

Schedule 9 – Delivery Phase Performance Incentive

(clause 28.18)

1. Definitions

1.1 Definitions in SSTOM Project Deed

Definitions in the SSTOM Project Deed apply in this Schedule 9 (*Delivery Phase Performance Incentive*) unless the context requires otherwise or the relevant term is defined in this Schedule 9 (*Delivery Phase Performance Incentive*).

1.2 Definitions

In this Schedule 9 (*Delivery Phase Performance Incentive*):

Delivery Phase Performance Incentive means the amount set out in clause 2.2 that may be paid by the Principal to OpCo as a performance incentive in accordance with this Schedule 9 (*Delivery Phase Performance Incentive*).

Delivery Phase Performance Incentive Payment has the meaning given in clause 5.

Draft DPPI Assessment has the meaning given in clause 4(b)(ii).

Final DPPI Assessment means the final assessment of OpCo's entitlement to the Delivery Phase Performance Incentive determined in accordance with clause 4(d)(i) or clause 4(d)(ii).

OpCo's DPPI Notice has the meaning given in clause 4(a).

2. General Principles

2.1 Purpose

The purpose of the Delivery Phase Performance Incentive is to motivate and incentivise OpCo's overall performance during the Delivery Phase, including:

- (a) OpCo's proactive management of any issues which arise during the delivery of the SSTOM Works, together with the active involvement of OpCo's Equity Investors in seeking solutions to those issues;
- (b) OpCo's contribution towards collaborative working relationships between OpCo, the Principal and each other party directly involved in the delivery of Sydney Metro – Western Sydney Airport;
- (c) compliance with the Relationship Principles in clause 5.1 of the Operative Provisions; and
- (d) OpCo's contribution towards meeting the objectives in clauses 4.1 and 4.2 of the Operative Provisions.

2.2 Amount of Delivery Phase Performance Incentive

A maximum amount of [REDACTED] will be available as the Delivery Phase Performance Incentive.

2.3 Principal's discretion

- (a) The Principal will assess and decide the amount of the Delivery Phase Performance Incentive in accordance with clause 4.
- (b) The Principal will act in good faith in assessing and deciding the amount of the Delivery Phase Performance Incentive, but OpCo acknowledges and agrees that the Principal will have the ultimate discretion to decide:
 - (i) whether to pay the Delivery Phase Performance Incentive; and
 - (ii) if so, the quantum of any Delivery Phase Performance Incentive paid.

3. Periodic Review

At each quarterly whole of Project review conducted in accordance with clause 6.7 of the Operative Provisions:

- (a) the parties will discuss and assess OpCo's progress against the factors outlined in clause 4(c); and
- (b) the Principal will provide to OpCo feedback on OpCo's performance against those factors.

4. Process

- (a) At any time following the date which is 20 Business Days prior to the anticipated Date of Completion, OpCo may provide to the Principal a notice requesting that the Principal consider payment of the Delivery Phase Performance Incentive and detailing:
 - (i) key factors relevant to allow the Principal to consider assessment of the Delivery Phase Performance Incentive;
 - (ii) performance against the key factors outlined in clause (c); and
 - (iii) the amount of Delivery Phase Performance Incentive that OpCo considers should be paid by the Principal by reference to the information provided by OpCo in its notice,

(OpCo's DPPI Notice).
- (b) Upon receiving OpCo's DPPI Notice, the Principal:
 - (i) may consider OpCo's DPPI Notice; and
 - (ii) must respond by way of written notice within 20 Business Days (or such longer period agreed between the parties) **(Draft DPPI Assessment)**. The Draft DPPI Assessment will provide the Principal's draft assessment of its decision, indicating that either:
 - (A) the Delivery Phase Performance Incentive should be paid and the relevant amount payable, together with its reasons for that draft assessment; or
 - (B) the Delivery Phase Performance Incentive should not be paid in the circumstances and detailed reasons why.

- ## 5. Payment

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