

Light Horse Business Hub Development Management Agreement

Dated 9 April 2021

Western Sydney Parklands Trust (ABN 85 202 544 800) ("**Owner**")

The Trust Company (Australia) Limited ACN 000 000 993 as custodian for
Bieson Pty Limited ACN 110 465 168 as trustee for the CPIF LHBH Trust
("**Developer**")

Charter Hall Investment Management Limited ACN 168 439 763 as
responsible entity for the Charter Hall Prime Industrial Fund ARSN 113 339
316 ("**Guarantor**")

Bieson Pty Limited ACN 110 465 168 as trustee for the CPIF LHBH Trust
("**Trustee**")

Light Horse Business Hub Management Agreement

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Light Horse Business Hub Management Agreement

Details

Parties	Owner, Developer, Guarantor	
Owner	Name	Western Sydney Parklands Trust
	ABN	85 202 544 800
	Address	Level 7, 10 Valentine Avenue, Parramatta NSW 2150
	Telephone	+61 2 9895 7500
	Fax	+61 2 9895 7580
	Email	Kerry.Jahangir@wspt.nsw.gov.com.au
	Attention	Kerry Jahangir
Trustee	Name	Bieson Pty Limited ACN 110 465 168 as trustee for the CPIF LHBH Trust ABN 78 446 138 202
	ABN	11 110 465 168
	Address	Level 20, 1 Martin Place, Sydney NSW 2000
	Telephone	+61 2 8651 9000
	Fax	+61 2 8295 8659
	Email	chcosecandlegal@charterhall.com.au
	Attention	Company Secretary for Bieson Pty Limited
Developer	Name	The Trust Company (Australia) Limited as custodian for Bieson Pty Limited ACN 110 465 168 as trustee for the CPIF LHBH Trust ABN 78 446 138 202
	ABN	000 000 993
	Address	Level 20, 1 Martin Place, Sydney NSW 2000
	Telephone	+61 2 8651 9000
	Fax	+61 2 8295 8659

Email chcosecandlegal@charterhall.com.au
Attention Company Secretary for Bieson Pty Limited

Guarantor	Name	Charter Hall Investment Management Limited as responsible entity for the Charter Hall Prime Industrial Fund ARSN 113 339 316
	ACN	168 439 763
	Address	Level 20, 1 Martin Place, Sydney NSW 2000
	Telephone	+61 2 8651 9000
	Fax	+61 2 8295 8659
	Email	chcosecandlegal@charterhall.com.au
	Attention	Company Secretary for Charter Hall Investment Management Limited

Recitals	A	The Owner is the registered proprietor of the Site.
	B	The Owner agrees to make the Site available for commercial development.
	C	The Owner agrees to appoint the Developer as the exclusive developer of the Site on the terms and conditions contained in this Agreement.
	D	The Guarantor agrees to guarantee the performance of the Developer under this Agreement.

Governing law	New South Wales
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Date of agreement	See Signing page
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General terms

1 Interpretation

1.1 Definitions

In this Agreement:

Access Road has the meaning given to that term in clause 3.4(a).

Access Road Works has the meaning given to that term in clause 12A.1(a).

Agreement means this development management agreement and includes any appendices, schedules or annexures.

Agreement for Ground Lease means an agreement entered into between the Owner, Nominated Developer and an Approved Tenant for a Development Site under clause 8.4.

Allowable Delay Event means each of the following:

- (a) any delay in the carrying out and completion of the Site Works caused or contributed to by:
 - (i) a COVID-19 Event;
 - (ii) inclement weather or conditions resulting from inclement weather;
 - (iii) latent conditions (for the avoidance of doubt, latent conditions do not include any conditions to the extent identified in reports available to the Developer, or otherwise known to the Developer at the date of this Agreement);
 - (iv) any combination of workers strikes or lockouts or shortage or lack of materials or equipment (where such lockouts or shortages have resulted from industrial action) affecting the Site Works;
 - (v) by reason of any earthquake, act of God, natural disaster, fire, riots, civil commotion, malicious damage, sabotage, act of public enemy, war, revolution, radioactive contamination or damage by aircraft or articles dropped from aircraft; or
 - (vi) by reason of any other matter, cause or thing beyond the reasonable control of the Developer;
- (b) any delay to the extent that such delay is caused or contributed to by the Owner (other than by the Owner acting in accordance with this Agreement);
- (c) any delay by the Relevant Authority acting beyond its relevant statutory time limits, including the Council in issuing relevant Approvals or registration of plans of subdivision, consolidation or amalgamation;

- (d) any delay as a result of any proceeding taken by neighbouring owners or occupiers of land adjoining the Development Land in respect of the Development Land to the extent that such proceedings have not been caused by any default by the Developer under this Agreement or failure by the Developer to take reasonable steps to consult with neighbouring owners or occupiers.

Approval includes the Initial Development Consent, any further modification to the Initial Development Consent and any other permit, licence, consent, certificate or other approval or exemption obtained or required to be obtained from a Relevant Authority in relation to:

- (a) the Development of the Development Land;
- (b) the Building Works;
- (c) the Internal Site Works; or
- (d) the External Infrastructure Works.

Approved Development Proposal means a Development Proposal or Revised Proposal approved by the Owner under clause 8.3. All documentation provided by the Developer as a part of that Development Proposal or Revised Proposal form part of the Approved Development Proposal.

Approved Permitted Use means industrial, light industrial, and ancillary office land uses as defined under the Planning Documentation, but excludes container parks and storage areas, other than those that are ancillary to the approved use.

Approved Tenant means a tenant under an Approved Development Proposal that:

- (a) is not Insolvent;
- (b) has not been convicted of a criminal offence which carries a maximum sentence of equal to or more than 12 months in prison or multiple sentences that add up to equal to or more than 12 months in prison;
- (c) has not been the subject of a formal adverse finding by the Independent Commission against Corruption for conduct which, if prosecuted, carries a maximum sentence of equal to or more than 12 months in prison;
- (d) (combined with any proposed guarantor), is of sufficient financial standing to perform its obligations under the Agreement for Ground Lease and the Ground Lease; and
- (e) is otherwise ready, willing and able to perform its obligations under the Ground Lease.

Assignment Tests means that a person:

- (a) is not Insolvent;
- (b) has not been convicted of a criminal offence which carries a maximum sentence of equal to or more than 12 months in prison or multiple sentences that add up to equal to or more than 12 months in prison;
- (c) has not been the subject of a formal adverse finding by the Independent Commission against Corruption for conduct which, if prosecuted, carries a maximum sentence of equal to or more than 12 months in prison;

- (d) (combined with any proposed guarantor) is of sufficient financial standing to perform its obligations under this Agreement;
- (e) (combined with any proposed guarantor) has demonstrable experience in successfully delivering and marketing comparable developments to the Development;
- (f) has an approach to environmental issues in relation to the Development consistent with the requirements of this Agreement;
- (g) has a delivery methodology in terms of design, construction, finance, management and maintenance suitable to effect the Development; and
- (h) is otherwise ready, willing and able to carry out the Development and otherwise perform the obligations of the Developer under this Agreement.

Building and Construction Procurement Guidelines means the NSW Industrial Relations Guidelines: Building and Construction Procurement (as enforced pursuant to any Practice Direction issued pursuant to the Building and Construction Guidelines).

Building Works means the design, development, construction and completion of buildings and works on the Development Land or a Development Site but excluding the Site Works, undertaken by the Nominated Developer on behalf of an Approved Tenant.

Business Day means a day on which trading banks are opened for general banking business in Sydney.

Commencement of Construction in respect of each Development means the date the Nominated Developer (or a relevant appointed subcontractor) commences physical works on the relevant Development Site.

Contamination means the presence in, on or under land, air or water of a substance (including a soil, liquid, gas, odour, heat, sound, vibration or radiation) at a concentration above the concentration at which the substance is normally present, on or under (respectively) land, air or water in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the Environment and **Contaminant** has a corresponding meaning.

Construction Licence means the licence in respect of a Development Site entered into between the Owner (as licensor) and the Nominated Developer (as licensee) under clause 8.4.

Construction Licence Fee means the fee calculated as set out in Part 5 of Schedule 4.

Corporations Act means the *Corporations Act 2001* (Cth).

COVID-19 Event means any:

- (a) failure or delay in the availability of materials or equipment; or
- (b) labour shortage or other labour disturbance,

arising from or in connection with COVID-19 or any variation, mutation or derivative of COVID-19.

Design Documentation means schematic drawings, detailed plans and specifications for a Development and/or the Site Works (as applicable).

Developable Site Area means that part of the Development Land that is not, at the relevant time, subject to any Construction Licence that has commenced or a Ground Lease.

