Notice A Sunset Date.
- (b) The State acknowledges and agrees that even in the circumstances where the State (and not the Developer) is carrying out the Pavilion Works in accordance with this deed, the Developer's approval may be required to amendments to the Pavilion Works, such approval to be obtained in accordance with this clause 3.11.
- (c) If:
 - (i) after the Pavilion Works Trigger Notice A Sunset Date; and
 - (ii) after the Design Documentation for the Pavilion Works has become Approved Design Documentation under the PDA,

the State wishes to make a State Variation (Pavilion), the State must:

- (iii) provide to the Developer written notice of the State Variation (Pavilion) and provide all reasonable details of the State Variation (Pavilion) and provide all relevant information sufficient for the Developer to fully consider the State Variation (Pavilion);
 - (iv) consult with the Developer in relation to the State Variation (Pavilion);
 - (v) take into account the reasonable comments of the Developer in relation to the State Variation (Pavilion);
 - (vi) where the State Variation (Pavilion) would cause the trigger of a Developer Rejection Right (Pavilion), obtain the prior approval of the Developer to the State Variation (Pavilion) (such approval not to be unreasonably withheld); and
 - (vii) where the State Variation (Pavilion) would not cause the trigger of a Developer Rejection Right (Pavilion) because of the operation of clause 3.11(d)(i), the State must use reasonable endeavours to minimise any adverse impact the incorporation of the Wind Mitigation Components will have on the Complex.
- (d) The parties acknowledge that for the purposes of the Developer Rejection Rights (Pavilion):
- (i) the incorporation of the Wind Mitigation Components will not require the approval of the Developer in accordance with this clause 3.11; and
 - (ii) the design of the Pavilion Works as contained in the Approved Design Documentation is the baseline for determining whether the State Variation (Pavilion) has a material adverse impact on the Complex.
- (e) Within 20 Business Days of receipt of a notice from the State under clause 3.11(c)(iii), the Developer must consider the State Variation (Pavilion) and provide written notification to the State of:
- (i) the Developer's comments in relation to the State Variation (Pavilion); and
 - (ii) where the State Variation (Pavilion) would cause the trigger of a Developer Rejection Right (Pavilion):
 - (A) the Developer's consent to the State Variation (Pavilion); or
 - (B) the Developer's refusal of consent to the State Variation (Pavilion),
 such consent not to be unreasonably withheld (subject to clause 3.11(i)).
- (f) Where the Developer does not respond to a notice from the State under clause 3.11(c)(iii) within the 20 Business Days period referred to in clause 3.11(e):
- (i) the State must give to the Developer a reminder notice which must be sent by email to the company secretary of each Developer and which must state that:

- (A) the Developer has not given a notice under clause 3.11(e) as at the date of the email notice; and
- (B) if the Developer does not provide a notice under 3.11(e) providing comments and (where clause 3.11(e)(ii) applies) either giving or withholding consent to the State Variation (Pavilion) within a further 5 Business Days, then the Developer will be deemed to have given a notice consenting to the State Variation (Pavilion); and
- (ii) if the Developer does not provide a notice under 3.11(e) providing comments and (where clause 3.11(e)(ii) applies) either giving or withholding consent to the State Variation (Pavilion) within the 5 Business Day period referred to in clause 3.11(f)(i), the Developer will be deemed to have given a notice under clause 3.11(e) consenting to the State Variation (Pavilion).
- (g) The State acknowledges and agrees that the State (and not the Developer) is responsible for:
 - (i) preparing, lodging and managing all applications for all necessary Approvals for the Pavilion Works (including any variations); and
 - (ii) obtaining all Approvals or authorisations necessary to enable the carrying out of the Pavilion Works (including any State Variation (Pavilion)).
- (h) 
- (i) Despite any other provision of this deed, where a State Variation (Pavilion) is required by Law or in order to meet the requirements of a Public Authority:
 - (i) the Developer is not entitled to withhold approval to the State Variation (Pavilion) (even where the State Variation (Pavilion) would cause the trigger of a Developer Rejection Right (Pavilion)); but
 - (ii) the parties must meet and endeavour to agree modifications to the requested State Variation (Pavilion) to minimise (to the extent reasonably practicable) the extent to which the State Variation (Pavilion) has one or more of the outcomes listed in the definition of Developer Rejection Right (Pavilion).

3.12 Amendments to design of IDF Fitout Works – after Practical Completion of the Stage 2 Development Works

- (a) The parties acknowledge and agree that this clause 3.12 only applies where either party requests a Variation (IDF Fitout) after Practical Completion of the Stage 2 Development Works.
- (b) If:
 - (i) the State wishes to amend the design of the IDF Fitout Works after Practical Completion of the Stage 2 Development Works to reflect:

(A) the requirements of Law of Public Authorities; or

(B) current standard industry practice,

to enable the IDF Fitout Works to achieve the Intended Purpose, or

- (ii) the Developer wishes to amend the design of the IDF Fitout Works after Practical Completion of the Stage 2 Development Works to reflect the requirements of Law or Public Authorities or current standard industry practice or technology or current operation of the Integrated Distribution Facility,

the relevant party may request amendments to the IDF Fitout Works by giving written notice to the other party and providing all relevant information sufficient for the other party to fully consider the request. Such request will be treated as a Variation (IDF Fitout).