Developer's Agents means the Developer's authorised representatives, consultants, employees, agents, contractors or invitees.

Developing Site Areas means that part of the Development Land that is, at the relevant time, subject to a Construction Licence of a Development Site that has commenced or a Ground Lease.

Development means the design, development, construction and completion of buildings and works on the Development Land or a Development Site, as the case may be, in accordance with the relevant Approved Development Proposal and Agreement for Ground Lease and includes the Building Works and the Internal Site Works but does not include the External Infrastructure Works.

Development Land means that part of the Site that is able to accommodate built form projects and excludes the Access Road, Drainage Basins, common areas, land that is required to be dedicated to authorities or any other part of the Site affected in a similar way, and as indicated in the plan attached in Schedule 2.

The parties acknowledge that the total site area of the Development Land:

- (a) is approximately 296,173 square metres as at the date of this Agreement but will be subject to survey which may be carried out before or after the making of this Agreement; and
- (b) may change as a result of further design or any change to the Development Masterplan, subject to the Owner's approval in accordance with this Agreement.

Development Masterplan means the master plan for the development of the Development Land and includes each "Updated Development Masterplan" as that term is defined in clause 12.1.

Development Proposal means a written submission or proposal from the Developer to the Owner for Development of a particular Development Site, which proposal must be prepared in accordance with clause 8.2.

Development Proposal Criteria means the criteria set out in Schedule 1 of this Agreement.

Development Site means an area of the Development Land:

- (a) as indicated on a site plan for a Development in an Approved Development Proposal; or
- (b) which has been or is being developed by the Nominated Developer pursuant to an Approved Development Proposal.

Development Rights has the meaning given in clause 2.3(b).

DMA Sunset Date means the date which is [REDACTED] as extended under clause 5.2.

Drainage Basins means the drainage infrastructure servicing the Site being:

- (a) Bio Basin; and
- (b) On-Site Detention Basin,

as shown in the plan in Schedule 2.

Drainage Basin Works means that portion of the Internal Site Works that relates to the construction of the Drainage Basins.

Effective Date means the day after the date of the Developer's notice under clause 2A.2(c) accepting the Minister's consent.

Environment includes all aspects of the surroundings of human beings:-

- (a) ecosystems and their constitute parts, including people and communities, natural and physical resources;
- (b) the qualities and characteristics of locations, places and areas; and
- (c) the social, economic, aesthetic and cultural aspects of a thing mentioned in paragraphs (a) or (b).

Environmental Law includes any Law relating to any aspect of the Environment.

External Infrastructure Works means the design and construction of the infrastructure works specified in the External Infrastructure Works Design Brief required to service the Development Land having regard to the requirements, guidelines, scope and extent of such works specified in the External Infrastructure Works Design Brief including delivery of Services to the boundary of the Site but excluding the provision of temporary services for construction purposes, gas services and remediation works.

External Infrastructure Works Design Brief means the design brief set out in Schedule 6.

Form of Ministerial Consent means the Minister's consent in the form of consent attached in Schedule 9.

GFA means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine,

but excludes:

- (b) any area for common vertical circulation, such as lifts and stairs;
- (c) vehicular access, loading areas, garbage and services;
- (d) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting;
- (e) car parking to meet any requirements of the consent authority (including access to that car parking);
- (f) any space used for the loading or unloading of goods (including access to it);
- (g) terraces and balconies with outer walls less than 1.4 metres high; and
- (h) voids above a floor at the level of a storey or storey above.

GIPA Act means the *Government Information (Public Access) Act 2009* (NSW).

Ground Lease means the ground lease to be granted to the Approved Tenant in accordance with an Agreement for Ground Lease.

Ground Rent means the total rent payable by an Approved Tenant under a Ground Lease.

GST means GST within the meaning of the GST Act and includes penalties and interest.

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

Guarantor means Charter Hall Investment Management Limited as responsible entity for the Charter Hall Prime Industrial Fund ARSN 113 339 316 and includes their respective successors and permitted assigns.

Initial Development Consent means the development consent issued by the Minister for Planning for the development of the Site known as "SSD 9667 Light Horse Interchange Business Hub Eastern Creek".

Initial Ground Rent means the annual rent payable by an Approved Tenant under a Ground Lease for the first year of the term of the relevant Ground Lease, calculated in accordance with Part 2 of Schedule 4.

Insolvent means in relation to a body corporate:

- (a) a "controller" (as defined in the Corporations Act), Manager, Trustee, Receiver, Receiver and Manager, Administrator or similar officer is appointed in respect of the body corporate or any asset of the body corporate;
- (b) a liquidator or provisional liquidator is appointed in respect of the body corporate;
- (c) an application is made to the court for an order, a court makes an order, a meeting is convened or a resolution is passed, for the purpose of:
 - (i) appointing a person referred to in paragraph (a) or (b);
 - (ii) winding up or deregistering the body corporate; or
 - (iii) proposing or implementing a scheme of arrangement (other than a scheme of arrangement relating to a reconstruction or amalgamation while solvent),other than an application which is withdrawn, dismissed or set aside within 21 days after it is made; and
- (d) the body corporate enters into, resolves to enter into or proposes a reorganisation, moratorium or other form of administration involving an arrangement, composition or compromise with, or assignment for the benefit of, its creditors generally or any class of them, other than for the purposes of a reconstruction or amalgamation while solvent.

Internal Site Works means the demolition, design, development and construction of the infrastructure works as specified in the Internal Site Works Design Brief, including bulk earth works, compaction to accommodate standard high level pad footings, remediation, internal access road, stormwater works and Drainage Basins, retiring of biodiversity offset credits, reticulated Services to each Development Site, Retaining Walls Work and any other retaining walls (if applicable), dedication of the internal access road, temporary services required for construction purposes and batters and the construction of electricity, water

(including waste water) and telecommunications services underground in a specified services route.

Internal Site Works Budget means [REDACTED] and includes the Retaining Walls Work Estimate.

Internal Site Works Design Brief means the design brief set out in Schedule 5.

Law means any statute, ordinance, code, regulation, by-law, local law, official directive, order, instrument, undertaking, obligation or applicable judicial administrative or regulatory decree judgment or order and includes the conditions and standards authorisations, licences, permits, consents, assurances, bonds or similar requirements including all applicable standards and obligations under the common law.

Lease Value means the lease value of the Development Land or Development Site calculated in accordance with Part 1 of Schedule 4.

Lease Value Rate means the lease value rate (\$/m²) of the Development Land or Development Site calculated in accordance with Part 1 of Schedule 4.

Leasing Commission means a lease commission for the relevant Agreement for Ground Lease, calculated in accordance with Schedule 7.

LRS means the New South Wales Land Registry Services.

Minister means the Minister for Planning and Public Spaces. As at the date of this Agreement the Minister is the Honourable Robert Stokes MP.

Net Land Payment has the meaning given to that term in clause 11.3(d).

Nominated Developer means the "Developer" entity nominated in respect of an Agreement for Ground Lease under clause 8.2(a), which may be the Developer or a Nominee.

Nominee means each:

- (a) Related Body Corporate of the Developer; or
- (b) a company or trust which is a joint venture company or trust in which the Developer, Charter Hall Holdings Pty Limited ABN 15 051 363 547 or their Related Body Corporate participates; or
- (c) company or trust in which the Developer, Charter Hall Holdings Pty Limited ABN 15 051 363 547 or their Related Body Corporate has a beneficial interest.

NSW Government Supplier Code of Conduct means the NSW Government Supplier Code of Conduct applies to suppliers across goods and services and construction procurement.

Outgoings means the following expenses payable in relation to the Development Land or the relevant Development Site:

- (a) costs of insurances of the Development Land or the relevant Development Site;
- (b) costs of maintaining the Development Land in the state or condition as at the date of this Agreement; and

- (c) any costs incurred by the Owner in compliance with any Laws or requirements in respect of the Development Land or a Development Site.

Outstanding Retaining Walls Work means that part of the Retaining Walls Work outstanding as at the date of Part Practical Completion of Internal Site Works.

Owner's Agents means the Owner's authorised representatives, consultants, employees, agents, contractors or invitees.

Part Practical Completion of Internal Site Works means that stage when the Internal Site Works excluding all or any part of the Retaining Walls Work reaches Practical Completion.

Planning Documentation means the Initial Development Consent and all documentation prepared and provided to the Relevant Authority as part of the application for the Initial Development Consent.

Practical Completion in relation to a Development has the meaning given to "Practical Completion" under the relevant Agreement for Ground Lease.

Practical Completion in relation to the External Infrastructure Works is achieved when:

- (a) the relevant works are complete except for minor omissions and defects which do not prevent the works from being reasonably capable of being used for their intended purpose without unreasonable interruption or interference; and
- (b) the relevant requirements set out in the External Infrastructure Works Design Brief are satisfied.