- (c) Within 20 Business Days of receipt of a request under clause 3.12(b), the party receiving the request for the Variation (IDF Fitout) must consider the request and provide written notification to the requesting party whether the party receiving the request gives or withholds consent to the Variation (IDF Fitout) (such approval not to be unreasonably withheld) and the conditions of such consent (such conditions to be reasonable).
- (d) If the State wishes to request a Variation (IDF Fitout), it must do so no later than 6 months prior to the State issuing the IDF Fitout Works Trigger Notice.

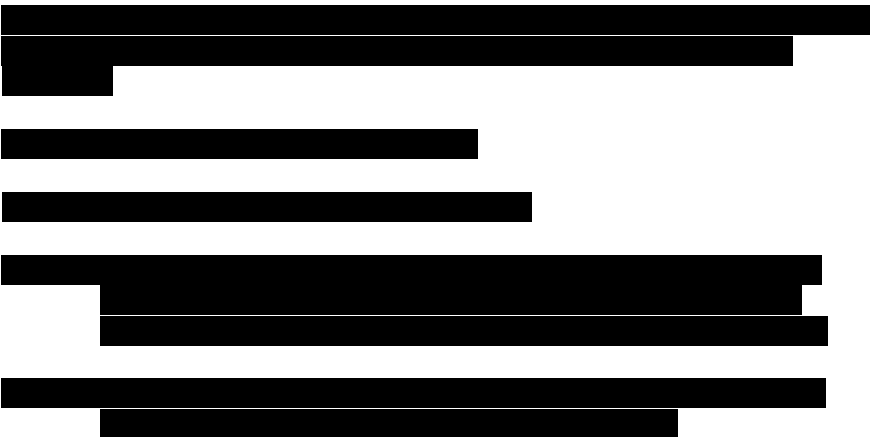
3.13 IDF Operational Plan

- (a) The parties acknowledge and agree that:
- (i) the provisions of clause 22.9(a) to 22.9(f) of the PDA will only apply until Practical Completion of the Stage 2 Development Works; and
- (ii) this clause 3.13 will only apply on and from Practical Completion of the Stage 2 Development Works.
- (b) The State is entitled to approve the IDF Operational Plan, which must be consistent with the information provided for in the IDF Concept of Operations contained in the Subdivision Strategy.
- (c) The Developer must:
- (i) prior to Practical Completion of the Stage 1 Development Works provide to the State for its information a copy of the draft IDF Operational Plan to take effect from the day after Practical Completion of the Stage 1 Development Works; and
- (ii) prior to Practical Completion of the P1 Public Works insofar as they relate to the Integrated Distribution Facility, provide to the State for its approval a copy of the updated IDF Operational Plan to take effect from the day after Practical Completion of the P1 Public Works insofar as they relate to the Integrated Distribution Facility.
- (d) The State must, within 15 Business Days of the date of receipt of the updated IDF Operational Plan referred to in clause 3.13(c)(ii), either

approve or reject the updated IDF Operational Plan. The State is only entitled to reject the updated IDF Operational Plan if it is inconsistent with the provisions of the IDF Concept of Operations contained in the Subdivision Strategy.

- (e) If the State rejects the updated IDF Operational Plan, it must provide written reasons for such rejection and detailed instructions as to the manner in which the updated IDF Operational Plan should be revised or amended in order to achieve approval under clause 3.13(d).
- (f) The State must act reasonably in relation to its rights under this clause 3.13.
- (g) Where the State fails to respond to any request for approval to the updated IDF Operational Plan under clause 3.13(d):
 - (i) the Developer must give to the State a reminder notice which must state that:
 - (A) the State has not given a response under clause 3.13(d) as at the date of the notice; and
 - (B) if the State does not provide a notice under clause 3.13(d) within a further 5 Business Days, then the State will be deemed to have approved the updated IDF Operational Plan; and
 - (ii) if the State does not give a notice under clause 3.13(d) within the 5 Business Day period referred to in clause 3.13(g)(i)(B), the State will be deemed to have approved the updated IDF Operational Plan.

3.14 Extensions of time to Fourth Sunset Date (for IDF Fitout Works)

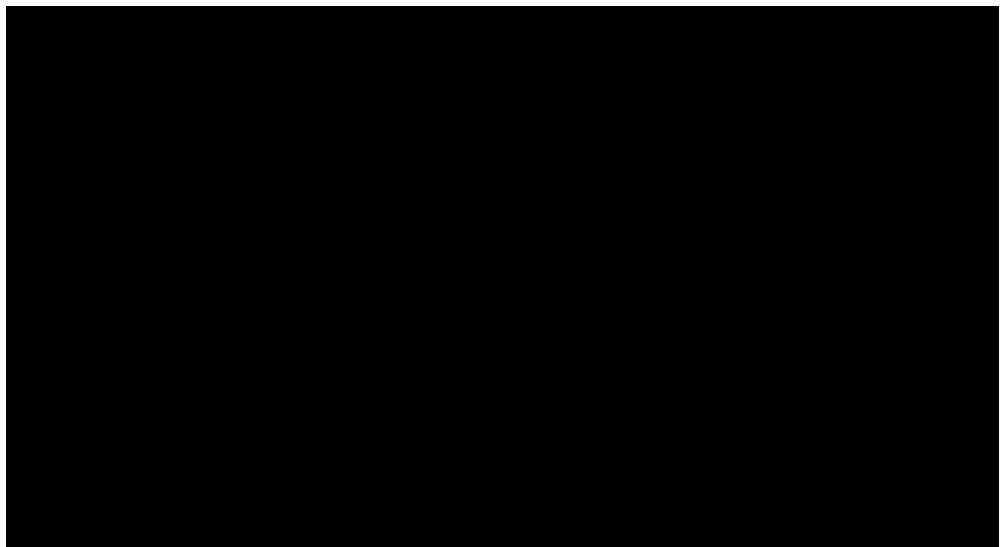
- (a) 
- (b) The Developer may only claim an extension of time to the Fourth Sunset Date:
 - (i) if the Developer gives to the State and the Independent Certifier details of the number of days claimed, the date the cause of the delay first arose and the date the delay ceased, within 20 Business Days after the earlier of the day the Developer became aware, and the day the Developer ought reasonably to have become aware, of the delay ceasing;
 - (ii) (other than in relation to a delay caused or contributed to by fire as referred to in paragraph (k) of the definition of Qualifying