Practical Completion in relation to the Internal Site Works is achieved when:

- (a) the relevant works are complete except for minor omissions and defects which do not prevent the works from being reasonably capable of being used for their intended purpose without unreasonable interruption or interference; and
- (b) the relevant requirements set out in the Internal Site Works Design Brief are satisfied.

Pro-Forma Agreement for Ground Lease means the forms of agreements for ground lease and ground lease as set out in Annexure A.

Pro-Forma Construction Licence means the forms of licences as set out in Annexure B.

Project Control Group means the group established under clause 15.

Related Body Corporate means related bodies corporate as defined in section 50 of the Corporations Act.

Relevant Authority means:

- (a) any government department or Minister;
- (b) the Council or any other local government;
- (c) any government or statutory authority; or

- (d) any other person under a Law who or which has a right to impose a requirement, or whose consent is required, with respect to the Development Land or the Site Works.

Retaining Walls Work means that part of the Internal Site Works relating to the construction of the retaining walls as shown in the plan in Schedule 10.

Retaining Walls Work Estimate means the cost estimate set out in Schedule 10 to carry out the Retaining Walls Works.

Revised Proposal has the meaning given to it in clause 8.3(h).

Security Interest means a security interest within the meaning of section 12(1) of the *Personal Properties Securities Act* (Cth).

Services means the services outlined in the External Infrastructure Works Design Brief.

Site means the land located at 165 Wallgrove Road & 475 Ferrers Road, Eastern Creek NSW, being land contained in:

- (a) Lot 10 in DP1061237;
(b) Lot 5 in DP804051,

as shown in the plan in **Schedule 2** having a land area of 350,307m².

Site Audit Statement has the meaning given in the *Contaminated Land Management Act 1997* (NSW).

Site Construction Licence means the document in the form set out in Annexure C.

Site Works means the External Infrastructure Works and the Internal Site Works combined.

Statutory Costs means all statutory charges and taxes which are payable in relation to the Development Land or the relevant Development Site including:

- (a) rates, assessment, or other fees, levies or charges (for example Council rates, water rates, sewerage rates); and
(b) land tax,

but excludes stamp duty.

Take-up Fee means the amounts payable by the Developer to the Owner under clause 11.2 as calculated in accordance with Part 3 of Schedule 4.

Take-up Target means the area set out in the second column of the table contained in Part 3 of Schedule 4 that is to be subject to a Construction Licence or Ground Lease.

Take-up Target Date means the date that coincides with the time after the Effective Date referred to in the first column of the table contained in Part 4 of Schedule 4.

Tender means the Owner's Request for Proposals WSPT2020/23 dated 9 September 2020 in respect of the development and lease of the Site and the Developer's (or a Related Body Corporate of the Developer's) response to that request for proposal.

Term means the term commencing on the Effective Date and terminating in accordance with clause 2.2.

Termination Event has the meaning given in clause 20.1.

Undeveloped Land means that part of the Development Land which is not at the relevant time subject to a Construction Licence that has commenced between the Owner and the Developer or a Ground Lease between the Owner and the Approved Tenant.

Updated Development Masterplan has the meaning given to that term in clause 12.1(b).

Upfront Development Payment means [REDACTED] plus GST.

Upfront Land Payment means the upfront land payment for the Development Land or Development Site calculated in accordance with Part 1A of Schedule 4 as adjusted in accordance with this Agreement.

Vegetation Management Plan means the Vegetation Management Plan to be prepared by the Developer in accordance with the Initial Development Consent.

Vegetation Management Plan Works means all works required to comply with the Vegetation Management Plan.

Western Sydney Parklands has the meaning given to it in the WSPT Act.

WSPT Act means the *Western Sydney Parklands Act 2006 (NSW)*.

1.2 Construction

Unless expressed to the contrary:

- (a) words importing:
 - (i) the singular include the plural and vice versa; and
 - (ii) any gender includes the other genders;
- (b) if a word or phrase is defined cognate words and phrases have corresponding definitions;
- (c) a reference to:
 - (i) a person includes a firm, unincorporated association, corporation and a government or statutory body or authority;
 - (ii) a person includes its legal personal representatives, successors and assigns;
 - (iii) a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
 - (iv) a Right includes a benefit, remedy, discretion, authority or power;
 - (v) an Obligation includes a warranty or representation and a reference to a failure to observe or perform an Obligation includes a breach of warranty or representation;

- (vi) provisions or terms of this Agreement or another document, agreement, understanding or arrangement include a reference to both express and implied provisions and terms;
 - (vii) time is to local time in Sydney;
 - (viii) "\$" or "dollars" is a reference to the lawful currency of Australia;
 - (ix) anybody (other than a party to this Agreement) which ceases to exist, is reconstituted, renamed or replaced or has its powers transferred, refers to the body established in its place or which serves substantially the same objects as or succeeds to its powers;
 - (x) this or any other document includes the document as varied or replaced and notwithstanding any change in the identity of the parties; and
 - (xi) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes facsimile transmission;
- (d) where any form of the word "include" appears, it is to be read as if followed by the words "without limitation"; and
 - (e) a reference to this Agreement includes all schedules and annexures referred to in it.

1.3 Headings

Headings do not affect the interpretation of this Agreement.

1.4 Severability

- (a) If any provision of this Agreement or its application to any person or circumstance is or becomes invalid illegal or unenforceable the provision shall so far as possible be read down to such extent as may be necessary to ensure that it is not illegal invalid or unenforceable.
- (b) If any provision or part of it cannot be so read down the provision or part of it shall be deemed to be void and severable and the remaining provisions of this Agreement shall not in any way be affected or impaired.

2A Conditions subsequent

2A.1 Condition subsequent – Minister’s consent

- (a) This Agreement is subject to and conditional upon the Owner obtaining the Minister’s consent to:
 - (i) this Agreement; and
 - (ii) all of the transactions contemplated by this Agreement, including the Agreements for Ground Lease and Ground Leases,

on terms and conditions acceptable to the Owner and the Developer.
- (b) Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12A, 12, 13, 14, 15 and 16, and the Site Construction Licence, will have no effect and the parties will have no obligations under such clauses or the Site Construction Licence until the condition subsequent in clause 2A.1(a) is satisfied.

2A.2 The Owner to use reasonable endeavours

- (a) The Owner must use reasonable endeavours to obtain the Minister's consent to satisfy the condition subsequent under clause 2A.1(a) as soon as reasonably practicable after the date of this Agreement, and on terms and conditions acceptable to the parties.
- (b) The Owner must give written notice to the Developer stating that the Minister has provided his consent within 5 Business Days after it receives such consent from the Minister. The Owner must provide a copy of the Minister's consent together with the notice to the Developer. The Owner must state in its notice whether or not the Minister's consent is acceptable to the Owner.
- (c) Within 5 Business Days of the later of the date the Developer receives:
 - (i) the notice in clause 2A.2(b) confirming the Minister has given his consent; and
 - (ii) a copy of the Minister's consent,the Developer must give written notice to the Owner as to whether or not the Minister's consent is acceptable to the Developer.
- (d) The parties must accept the Minister's consent under clauses 2A.2(b) and 2A.2(c) if the Minister's consent is substantially in the Form of Ministerial Consent.
- (e) If the Minister's consent is not substantially in the Form of Ministerial Consent, then either party may accept or reject the Minister's consent under this clause 2A.2 at its absolute discretion.
- (f) If either party does not accept the Minister's consent under this clause 2A.2, the Owner must use reasonable endeavours to obtain the Minister's consent on terms and conditions acceptable to the parties. Clauses 2A.2(b) to 2A.2(e) will apply again to any further Minister's consent that the Owner obtains.
- (g) If the Owner does not obtain the Minister's consent on terms and conditions acceptable to the parties in accordance with this clause 2A, by the date that is 60 days from the date of this Agreement, then either the Owner or the Developer may terminate this Agreement by notice to each other party to this Agreement. Any termination of this Agreement under this clause 2A.2(g) will be without prejudice to any preceding breach of this Agreement.