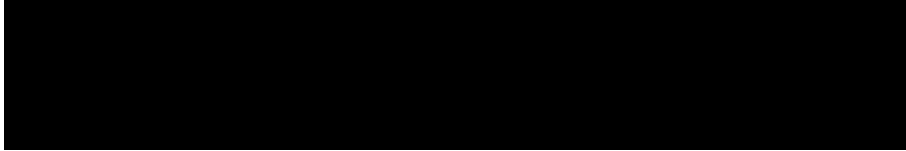
Cause of Delay) to the extent the delay has not been caused or contributed to by the Developer or the Developer's Employees and Agents (including any subcontractor or proposed tenant);

- (iii) if the Developer has used its reasonable endeavours to remedy the cause of the delay and to minimise the delay, provided the Developer is not obliged to incur any Costs in doing so; and
 - (iv) if the Developer has actually been delayed in carrying out the IDF Fitout Works.
- (c) If it is not practicable or possible to include the information referred to in clause 3.14(b)(i) in the notice referred to in this clause, then the Developer must provide the remainder of the information as soon as practicable after issuing the notice.
- (d) If, in respect of the IDF Fitout Works, more than one event set out in clause 3.14(a) causes concurrent delays, then to the extent that the delays are concurrent the Developer is not entitled to an additional extension of time due to the fact that more than one delay referred to in clause 3.14(a) occurred during the period of concurrency.
- (e) In determining whether the Developer is or is likely to be delayed in achieving Practical Completion of the IDF Fitout Works by the Fourth Sunset Date, the Independent Certifier:
- (i) may take into account whether the Developer has taken all reasonable steps to preclude the occurrence of the cause and minimise the consequences of the delay provided the Developer is not obliged to incur any Costs in doing so; and
 - (ii) may not take into account whether the Developer can achieve Practical Completion of the IDF Fitout Works by the Fourth Sunset Date without an extension of time.
- (f) The State and the Developer acknowledge and agree that the Developer will be entitled to an extension of time if the Independent Certifier determines that the Developer is entitled to an extension of time.

4 Public Works Lot

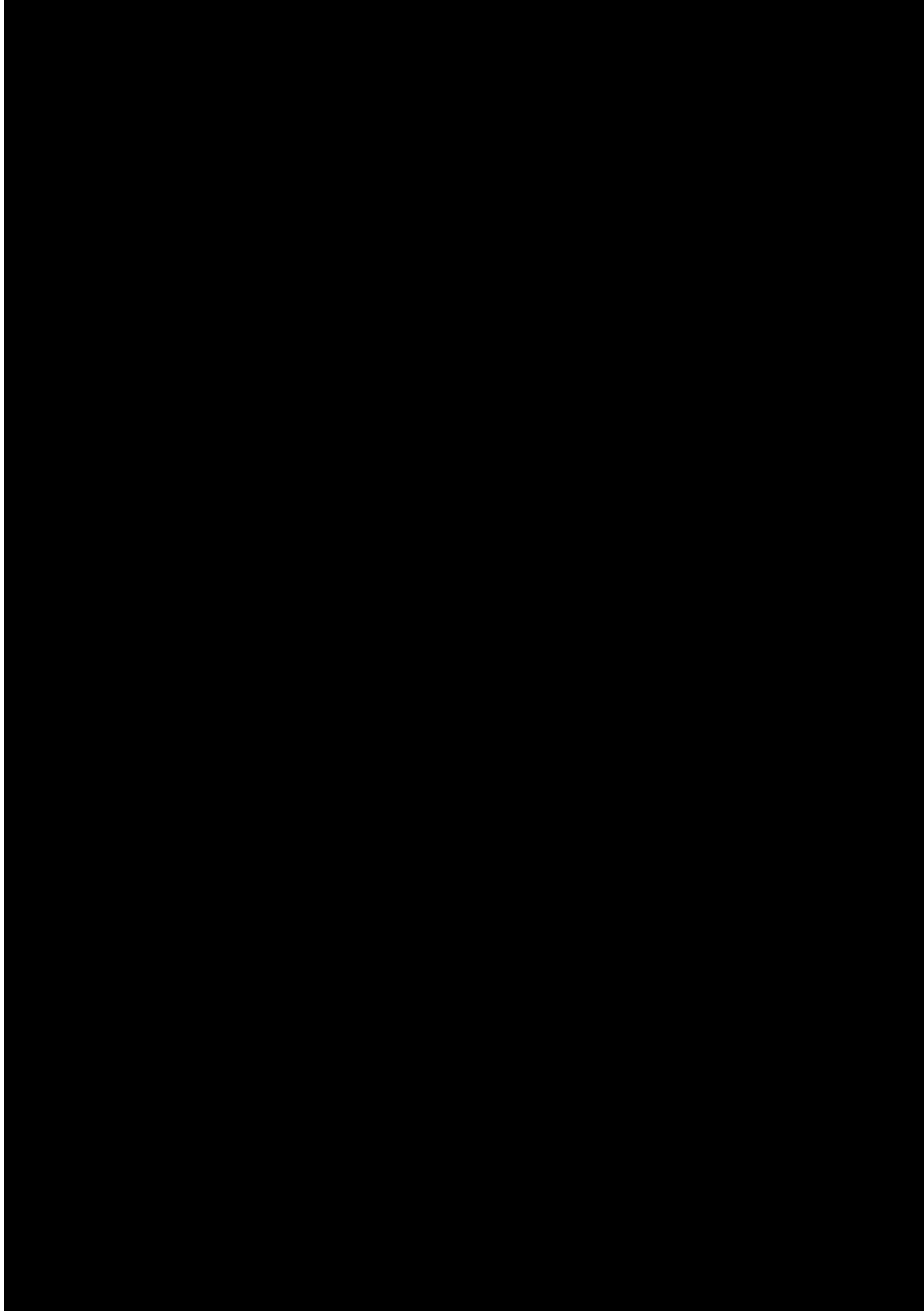
The parties acknowledge and agree that:





- (b) a Public Positive Covenant will be registered on the title of the Public Works Lot in accordance with the Subdivision Strategy.

5 Assignment





6 Notices

Notices and other communications in connection with this deed must be given in the manner provided for in the PDA.

7 GST

7.1 Interpretation

- (a) Except where the context suggests otherwise, terms used in this clause 7 have the meanings given to those terms by the GST Act (as amended from time to time).
- (b) Any periodic or progressive component 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 7.
- (c) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.
- (d) Unless otherwise expressly stated, all consideration to be provided under any other provision of 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 7.
- (e) A reference to GST payable by a party includes any GST payable by the representative member of any GST group of which that party (or the entity on whose behalf that party is acting) is a member.
- (f) A reference to input tax credits includes input tax credits to which an entity is notionally entitled in accordance with Division 177 of the GST Act and a reference to input tax credits to which an entity is entitled includes any input tax credits to which the representative member of any GST group to which that entity may belong is entitled.

7.2 Reimbursements

Any payment, reimbursement, indemnity or similar payment required to be made under this deed that is calculated by reference to an amount paid or incurred by another party will be limited to the total amount less the amount of any input tax credit to which the other party is entitled. If the reduced amount is consideration for a taxable supply, clause 7.3 shall apply to the reduced amount.

7.3 Additional amount of GST payable

Subject to clause 7.5, if GST becomes payable on any supply made by a party (**Supplier**) to another party to this deed, under, or in connection with this deed:

- (a) any amount payable or consideration to be provided under any provision of this deed (other than this clause 7), for that supply is exclusive of GST;
- (b) any party (**Recipient**) that is required to provide consideration to the Supplier for that supply must pay an additional amount to the Supplier equal to the amount of the GST payable on that supply (**GST Amount**), at the same time as any other consideration is to be first provided for that supply; and
- (c) the Supplier must provide a tax invoice to the Recipient for that supply, no later than the time at which the GST Amount for that supply is to be paid in accordance with clause 7.3(b).

7.4 Variation

- (a) If the GST Amount properly payable in relation to a supply (as determined in accordance with clause 7.3 and clause 7.5), varies from the additional amount paid by the Recipient under clause 7.3, 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. Any payment, credit or refund under this clause 7.4(a) is deemed to be a payment, credit or refund of the GST Amount payable under clause 7.3.
- (b) The Supplier must issue an adjustment note to the Recipient in respect of any adjustment event occurring in relation to a supply made under or in connection with this deed as soon as reasonably practicable after the Supplier becomes aware of the adjustment event.

7.5 Exchange of non-monetary consideration

- (a) To the extent that the consideration provided for the Supplier's taxable supply to which clause 7.3 applies is a taxable supply made by the Recipient attributed to the same tax period (**Recipient Supply**), the GST Amount that would otherwise be payable by the Recipient to the Supplier in accordance with clause 7.3 shall be reduced by the amount of GST payable by the Recipient on the Recipient Supply.
- (b) The Recipient must issue to the Supplier an invoice for any Recipient Supply on or before the time at which the Recipient must pay the GST Amount in accordance with clause 7.3 (or the time at which such GST Amount would have been payable in accordance with clause 7.3 but for the operation of clause 7.5(a)).

7.6 Indemnities

- (a) If a payment under an indemnity gives rise to a liability to pay GST, the payer must pay, and indemnify the payee against, the amount of that GST.
- (b) If a party has an indemnity for a cost on which that party must pay GST, the indemnity is for the cost plus all GST (except any GST for which that party can obtain an input tax credit).

7.7 Set off

- (a) If and to the extent that, in the same tax period the State is required to pay the Developer and the Developer is required to pay the State an additional amount under clause 7.3, the parties agree that such amounts will be offset and only the balance, if any, will be payable.
- (b) For the avoidance of doubt, the offset of any amount under clause 7.3(a) shall not affect the obligations under the remainder of this clause 7.

7.8 No merger

This clause will not merge on completion or termination of the deed.