2A.3 Condition subsequent – Developer's due diligence

- (a) This Agreement is subject to and conditional upon the Developer being satisfied (or being deemed to be satisfied) in its absolute discretion with its due diligence enquiries about the Site ("**Due Diligence Condition**") on or before 15 April 2021, or such later date as the parties may agree to in writing ("**Due Diligence Approval Date**").
- (b) From the date of this Agreement until the Due Diligence Approval Date, the Owner must:
 - (i) allow the Developer and its agents to enter and inspect the Site upon reasonable notice and at all reasonable times for the purpose of its due diligence activities; and

- (ii) otherwise assist the Developer with its reasonable due diligence activities.
- (c) The Developer must notify the Owner in writing as soon as possible but no later than the Due Diligence Approval Date that the Due Diligence Condition is satisfied.
- (d) The Due Diligence Condition will be deemed to have been satisfied on the Due Diligence Approval Date unless the Developer notifies the Owner in writing on or before the day prior to the Due Diligence Approval Date that the Due Diligence Condition has not been satisfied.
- (e) If the Due Diligence Condition is not:
 - (i) satisfied and notice has been given by the Developer in accordance with clause 2A.3(d) ; or
 - (ii) deemed to have been satisfied in accordance with clause 2A.3(d) ; or
 - (iii) waived by the Developer,

on or before the Due Diligence Approval Date, then the Developer may terminate this Agreement by notice to the Owner. Any termination notice given under this clause 2A.3(e) must be given within 5 Business Days from the Due Diligence Approval Date, time being of the essence.
- (f) The Due Diligence Condition is for the benefit of the Developer and may only be waived by the Developer.
- (g) A waiver of the Due Diligence Condition must be in writing signed by the Developer.
- (h) Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12A, 12, 13, 14, 15 and 16, and the Site Construction Licence, will have no effect and the parties will have no obligations under such clauses or the Site Construction Licence until the conditions subsequent in clause 2A.3(a) is satisfied.

2 Appointment and term

2.1 Appointment

The Owner appoints the Developer as the exclusive developer in accordance with this Agreement for the Development of the Development Land and the Developer accepts that appointment.

2.2 Term

- (a) The Term commences on the Effective Date and expires on the earlier of:
 - (i) [REDACTED]
 - (ii) the date the Owner has entered into Ground Leases for the whole of the Development Land other than areas not capable of being developed; and
 - (iii) any sooner determination of this Agreement.

2.3 Exclusivity

- (a) The Owner acknowledges that the Developer is the exclusive developer for the Development Land and the Owner must not, during the Term:

- (i) deal with any person other than the Developer in relation to the Development and leasing of the Development Land (or any part of the Development Land) except the Approved Tenant; or
 - (ii) develop itself or allow another person to develop the Development Land (or any part of the Development Land) except the Approved Tenant.
- (b) During the Term, the Developer has an exclusive right, subject to the provisions of this Agreement, to:
- (i) market the Development Land, in conjunction with the Owner;
 - (ii) develop Development Proposals;
 - (iii) negotiate Agreements for Ground Lease on the same terms as the Pro-Forma Agreement for Ground Lease (subject to this Agreement); and
 - (iv) carry out and manage the Development on the Development Land
- (“Development Rights”).
- (c) The Owner must, as soon as practicable, refer any persons who approach the Owner regarding any proposed Development of the Development Land to the Developer.
- (d) This clause 2.3 does not prohibit or restrict the Owner from dealing with any government or statutory authority in relation to any obligations of the Owner under this Agreement or from referring leasing or other queries in relation to the Development Land to the Developer.

3 The Developer’s role and responsibilities

3.1 Marketing and management responsibilities

- (a) The Developer must;
- (i) develop and implement a marketing strategy for the Development Land, which may include advertising if this is appropriate and necessary to properly promote the Development Land;
 - (ii) spend a minimum of ██████████ (in aggregate) during the Term on marketing activities (including the provision of the Developer’s internal architectural and graphic design services, signage and advertising) for the Development Land;
 - (iii) provide the Owner with written evidence of the Developer’s expenditure on marketing activities;
 - (iv) undertake marketing activities for the Development Land in accordance with the marketing strategy prepared by the Developer under this clause 3.1(e); and
 - (v) pay all marketing and promotional expenses incurred in the course of complying with clause 3.1(a)(i) and clause 3.1(a)(iv).
- (b) As soon as reasonably practicable after the Effective Date, the Developer must prepare and submit details of its marketing strategy for the Development Land to the Owner for approval.

- (c) The Owner:
 - (i) must review the marketing strategy;
 - (ii) may request further information in respect of the marketing strategy or may request reasonable amendments to the marketing strategy;
 - (iii) must notify the Developer of whether it approves or does not approve the marketing strategy within 10 Business Days of the date of submission of the marketing strategy by the Developer, and if it does not approve the marketing strategy, must give reasons for its decision; and
 - (iv) if a marketing strategy is not approved by the Owner, the Developer must re-submit to the Owner a revised marketing strategy containing proposals to address the reasons for the Owner's rejection and the provisions of this clause 3.1(c) apply to the revised marketing strategy.

The Owner must not unreasonably withhold its approval of the marketing strategy.

- (d) The Developer agrees to undertake its marketing activities for the Development Land in a manner generally consistent with the marketing strategy approved by the Owner, unless otherwise approved by the Owner (such approval not to be unreasonably withheld).
- (e) If the Developer wants to change the marketing strategy, then the Owner must review the changes to the marketing strategy and clauses 3.1(c) and 3.1(d) will apply.

3.2 Leasing responsibilities

The Developer must:

- (a) actively promote the Development Land to potential tenants during the Term for the Approved Permitted Use;
- (b) use reasonable endeavours to source tenants that meet the Development Proposal Criteria for the Development Land;
- (c) undertake all design and other preparatory work necessary to develop Development Proposals;
- (d) negotiate Agreements for Ground Lease and Ground Leases with Approved Tenants for parts of the Development Land in accordance with this Agreement;
- (e) organise execution of Agreements for Ground Lease and Ground Leases prepared in accordance with this Agreement; and
- (f) (if required) collect the Approved Tenant's security deposits or bank guarantees, and provide such items to the Owner.

3.3 Reimbursement of costs

The Developer must comply with all of its obligations under this Agreement at its own cost and expense in all respects, except to the extent that a right of payment or reimbursement is expressly provided under this Agreement.

3.4 Access Road Costs

In this Agreement,

- (a) **Access Road** means the internal access road within the Site (including associated stormwater drainage).
- (b) Despite any other provision of this Agreement, if during the Term in carrying out a Development in accordance with this Agreement, the Developer causes damage to the Access Road then the reasonable cost of rectification works will be paid by the Developer.

3.5 Drainage Basin and Vegetation Management Plan Works

- (a) Subject to clause 3.5(b), the Developer is responsible for:
 - (i) the repair and maintenance of the Drainage Basins; and
 - (ii) the carrying out of the Vegetation Management Plan Works, until the earlier of:
 - (iii) commencement of the final Ground Lease; and
 - (iv) expiry of the Term.
- (b) To the extent that council or any other Relevant Authority is not responsible for maintaining the Drainage Basins or carrying out the Vegetation Management Plan Works, the Owner will, after the date referred to in clause 3.5(a) at the cost of the tenants under the Ground Leases (in accordance with the Ground Leases), maintain Drainage Basins included in the Drainage Basin Works and carry out the Vegetation Management Plan Works. The Owner must use reasonable endeavours to minimise the costs to ensure that the amount of those costs are fair and reasonable having regard to the condition of the Drainage Basins and the requirements of the Vegetation Management Plan.
- (c) If during the Term:
 - (i) in carrying out a Development, the Developer causes damage to the Drainage Basins Works (other than by fair wear and tear) or the Vegetation Management Plan Works after completion of any of that work; and
 - (ii) as a result of the damage referred to in clause 3.5(c)(i), additional work in respect of the ongoing repair and maintenance of the Drainage Basins or the Vegetation Management Plan Works is required,then the additional works will be undertaken by the Owner and the costs of those works must be paid by the Developer to the extent that those costs were incurred as a result of the damage referred to in clause 3.5(c)(i).
- (d) The Owner will provide the Developer with such information and documentary evidence as the Developer may reasonably require to evidence the actual expenditure by the Owner pursuant to clause 3.5.
- (e) The Developer must reimburse the Owner for the costs referred to in clause 3.5 within 30 days of demand.
- (f) The Owner must use its reasonable endeavours to minimise the costs referred to in clause 3.5(c) to ensure that the amount of those costs is

fair and reasonable having regard to the condition of the Drainage Basins and the requirements of the Vegetation Management Plan prior to the damage caused by the Developer.

3.6 Biodiversity Offset Credits

- (a) This clause 3.6 is subject to and conditional upon the Owner:
 - (i) establishing a biodiversity stewardship site for land other than the Site; and
 - (ii) obtaining approval from the Biodiversity Conservation Trust to substitute PCT 849 credits with PCT 835 credits.
- (b) The Owner agrees to act in good faith to make available for purchase by the Developer sufficient biodiversity offset credits to meet the Developer's biodiversity offset credit requirements for the Development.
- (c) The Owner acknowledges and agrees that the Developer reserves the right, at any time to:
 - (i) partially or wholly purchase biodiversity offset credits from the Owner for all or part of the Developer's biodiversity offset credit requirements for the Development; and/or
 - (ii) provide a bond to the Owner, which reserves biodiversity offset credits for the Development at a set price equivalent to the bond, subject to Authority acceptance.
- (d) If the conditions in clause 3.6(a) are not satisfied, the Owner is not required to comply with clauses 3.6(b) and (c).