8 Trustee limitations of liability

8.1 Dexus CPA Pty Ltd – trustee limitation of liability

- (a) Dexus CPA Pty Ltd enters into this deed in its capacity as trustee (**Dexus Trustee**) of Dexus CPA Commercial Property Trust No. 3 (**Dexus Trust**) and in no other capacity unless specifically provided for in this deed.
- (b) A liability arising under or in connection with this deed is limited to and can be enforced against Dexus Trustee only to the extent to which it can be and is in fact satisfied out of the property (including contractual rights) of the Dexus Trust from which the Dexus Trustee is actually indemnified for the liability (or would be indemnified if the Dexus Trustee exercised its entitlement to be indemnified out of the property, including contractual rights, of the Dexus Trust). This limitation of the Dexus Trustee's liability applies despite any other provision of this deed and extends to all liabilities and obligations of the Dexus Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this deed.
- (c) No party to this deed may sue the Dexus Trustee in any capacity other than as the trustee of the Dexus Trust, including seeking the appointment of a receiver (except in relation to property, including contractual rights, of the Dexus Trust), a liquidator, an administrator or any similar person to the Dexus Trustee or proving in any liquidation, administration or arrangement of or affecting the Dexus Trustee (except in relation to property, including contractual rights, of the Dexus Trust).
- (d) The provisions of this clause 8.1 will not apply to any obligation or liability of the Dexus Trustee to the extent that it is not satisfied because, under the Dexus Trust's deed or by operation of law, there is a reduction in the extent of the Dexus Trustee's indemnification out of the property, including contractual rights, of the Dexus Trust as a result of the Dexus Trustee's failure to properly perform its duties as trustee of the Dexus Trust or otherwise.
- (e) The Dexus Trustee is not obliged to do or refrain from doing anything under this deed (including incur any liability) unless its liability is limited in the same manner as set out in clauses 8.1(b) to 8.1(d).

8.2 Not used

8.3 Frasers – trustee limitation of liability

- (a) All provisions of this deed will have effect and be applied subject to this clause 8.3. For the purposes of this clause 8.3:
- (i) **Assets** includes all assets, property and rights real or personal of any nature whatsoever;
 - (ii) **Frasers Trust** means Gateway Building Trust;
 - (iii) **Frasers Trustee** means the trustee of the Frasers Trust as at the date of this deed and its successors and assigns;
 - (iv) **Frasers Trust Deed** means the trust deed under which the Frasers Trust is established; and
 - (v) **Obligations** means all obligations and liabilities of whatsoever kind, undertaken or incurred by, or devolving upon the Frasers Trustee, under or in respect of this deed or any deed, agreement or other instrument collateral to this deed or given or entered into pursuant to this deed whether express or implied by statute or other legal requirements or arising otherwise howsoever.
- (b) The Frasers Trustee enters into this deed in its capacity as trustee of the Frasers Trust and covenants it has the power as trustee of the Frasers Trust to enter into this deed and to assume the Obligations.
- (c) The Frasers Trustee must perform and carry out the Obligations.
- (d) Any liability of the Frasers Trustee arising in connection with this deed is limited to the extent that the Frasers Trustee is entitled to be indemnified for that liability out of the Assets of the Frasers Trust under the Frasers Trust Deed.
- (e) A party may enforce its rights powers and remedies under this deed against the Frasers Trustee, and the Frasers Trustee is only liable to pay or satisfy any Obligation, to the extent to which the Frasers Trustee is entitled to be indemnified out of the Assets of the Frasers Trust and the Frasers Trustee must exercise all such rights to indemnity to satisfy such rights, powers and remedies.
- (f) Where a party does not recover all money owing to it by enforcing the rights powers and remedies referred to paragraph (e) of this clause 8.3, that party may not seek to recover the shortfall by bringing proceedings against the Frasers Trustee in its personal capacity.
- (g) Paragraphs (c) to (f) of this clause 8.3 do not apply in the case of fraud, negligence, default, breach of trust or breach of duty on the part of the Frasers Trustee or its agents (even if the agents were acting fraudulently or outside the scope of their authority or engagement).
- (h) No receiver or receiver and manager, liquidator, administrator or any similar person appointed by any party to this agreement other than the Frasers Trustee has authority to act on behalf of the Frasers Trustee in a way which exposes the Frasers Trustee to any personal liability or to liability in any capacity other than as trustee of the Frasers Trust and no act or omission of any such person will be considered fraud, negligence or breach of trust or breach of warranty of the Frasers Trustee for the purposes of this clause 8.3.

- (i) The Frasers Trustee is not obliged to enter into or refrain from entry into any collateral document in connection with this deed unless the Frasers Trustee's liability in relation to that collateral document is limited to the reasonable satisfaction of the Frasers Trustee in the same manner as set out in this clause 8.3.

9 General

9.1 Prompt performance

If this deed specifies when a party agrees to perform an obligation, that party agrees to perform it by the time specified. The parties agree to perform all other obligations promptly.

9.2 Certificates

Each party may give another party a certificate signed by that party or that party's solicitor about an amount payable or other matter in connection with this deed. The certificate is sufficient evidence of the amount or matter, unless it is proved to be false or incorrect.

9.3 Exercise of rights

Each party may exercise a right, power or remedy at its discretion, and separately or concurrently with another right, power or remedy.

9.4 Partial exercise of rights

A single or partial exercise of a right, power or remedy by a party does not prevent a further exercise of that or an exercise of any other right, power or remedy by that party.