3.7 Developer's warranties

The Developer represents and warrants to the Owner that:

- (a) it will use all due skill and care in carrying out its obligations under this Agreement;
- (b) it has the necessary expertise and resources to carry out and complete the Development or to cause the Development to be carried out and completed in accordance with this Agreement; and
- (c) the Development will be carried out in a proper and workmanlike manner under adequate and competent supervision and in any case in accordance with:
 - (i) all applicable Law;
 - (ii) the relevant Approvals;
 - (iii) this Agreement and relevant Agreement for Ground Lease (if applicable); and
 - (iv) the relevant Australian Standards and the National Construction Code in respect of the Internal Site Works; and
- (d) materials used will be new and of merchantable quality in respect of the Internal Site Works.

4 The Owner's role and responsibilities

4.1 Not used

4.2 The Owner's role and responsibilities

The Owner must:

- (a) consider Development Proposals put forward by the Developer in good faith and in a prompt and reasonable manner, subject to the other provisions of this Agreement;
- (b) enter into Agreements for Ground Lease in accordance with this Agreement;
- (c) enter into Ground Leases in accordance with this Agreement;
- (d) as and when required under this Agreement, enter into a Construction Licence;
- (e) pay or reimburse the Developer for the amounts specified under this Agreement as being payable or reimbursable to the Developer;
- (f) pay all Statutory Costs and Outgoings in relation to the Development Land. However, the Owner may cease to pay Statutory Costs and Outgoings in respect of a Development Site from the commencement date of the Construction Licence, or the commencement date of the Ground Lease, in respect of that Development Site, whichever is the earlier. Despite the previous sentence, the parties agree that the Developer is not responsible for, and is not required to pay any land tax (including any back dated charges, penalties or fees) charged or payable on the whole or any part of the Development Land in respect of a period prior to the commencement date of the Construction Licence, or the commencement date of the Ground Lease, in respect of each Development Site, whichever is the earlier.

4.3 Removal of expired covenants

- (a) The Owner authorises the Developer to negotiate with the relevant counterparties and do all other things necessary to procure removal of any expired registered covenants and any obsolete easements from the relevant titles of the Development Land ("**Obsolete Encumbrances**").
- (b) The Owner must:
 - (i) put the relevant certificates of title on deposit at LRS to facilitate the removal of the Obsolete Encumbrances from title; and
 - (ii) provide any assistance reasonably required by the Developer to procure removal of the Obsolete Encumbrances including signing any consents or deeds necessary to remove the Obsolete Encumbrances provided those consents and deeds are in a form acceptable to the Owner (acting reasonably).
- (c) The Developer must pay the Owner's reasonable legal costs and disbursements incurred pursuant to clause 4.3(b).

5 DMA Sunset Date

5.1 Owner's right to terminate

- (a) If one or more Approved Tenants have not entered into Agreements for Ground Lease for a minimum of [REDACTED] of the Development Land by the DMA Sunset Date, the Owner may within 60 days after that date (but

not otherwise) terminate this Agreement and neither party will have any liability to the other, except in relation to any prior breaches.

- (b) The Developer acknowledges that if this Agreement is terminated under this clause 5.1, the Owner is entitled to retain the Upfront Development Payment and any instalments of the Take-up Fee paid under this Agreement up to the date of termination.

5.2 Extension of DMA Sunset Date

- (a) Subject to clause 5.3, if:
 - (i) the Developer gives to the Owner a written claim for extension of the DMA Sunset Date stating:
 - (A) the fact or likelihood of delay in the Developer procuring one or more Approved Tenants to enter into Agreements for Ground Lease for a minimum of [REDACTED] (in aggregate) of the Development Land;
 - (B) the cause of the delay;
 - (C) the date on which the cause of the delay first arose and the date on which the delay ceased; and
 - (D) the number of days of extension claimed; and
 - (ii) there is a delay and the cause of the delay is an Allowable Delay Event,

then the Developer is entitled to an extension of the DMA Sunset Date, and the Owner must, within 20 Business Days of the Developer's notice under clause 5.2(a), give:

- (iii) written notice to the Developer of any extension of the DMA Sunset Date granted; or
 - (iv) if the claimed extension is not granted, written notice of and the reasons for that decision.
- (b) If the Owner:
 - (i) gives a notice under clause 5.2(a)(iv) stating it does not agree with the Developer's notice under clause 5.2(a); or
 - (ii) does not give a notice within the relevant time period under clause 5.2(a),

the Owner is deemed to dispute the Developer's notice under clause 5.2(a), and the parties must resolve the dispute in accordance with clause 19.

- (c) The DMA Sunset Date cannot be extended beyond the date that the Term expires under clause 2.2.

5.3 Conditions precedent to extension of DMA Sunset Date

- (a) The Developer is only entitled to an extension of the DMA Sunset Date under clause 5.2 if:
 - (i) the Developer gives notice under clause 5.2 within 30 days after it has become aware of the fact or likelihood of delay;

- (ii) the Developer has used reasonable endeavours to minimise the delay; and
 - (iii) the Developer is continuing to use reasonable endeavours to procure Approved Tenants to enter into Agreements for Ground Lease.
- (b) The extension of the DMA Sunset Date will be either:
- (i) if the Owner agrees with the Developer's notice under clause 5.2(a), as set out in the Developer's notice under clause 5.2(a); or
 - (ii) if clause 5.2(b) applies, as determined under clause 19.

5.4 Delay caused by the Owner

If:

- (a) the Developer is granted an extension of the DMA Sunset Date under clause 5.2; and
- (b) the cause of the delay is a result of the event contemplated in paragraph (b) of the definition of Allowable Delay Event,

then:

- (c) the Developer is entitled to an abatement or reimbursement of the Take-up Fee (if any) payable or paid during the period of that delay calculated on a pro rata basis in the proportion that the area of the Development Land affected by the delay bears to the total Developable Site Area.

6 Site Works

6.1 Principal Contractor

- (a) The Owner agrees that the Developer is the principal contractor for the Site Works and authorises the Developer to:
 - (i) have management or control of those parts of the Development Land on which the Site Works are performed; and
 - (ii) discharge the duties imposed on the principal contractor for the Site Works under the Work, Health and Safety Regulations 2011 (NSW).
- (b) The Developer:
 - (i) accepts that it is the principal contractor under clause 6.1(a); and
 - (ii) shall discharge the duties imposed on the principal contractor for the Site Works under the Work, Health and Safety Regulations 2011 (NSW) (regardless of whether that engagement is effective).

6.2 External Infrastructure Works

- (a) The Developer must carry out the External Infrastructure Works at its cost.

- (b) The Developer must ensure the design and construction of the External Infrastructure Works:
 - (i) are undertaken by employees, consultants and subcontractors with appropriate professional qualification and experience;
 - (ii) are in accordance with the External Infrastructure Works Design Brief;
 - (iii) are in accordance with all Laws;
 - (iv) are in accordance with all Approvals; and
 - (v) are developed using skilled design consultants with relevant expertise.
- (c) The Developer is responsible for (and will control, co-ordinate, administer and direct) all activities necessary for the completion of the External Infrastructure Works including, without limitation:
 - (i) the appointment, procurement and removal of builders, contractors, tradesmen, development managers, architects, quantity surveyors, engineers and all other consultants, but no such appointment operates to relieve the Developer of its obligations under this Agreement; and
 - (ii) the obtaining of all Approvals required to complete the External Infrastructure Works.
- (d) The parties agree that, the Developer will undertake and complete such parts of the External Infrastructure Works as are required to facilitate the construction and use of the first Development Site prior to the practical completion of the first Development Site.
- (e) Nothing in this Agreement obliges the Developer to undertake the External Infrastructure Works until such works are required for the Nominated Developer to undertake and complete a Development.
- (f) For the avoidance of doubt, the Owner agrees that the Developer may undertake the External Infrastructure Works and Internal Site Works at any time prior to the time that such works are required for the Developer to undertake and complete a Development, including before the Developer submits a Development Proposal to the Owner in relation to the relevant Development Site.
- (g) For the avoidance of doubt, the Developer may, but is not obliged to, carry out, provide or install temporary services for construction purposes, gas services or remediation works, in connection with carrying out the External Infrastructure Works.