9.5 Delay in exercising rights

Failure by a party to exercise or delay in exercising a right, power or remedy does not prevent its exercise.

9.6 Authorities

- (a) This deed will not in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of:
 - (i) the State or any other Rail Transport Agency to exercise any of their respective functions and powers pursuant to any legislation; or
 - (ii) the AMB to exercise any of its functions and powers, including any functions or powers required to be exercised by the State or any Rail Transport Agency pursuant to the Configuration Management Framework (as defined in the PDA).
- (b) Without limiting clause 9.6(a), anything the State, any other Rail Transport Agency or AMB does, or fails to do or purports to do, pursuant to their respective functions and powers either as a TAO (as defined in the PDA) or under any legislation, will be deemed not to be an act or omission by the State under this deed.
- (c) Subject to any express right of the Developer to make any Claim against the State under this deed, the Developer:

- (i) waives any Claims that it may have against the State pursuant to this deed as a result of the exercise by the State, any Rail Transport Agency or the AMB of their respective functions and powers either as a TAO or under any legislation or the Configuration Management Framework (other than any Claim the Developer may have for an extension of time in accordance with this deed); and
- (ii) acknowledges and agrees that:
 - (A) there are many Public Authorities with jurisdiction over aspects of the P1 Public Works, parts of the Development Land and other areas affecting and affected by the P1 Public Works;
 - (B) such Public Authorities may from time to time exercise their statutory functions and powers in such a way as to disrupt, interfere with or otherwise affect the P1 Public Works (including, the exercise by persons (including individuals) acting on behalf of such Public Authorities of powers and functions including as necessary for such Public Authorities to comply with their statutory functions and powers); and
 - (C) subject to the Developer's express entitlements under this deed, it bears the full risk of all occurrences of the kind referred to in clause 9.6(c)(ii)(B) and will not be entitled to make, and the Developer will not be liable upon, any Claim arising out of or in any way in connection with such occurrences or any action it is required to take arising out of such occurrences (other than any Claim the Developer may have for an extension of time in accordance with this deed).
- (d) Nothing in this deed will restrict, or require the exercise of, any right of the State, directly or through any Public Authority, to develop, manage or change New South Wales' transport network or assets or make policy decisions in relation to the development and implementation of transport planning in New South Wales as it sees fit.
- (e) Nothing in clauses 9.6(a) or 9.6(b) affects the State's liability to the Developer in respect of:
 - (i) a breach of this deed by the State; or
 - (ii) any express right of the Developer to make any Claim against the State or TAHE under this deed.

9.7 Transfer of functions

- (a) The Developer acknowledges that:
 - (i) the State may be reconstituted, renamed, dissolved, replaced or restructured and that some or all of the powers, functions, assets, liabilities or responsibilities of the State may be transferred to or vested in another entity;
 - (ii) if the State is reconstituted, renamed, dissolved, replaced or restructured or if some or all of its powers, functions, assets, liabilities or responsibilities are transferred to or vested in another entity, references in the Project Documents to the State

or Transport for NSW must, subject to any facilitative legislation, be deemed to refer, as applicable, to that reconstituted, renamed, restructured or new entity to the extent that the entity has assumed or has had transferred to it or vested in it those powers, functions, assets, liabilities or responsibilities; and

- (iii) the State may, or may be required to (including as a result of changes to New South Wales Government policy or directions) acquire or dispose of, any property or assets forming part of the State's assets at its absolute discretion but agrees not to assign this deed to, or dispose of the Leasehold Land to, an entity which is not a Public Authority, a State Owned Corporation or any other entity owned or controlled by the New South Wales government.
- (b) The Developer acknowledges and agrees that it must, to the extent required by the State and without limiting any facilitative legislation, negotiate in good faith any variations required to the Project Documents, or any replacement agreement or agreements for the Project Documents to give effect to the State being reconstituted, renamed, dissolved, replaced or restructured.
- (c) The Developer shall be taken for all purposes to have consented to, and the Developer will have no Claim against the State as a result of, any action, matter or circumstance referred to in, or contemplated by, this clause.
- (d) For the purposes of this clause, 'another entity' and 'reconstituted, renamed, restructured or new entity' means a Public Authority and may include a State Owned Corporation or any other entity owned or controlled by the New South Wales government to whom powers, functions, assets, liabilities or responsibilities are transferred pursuant to any Law.

9.8 Remedies cumulative

The rights, powers and remedies provided in this deed are cumulative with and not exclusive of the rights, powers or remedies provided by Law independently of this deed.

9.9 Rights and obligations are unaffected

Rights given to a party under this deed and the liabilities of that party, under it are not affected by anything which might otherwise affect them at Law.

9.10 Continuing breaches

The expiry or termination of this deed does not affect the rights of the parties to this deed for a breach of this deed by the other party or parties before the expiry or termination.

9.11 Antecedent obligations

The expiry or termination date of this deed does not affect a party's obligations:

- (a) to make payments under this deed in respect of periods before the expiry or termination of this deed; or
- (b) to provide information to another party to enable it to calculate those payments.

9.12 Inconsistent law

To the extent permitted by Law, this deed prevails to the extent it is inconsistent with any Law.

9.13 Waiver and variation

A provision of or a right created under this deed may not be waived or varied except in writing signed by the party or parties to be bound.

9.14 Supervening Legislation

Any present or future legislation which operates to vary the obligations of a party to this deed with the result that that party's rights, powers or remedies are adversely affected (including, without limitation, by way of delay of postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by Law.