6.3 Internal Site Works

- (a) Subject to clause 6.3(d), the Developer must carry out the Internal Site Works relevant or required for each Development Site at its cost:
 - (i) progressively and in sequence in accordance with clause 6.3(b); and
 - (ii) in accordance with designs and specifications developed by the Developer, in accordance with the Development Masterplan (including any Updated Development Masterplan) and the other requirements of this Agreement.

- (b) The parties agree that, subject to clause 6.3(d), the Developer will undertake Internal Site Works as such works are required in order to undertake the Development of each Development Site.
- (c) Nothing in this Agreement obliges the Developer to undertake the Internal Site Works until such works are required for the Nominated Developer to undertake and complete a Development.
- (d) For the avoidance of doubt, the Owner agrees that the Developer may undertake the Internal Site Works for each Development Site at any time prior to the time that such works are required for the Nominated Developer to undertake and complete a Development, including before the Developer submits a Development Proposal to the Owner in relation to the relevant Development Site.
- (e) For the avoidance of doubt, the Developer may, but is not obliged to, carry out any other works as are reasonably necessary to enable the Internal Site Works to be undertaken.

6.4 Design and construction of Site Works

- (a) The Developer must, either itself or through consultants engaged by it, undertake the design of the Site Works, and the Developer must ensure that the Design Documentation in respect of such Site Works:
 - (i) are undertaken by employees, consultants and subcontractors with appropriate professional qualification and experience;
 - (ii) have regard to and are generally consistent with an Approved Development Proposal in respect of the relevant Development Site;
 - (iii) are generally consistent with the Development Masterplan;
 - (iv) are in accordance with all Approvals and all applicable Laws;
 - (v) are developed using skilled design consultants with relevant expertise; and
 - (vi) are in accordance with the relevant Australian Standards and the National Construction Code.
- (b) The Developer must, either itself or through consultants engaged by it, undertake the construction of any Site Works, and the Developer must ensure the construction of the Site Works:
 - (i) are undertaken by employees, consultants and subcontractors with appropriate professional qualification and experience;
 - (ii) have regard to and are generally consistent with the requirements of the approved Development in respect of the relevant Development Site;
 - (iii) are generally consistent with the Development Masterplan;
 - (iv) are in accordance with all Approvals and all applicable Laws;
 - (v) are in accordance with the Design Documentation in respect of the Internal Site Works;
 - (vi) are in accordance with the relevant Australian Standards and the National Construction Code; and

- (vii) are undertaken with materials that are new and of merchantable quality.

6.5 Practical completion of works

The parties agree that the superintendent or project manager in respect of the Site Works will certify (as an independent certifier) to the Owner and the Developer that such works have reached Practical Completion or Part Practical Completion of Internal Site Works.

6.6 Variations to the Site Works

Subject to clauses 6.4(a)(ii), 6.4(a)(iii), 6.4(a)(iv) and 12.1, the Developer may make any changes to the Design Documentation in respect of the Site Works that:

- (a) it considers necessary or desirable; or
- (b) are required by a Relevant Authority.

6.7 Defects rectification

- (a) The Developer must repair or rectify, within a reasonable time after notice has been given by the Owner, any defects or faults in the External Infrastructure Works or Internal Site Works due to faulty design or faulty materials or workmanship which are notified in writing to the Developer within 12 months after Practical Completion of the External Infrastructure Works and Internal Site Works as the case may be. This clause does not limit any liability that the Developer may have under this Agreement or at Law in relation to defects or faults in relation to the External Infrastructure Works or Internal Site Works.
- (b) The provisions of this clause 6.7 apply in relation to any repair or rectification work carried out by the Developer under clause 6.7(a) for a period of 12 months after practical completion of such repair or rectification work.

6.8 Estimated Internal Site Works costs

As at the Effective Date, the parties agree that the estimate of the Internal Site Works cost for the Internal Site Works is the Internal Site Works Budget.

6.9 Internal Site Works Budget and Program

- (a) The Developer must prepare and submit to the Owner a draft budget in respect of the costs of the Internal Site Works for the Development Land ("**Draft Budget**") and a draft program showing the proposed time table for carrying out of the Internal Site Works ("**Draft Program**");
 - (i) as soon as reasonably practicable after the Effective Date but in any event prior to the first submission of a Development Proposal under clause 8;
 - (ii) at meetings of the Project Control Group; and
 - (iii) not less than once every 6 months during the Term,
- (b) The Draft Budget must set out the following:
 - (i) the Internal Site Works cost incurred to date;
 - (ii) the Developer's estimate of future Internal Site Works cost for completion of the Internal Site Works yet to be undertaken

(including the Developer's estimate of the Internal Site Works costs for the Internal Site Works for the next Development Site);

- (iii) the Developable Site Area as at the date of the Draft Budget; and
- (iv) the Developer's calculation of the amount of the increase or decrease in the total Internal Site Works Budget in comparison to the estimated Internal Site Works costs, on both a total cost basis and rate per square metre basis,

and must include:

- (v) supporting calculation in respect of the Developer's estimate of future Internal Site Works Cost.

(c) The Draft Program must set out the following:-

- (i) the Internal Site Works carried out to date for each Development Site; and
- (ii) the Developer's estimated time table for the carrying out of future Internal Site Works.

(d) The Owner:

- (i) must review each Draft Budget and Draft Program submitted to the Owner; and
- (ii) may request further information from the Developer in respect of the Draft Budget and Draft Program submitted to the Owner, and the Developer must provide such other requested information.

(e) If when Part Practical Completion of Internal Site Works is reached:

- (i) the total cost of the Internal Site Works incurred in reaching Part Practical Completion of Internal Site Works; plus
- (ii) that part of the Retaining Walls Work Estimate applicable to the Outstanding Retaining Walls Work,

is less than the Internal Site Works Budget, the Developer must, within 30 days of Part Practical Completion of Internal Site Works pay to the Owner an amount equal to 50% of the difference.

(f) If when Practical Completion of the Internal Site Works is reached:

- (i) the total cost of the Outstanding Retaining Walls Work exceeds that part of the Retaining Walls Work Estimate applicable to the Outstanding Retaining Walls Work, the Owner must, subject to clause 6.9(h) below, reimburse the Developer an amount equal to 50% of the difference through credits to future Upfront Land Payments as part of the calculation of Net Land Payments; or
- (ii) the total cost of the Outstanding Retaining Walls Work is less than that part of the Retaining Walls Work Estimate applicable to the Outstanding Retaining Walls Work, the Developer must, within 30 days of Practical Completion of the Internal Site Works pay to the Owner an amount equal to 50% of the difference.

For the avoidance of doubt, the Owner is entitled to an amount equal to 50% of the final cost saving (if any) between the Internal Site Works Budget and the total cost of the Internal Site Works, and any amount paid to the Owner under clause 6.9(e) in excess of that is to be reimbursed to the Developer in the manner provided in clause 6.9(f)(i).

- (g) Notwithstanding any other clause in this Agreement, the Owner is not responsible for any increase in the cost of the Internal Site Works beyond the Internal Site Works Budget.
- (h) The parties agree that any program under this clause 6.9 is provided for information only and the Developer is not required to carry out the Internal Site Works in accordance with the programs.

6.10 Health Safety and Environmental matters

- (a) In carrying out the Internal Site Works, the Developer will, subject to clause 17, be responsible for complying with all relevant Environmental Laws, and relevant work, health and safety Laws.
- (b) The Developer must prepare and submit to the Owner a draft environmental management plan and a draft work health and safety management plan, prepared in accordance with best industry practice:
 - (i) as soon as reasonably practicable after the Effective Date but in any event prior to the first submission of a Development Proposal under clause 8; and
 - (ii) once every 6 months during the Term.
- (c) The Owner:
 - (i) must review each draft environmental management plan and each draft work health and safety management plan submitted to the Owner;
 - (ii) may (acting reasonably) request further information from the Developer in relation to the draft plans submitted to the Owner, and the Developer must provide such other requested information; and
 - (iii) must notify the Developer of whether it approves (acting reasonably) or does not approve (acting reasonably) the draft plans within 10 Business Days of the date of submission of the draft plans, and if it does not approve a draft plan, must give reasons for its decisions.
- (d) The Owner must not unreasonably withhold its approval of the draft plans.
- (e) If a draft plan referred to in clause 6.10(b) is not approved by the Owner, the Developer must resubmit to the Owner a revised plan containing proposals to address the reasons for the Owner's rejection and the provisions of clause 6.10 apply to the revised plan.
- (f) The Developer must promptly notify the Owner in writing of any environmental management incidents and work health and safety incidents, must investigate such incidents, must report the results of such investigations in writing to the Owner and must implement such action as may be reasonably required to rectify such incidents and to ensure that such incidents are not repeated.

- (g) When requested to do so, the Developer must make available to the Owner or its consultants its records in relation to environmental management and work health and safety management of the External Infrastructure Works and Internal Site Works.

6.11 Site Construction Licence

- (a) The Developer and the Owner must enter into the Site Construction Licence on the date of this Agreement.
- (b) Despite any other provision of this Agreement or the Site Construction Licence, the Developer and the Owner agree that on the commencement date of each Construction Licence for a Development Site, the definition of "Land" under the Site Construction Licence is varied to exclude the relevant Development Site;
- (c) For the avoidance of doubt, the Site Construction Licence is not a "Construction Licence" for the purposes of this Agreement and any Agreements for Ground Lease, Construction Licences and Ground Leases.

7 Development

7.1 Supply of the Development Land for development

- (a) The Owner agrees to supply the Development Land to the Developer in accordance with this Agreement for the Development in accordance with the Developer's demand for the Development of the Development Land.
- (b) The Owner agrees to make available the Development Land to the Developer for Development at the Effective Date.

7.2 Staging

- (a) The parties' intention at the Effective Date is that the majority of the Internal Site Works will be undertaken in one stage.
- (b) Notwithstanding clause 7.2(a), the parties agree that retaining walls between lots and final earthworks may be carried out in stages so as to allow variations both in location and levels to suit the specific requirements of each Development.

8 Developments on the Development Land

8.1 Submission of Development Proposals

- (a) The Developer must use reasonable endeavours to prepare and submit to the Owner Development Proposals during the Term.
- (b) The parties agree that:
 - (i) the Developer may, at any time, submit a Development Proposal nominating itself or a Nominee as a proposed tenant in respect of a Development Site to enter into an Agreement for Ground Lease with the Owner; and
 - (ii) clause 8.1(b)(i) does not in any way limit the Developer's ability to nominate third parties as a proposed tenant in respect of a Development Site.
- (c) The Developer must regularly report to the Project Control Group on its activities in seeking and procuring Development Proposals.

- (d) The Developer and Owner must liaise and co-operate with each other in relation to the development of Development Proposals.
- (e) The Developer and the Owner agree a target of direct employment on average across all Development Sites is [REDACTED] of Development Land (full and part time). The Developer must, upon the Owner's reasonable request during the Term but not more than once per year, use reasonable endeavours to provide to the Owner information about employment across the Development during the Term, to the extent the Developer has access to that information. For the avoidance of doubt, the Developer is not required to incur additional costs or collect information specifically for the purpose of satisfying its obligations under this clause.

8.2 Development Proposal

A Development Proposal must:

- (a) indicate whether the party to be the "Developer" under the Agreement for Ground Lease and the Construction Licence will be the Developer or a Nominee, and if a Nominee, details of the Nominee;
- (b) include a heads of agreement setting out the commercial terms for an Agreement for Ground Lease and Ground Lease including particulars of the proposed tenant (and guarantor, if any) under the Ground Lease;
- (c) indicate the proposed permitted use and GFA under the Ground Lease;
- (d) include the details of the proposed Lease Value Rate;
- (e) include the Developer's calculation of the proposed Lease Value;
- (f) include the proposed Initial Ground Rent and proposed Upfront Land Payment for the Development Site;
- (g) include the draft Design Documentation for the proposed Development (to the extent available);
- (h) include the dates or times for commencement and completion of construction and occupation of the Development Site;
- (i) include plans and specifications of the Development Site;
- (j) include details of the Internal Site Works and the Building Works required to be completed for the Development;
- (k) include details of any requested variations to the External Infrastructure Works;
- (l) include audited financial statements of the proposed tenant (and guarantor, if any) under the Ground Lease (unless a new entity supported by a parent entity) and any holding company of the proposed tenant for the period 2 years preceding the date of the relevant Development Proposal;
- (m) include a diagram showing the corporate relationship between the proposed tenant (and guarantor, if any) and other companies within the relevant corporate group;
- (n) include the proposed size of the area of the Development Site; and

- (o) include the Developer's estimate of the cost of the relevant Development, together with:
 - (i) reasonable details of the Developer's calculation of that estimate; and
 - (ii) the Developer's estimate of the amount of the "Construction Bank Guarantee" under the Agreement for Ground Lease.

8.3 Development Proposal Criteria

- (a) The Owner must notify the Developer whether it approves or does not approve a Development Proposal or a Revised Proposal within 10 Business Days of the date the Developer submits a Development Proposal under clause 8.1(a) or within 10 Business Days of the date the Developer submits a Revised Proposal under clause 8.3(g)(i).
- (b) If:
 - (i) a Development Proposal submitted under clause 8.1(a); or
 - (ii) a Revised Proposal submitted under clause 8.3(h),
 satisfies the Development Proposal Criteria, and would not require any material changes to the Pro-Forma Agreement for Ground Lease or Pro-forma Construction Licence, then the Owner must approve (by giving written notice to the Developer) that Development Proposal or Revised Proposal. The Owner must not take into account the provisions of clause 8.1(e) in considering a Development Proposal or Revised Proposal submitted by the Developer under this clause 8.
- (c) If a Development Proposal or a Revised Proposal does not comply with the Development Proposal Criteria, the Owner must approve or reject that Development Proposal or a Revised Proposal. If the Owner rejects a Development Proposal or Revised Proposal, the Owner must give written details of the grounds for the rejection.
- (d) For the avoidance of any doubt, the Owner's approval of any Development Proposal or a Revised Proposal which does not comply with the Development Proposal Criteria is not to be taken in any way as a waiver of or amendment to the Development Proposal Criteria.
- (e) If a Development Proposal or Revised Proposal satisfies the Development Proposal Criteria, other than the criteria listed in paragraph (f) of Schedule 1, then the Owner must (subject to clause 8.3(f)) act reasonably in deciding to approve or reject the Development Proposal.
- (f) If the Developer submits a Development Proposal or Revised Proposal which includes:
 - (i) a proposed permitted use other than the Approved Permitted Use; or
 - (ii) residential use in any Development Site,
 then the Owner has an absolute discretion in approving the proposed permitted use.
- (g) The Developer may include in a Development Proposal:
 - (i) details of additional internal roads and an appropriate adjustment to the area of the Site and Development Land and

the Owner must act reasonably in deciding to approve or reject the additional internal roads and area of the Site and Development Land (except that where such changes will have a negative financial impact on the Owner the Owner will be deemed not to have acted unreasonably in rejecting any additional internal roads); and

- (ii) an updated Development Masterplan and the process in clause 12.1 will apply to the updated Development Masterplan.
- (h) If a Development Proposal is rejected by the Owner, the Developer may re-submit to the Owner for the Owner's consideration a revised Development Proposal containing proposals to address the reason for rejection ("**Revised Proposal**"). The provisions of this clause 8 apply to a Revised Proposal.
- (i) The Developer must promptly notify the Owner in writing if it becomes aware of any change in circumstances such that the proposed tenant (combined with any proposed guarantor) might no longer satisfy the Development Proposal Criteria in clause 1 of Schedule 1 or might no longer fall within the definition of Approved Tenant in clause 1.1. Notwithstanding anything to the contrary in this Agreement, the Owner is not obliged to enter into an Agreement for Ground Lease with a proposed tenant who (combined with any proposed guarantor) does not satisfy the Development Proposal Criteria in clause 1 of Schedule 1 or no longer falls within the definition of Approved Tenant in clause 1.1.