9.15 Approvals and consent

The State may (acting reasonably) give conditionally or unconditionally or withhold its approval or consent unless this deed expressly provides otherwise.

9.16 Indemnities

- (a) Each indemnity in this deed is a continuing obligation, separate and independent from the other obligations of the State or the Developer and survives expiry or termination of this deed. Except as otherwise provided for in this deed, it is not necessary for a party to incur expense or make payment before enforcing a right of indemnity conferred by this deed.
- (b) In respect of each right of indemnity conferred upon the State by this deed, the State must use reasonable endeavours to mitigate its liability, Costs and Losses.

9.17 Confidentiality

- (a) All information provided under or in relation to this deed:
 - (i) by the Developer to the State; or
 - (ii) by the State to the Developer,

and which is identified as confidential at the time it is provided, or which by its nature is confidential, must not be disclosed to any person, except:

 - (iii) with the consent of the disclosing party;
 - (iv) if allowed or required by Law or required by any stock exchange;
 - (v) in connection with legal proceedings relating to this deed;
 - (vi) if the information is generally and publicly available;
 - (vii) to employees, legal advisers, auditors and other consultants to whom it needs to be disclosed; or
 - (viii) if disclosure is reasonably and properly required for the purposes of the Project, including to:
 - (A) any actual and potential financiers;

- (B) any actual and potential purchaser of part of the Project;
and
- (C) any actual or potential equity investor in the Project.
- (b) The recipient of the information must do all things necessary to ensure that its respective employees, legal advisers, auditors and other consultants keep the information confidential and not disclosed it to any person.
- (c) The parties acknowledge that:
 - (i) the State may be required to disclose this deed (and information concerning the terms of this deed) under or in accordance with any one or more of the following:
 - (A) the Government Information (Public Access) Act 2009 (NSW) (**GIPA Act**); and
 - (B) to satisfy the disclosure requirements of the New South Wales Auditor General or to satisfy the requirements of Parliamentary accountability;
 - (ii) within 5 Business Days of the date of this deed the Developer must notify the State in writing identifying any provisions of this deed it considers to be commercial-in-confidence (as defined in the GIPA Act);
 - (iii) the State will take reasonable steps to consult with the Developer before disclosing any part of this deed that the Developer has notified that it considers to be commercial-in-confidence (as defined in the GIPA Act); and
 - (iv) nothing in clauses 9.17(a) or 9.17(b) will limit or otherwise affect the discharge of the State's obligations under the GIPA Act.
- (d) The Developer must provide to the State any other information which the State reasonably requires to comply with its obligations under clause 9.17(c).

9.18 State not liable

Except to the extent expressly provided for in this deed, the State is not liable for any loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right, power or remedy.

9.19 Inconsistency

If there is any ambiguity or inconsistency between any of the documents comprising the Project Documents, that ambiguity or inconsistency will be resolved by interpreting the Project Documents, in the same order of priority that they are referred to in the definition of the 'Project Documents' in clause 1.1 of the PDA.

9.20 Several liability

The liability of each party to this deed is several. Unless otherwise expressly stated, no party is liable for any obligations with the other parties to this deed.

9.21 Severability

- (a) If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction:
 - (i) it is severed for that jurisdiction; and
 - (ii) the remainder of this deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected.
- (b) This clause 9.21 has no effect if the severance alters the basic nature of this deed or is contrary to public policy.

9.22 Further assurances

If asked by the other party (acting reasonably), then a party must, at its own expense:

- (a) execute and cause its successors to execute documents and do everything else necessary or appropriate to bind it and its successors under this deed; and
- (b) use its reasonable endeavours to cause relevant third parties to do likewise to bind every person intended to be bound under this deed.

9.23 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this deed or any part of it.

9.24 Effect of moratorium

To the extent permitted by Law the application to this deed of any moratorium or other Act whether State or Federal having the effect of extending the term, reducing or postponing the payment of any moneys payable under this deed, or otherwise affecting the operation of the terms of this deed is expressly excluded and negated.

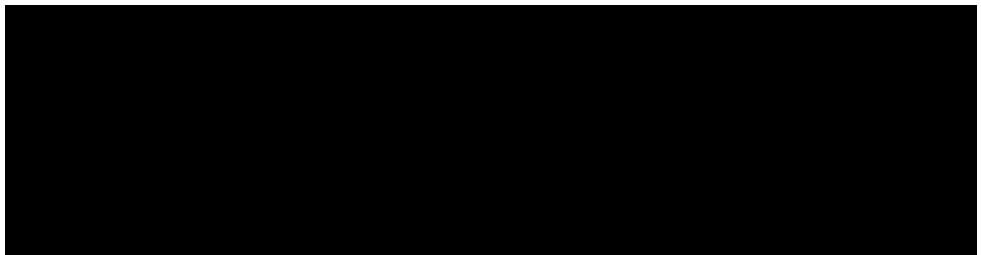
9.25 Applicable law

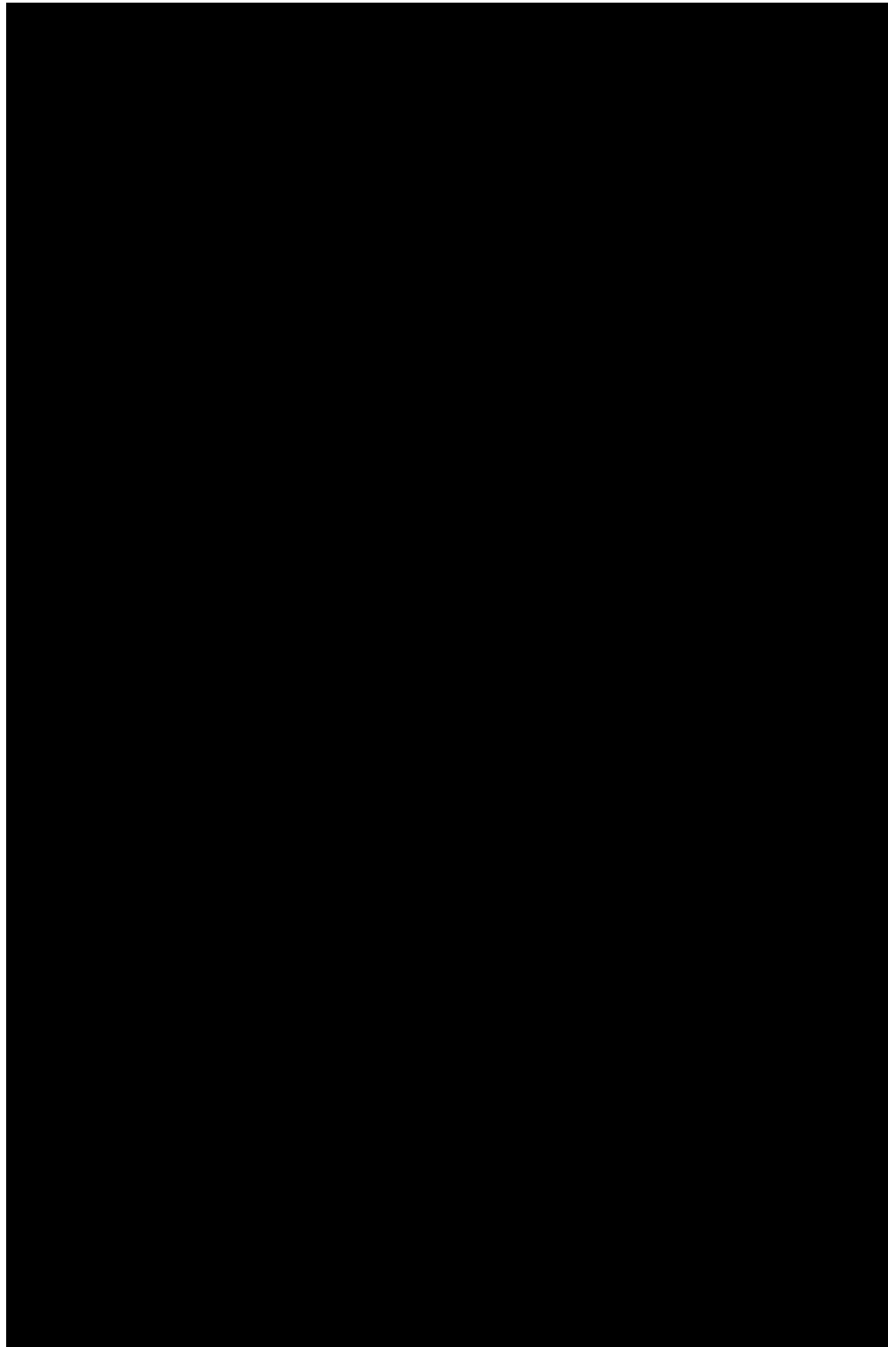
This deed is governed by the Law in force in New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of that place.

9.26 Counterparts

This deed may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument.

9.27 Consequential or Indirect Loss







EXECUTED as a deed.

Central Place P1 Public Works Deed

Signing page

DATED: 24 February 2023 | 10:15:38 AM AEDT

Signed sealed and delivered for
Transport for NSW (ABN 18 804 239 602)
by its duly authorised delegate in the presence of

<i>sign here ▶</i>		<i>sign here ▶</i>	
	Delegate		Witness
<i>print name</i>		<i>print name</i>	
<i>Position held</i>	<u>Secretary Transport for NSW</u>	<i>Position held</i>	<u>Executive Coordinator to the Secretary</u>

Each person who executes this deed on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney

Signed sealed and delivered for and on behalf of **Dexus CPA Pty Ltd (ABN 90 160 685 156) as trustee for Dexus CPA Commercial Property Trust No. 3** by its duly authorised attorneys under power of attorney dated 17 December 2021 in the presence of:



Signature of Witness



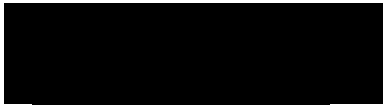
Signature of Attorney



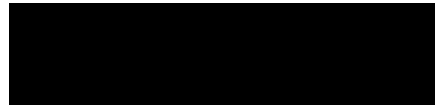
Name of Witness (print)



Name of Attorney (print)



Signature of Witness



Signature of Attorney



Name of Witness (print)



Name of Attorney (print)

Signed sealed and delivered by)
Gateway Building Nominees Pty)
Limited (ACN 081 951 822) as trustee)
for the Gateway Building Trust in)
accordance with section 127(1) of the)
Corporations Act 2001 (Cth):)



Signature of director



Name of director (block letters)



Signature of director/company
secretary*

*delete whichever is not applicable



Name of director/company secretary*
(block letters)

*delete whichever is not applicable