8.4 Owner to enter into the Agreement for Ground Lease, Ground Lease and Construction Licence

- (a) In respect of an Approved Development Proposal:
 - (i) the Developer must procure the drawing up of the Agreement for Ground Lease and Ground Lease by the Developer's solicitors for the relevant Development Site the subject of the Approved Development Proposal:
 - (A) in the form of the Pro Forma Agreement for Lease as completed or amended as required to:
 - (aa) include the Approved Tenant's guarantor, if any; and
 - (ab) fill in any other blank spaces or do anything else to the Pro Forma Agreement for Ground Lease and Ground Lease necessary to complete the documents;
 - (B) to include the terms of the Approved Development Proposal;
 - (C) the Agreement for Ground Lease is to be between the Owner (as landlord), the Nominated Developer (as developer) and the Approved Tenant;
 - (D) to include the Approved Tenant's (and guarantor's, if any) limitation of liability clauses (if relevant) provided that the Agreement for Ground Lease and Ground Lease include warranties by the Approved Tenant (and guarantor, if any) in their capacity as trustee, responsible entity or custodian of the Approved Tenant (and guarantor, if any) that it is the holder of the assets

- of the relevant trust, that (in the case of the Approved Tenant) its interest in the leased property will be an asset of the relevant trust and that the Approved Tenant (and guarantor, if any) is and will be entitled to be indemnified out of the assets of the relevant trust in relation to its obligations under or in relation to the Agreement for Ground Lease and Ground Lease (but subject to the usual exclusions);
- (E) to include the relevant Upfront Land Payment and Initial Ground Rent payable by the Approved Tenant in the Agreement for Ground Lease and Ground Lease subject to increase as provided in the Agreement for Ground Lease; and
 - (F) to include the relevant "Architect" nominated by the Developer at the time of entering into the Agreement for Ground Lease;
- (ii) the Developer must procure the drawing up of the Construction Licence by the Developer's solicitors for the relevant Development Site the subject of the Approved Development Proposal:
- (A) in the form of the Pro Forma Construction Licence; and
 - (B) the Construction Licence is to be between the Owner and the Nominated Developer;
- (iii) the Developer must, in conjunction with the Owner and the Owner's solicitors:
- (A) finalise the Agreement for Ground Lease, Ground Lease and Construction Licence;
 - (B) have the final version of the Agreement for Ground Lease, Ground Lease and Construction Licence prepared and executed by the Nominated Developer, Approved Tenant and/or any guarantor of the Approved Tenant (as required); and
 - (C) deliver the Agreement for Ground Lease, Ground Lease and Construction Licence, duly executed by the Nominated Developer, the Approved Tenant and any guarantor of the Approved Tenant (as required), and any bank guarantee or other security required under the Agreement for Ground Lease or Ground Lease to the Owner;
- (iv) the Developer must, when submitting an Agreement for Ground Lease, Ground Lease or Construction Licence to the Owner for execution, ensure that marked up versions of those documents are submitted showing all differences between the Pro-Forma Agreement for Ground Lease and Pro-Forma Construction Licence and the proposed final form of those documents;
- (v) subject to clause 8.3(i), the Owner must:
- (A) finalise the Agreement for Ground Lease, Ground Lease and Construction Licence, promptly, and in good faith;

- (B) execute the Agreement for Ground Lease, Ground Lease and Construction Licence promptly after receiving the Agreement for Ground Lease, Ground Lease and Construction Licence from the Developer for execution;
 - (C) grant a Ground Lease to an Approved Tenant as and when required under the relevant Agreement for Ground Lease; and
 - (D) comply with the Owner's other obligations under each Agreement for Ground Lease, Ground Lease and Construction Licence (including obtaining necessary mortgagee or chargee consents); and
- (vi) the Owner must consider any amendments to the Agreement for Ground Lease, Ground Lease or Construction Licence requested by the Approved Tenant.
- (b) The Initial Ground Rent will commence to be payable on, and the Ground Lease will commence on, the first to occur of:
- (i) the date the Approved Tenant commences to use the premises to be leased pursuant to the Ground Lease for the permitted use under the Ground Lease; and
 - (ii) the later of:
 - (A) the first to occur of:
 - (aa) the day after the date of Practical Completion of the Development on the Development Site; and
 - (ab) the alternative date specified in the Approved Development Proposal as the date on which Initial Ground Rent will commence (if applicable); and
 - (B) the day after Practical Completion of the Internal Site Works (or such of those works as are required to be completed to facilitate the construction of the Development and the use of the premises to be leased pursuant to the Ground Lease) is achieved; and
 - (C) the day after Practical Completion of the External Infrastructure Works (or such of those works as are required to be completed to facilitate the construction of the Development and the use of the premises to be leased pursuant to the Ground Lease) is achieved.

8.5 Compliance with Agreement for Ground Lease

- (a) The Developer must:
- (i) comply with its obligations under each Agreement for Ground Lease and Construction Licence (where applicable);
 - (ii) not do or allow anything to be done which would or might cause the Owner to be in breach of any Agreement for Ground Lease, Construction Licence or Ground Lease;

- (iii) notify the Owner promptly if the Developer is in breach of any obligation under an Agreement for Ground Lease or Construction Licence (where applicable) or if the Developer becomes aware of any dispute in relation to an Agreement for Ground Lease or Construction Licence (where applicable) or the performance of the Developer's duties under an Agreement for Ground Lease or Construction Licence (where applicable);
- (iv) notify the Owner promptly if any representation or warranty made or taken to be made by or on behalf of the Developer in connection with an Agreement for Ground Lease or Construction Licence (where applicable) is found to be incorrect or misleading when made or taken to be made; and
- (v) notify the Owner promptly if it becomes aware that any other party to an Agreement for Ground Lease or Construction Licence is in material breach of any term, condition or obligation under that document.

(b) The Owner must:

- (i) comply with its obligations under each Agreement for Ground Lease and Construction Licence;
- (ii) not do or allow anything to be done which would or might cause the Developer to be in breach of any obligation under an Agreement for Ground Lease or Construction Licence; and
- (iii) execute, enter into or grant the Ground Lease as required under the relevant Agreement for Ground Lease.

8.6 Termination of Agreement for Ground Lease

If an Agreement for Ground Lease is subsequently rescinded or terminated prior to the commencement date of the Ground Lease due to any act, default or insolvency of the Approved Tenant, then despite anything else in this Agreement:

- (a) if directed by the Owner, the Developer must immediately cease the relevant Development; and
- (b) the Developer may source and submit a new Development Proposal for the Development Site under clause 8, and if that Development Proposal becomes an Approved Development, then the Developer must carry out and complete the Development contemplated by that Approved Development Proposal.

8.7 Construction Licence

The Construction Licence must:

- (a) be for a term commencing on the date the Developer under the Agreement for Ground Lease pays the Net Land Payment to the Owner and notifies the Owner that it has paid the Net Land Payment to the Owner; and
- (b) include payment of a licence fee equivalent to the Construction Licence Fee by the Developer from the Commencement of the Construction Licence in accordance with clause 8.7(a) above; and
- (c) include any necessary changes agreed between the relevant parties.

8.8 Measurement of the Development Site

When the proposed Development Site has been determined the Developer will at its cost engage a surveyor to measure the ground area and advise the Developer and the Owner of the area and dimensions of the relevant Development Site.

8.9 Multi-party Side Deed

- (a) The parties agree that the Developer and an Approved Tenant may (and is entitled to) grant a security interest (including a Security Interest) over its rights under this Agreement, an Agreement for Ground Lease and a Construction Licence to its financier or financiers.
- (b) If requested by the Developer or an Approved Tenant, the Owner must enter into a deed or deeds with the Developer, Approved Tenant and the Approved Tenant's and/or Developer's financier in a form reasonably required by the Approved Tenant's and/or the Developer's financier ("**Multi-Party Side Deed**").
- (c) The Multi-Party Side Deed referred to in clause 8.9(b) above will generally be consistent with the principles contained in Schedule 8 or must otherwise be on terms reasonably acceptable to the parties.
- (d) The parties agree to act reasonably and in good faith in relation to things requested by the Developer or Approved Tenant or their respective financier or financiers, including the negotiation and execution of a Multi-Party Side Deed. Without limiting the previous sentence, the Owner accepts that the Approved Tenant's and/or the Developer's financier may have requirements that are different to the principles contained in Schedule 8 (including the financier's form of Multi-Party Side Deed) and the Owner must act reasonably and in good faith in relation to the financier's requirements.

8.10 Ownership of fixtures

- (a) The Owner acknowledges that the Nominated Developer will undertake and complete the relevant Development in accordance with the relevant Agreement for Ground Lease and the Approved Tenant will pay certain amounts to the Nominated Developer for the construction and completion of the Development.
- (b) Other than as required by Law, and subject to clause 6.3 of the Pro-Forma Agreement for Ground Lease, the parties acknowledge that all improvements forming part of the Development that are constructed on the relevant Development Site will be owned by the Approved Tenant until expiry or earlier determination of the relevant Ground Lease.

9 Approvals

9.1 The Developer responsible

With the exception of the Initial Development Consent, the Developer must use its reasonable endeavours at its cost to obtain all Approvals required to lawfully:

- (a) enter into and properly execute, perform, observe and discharge its rights and obligations under this Agreement;
- (b) plan, design, execute and complete each Development;
- (c) plan, design, execute and complete the Building Works;
- (d) plan, design, execute and complete the Internal Site Works; and
- (e) plan, design, execute and complete the External Infrastructure Works,

and the Owner, if so requested by the Developer, must co-operate with and assist the Developer in obtaining all Approvals, including promptly executing each application for an Approval upon request by the Developer.

9.2 Approval Process

- (a) In order to remove any doubt, the Developer and the Owner acknowledge and agree that:
- (i) Subject to clause 9.2(b)(ii), the normal development process for any particular Development Site is that:
 - (A) the Developer will lodge a Development Proposal and obtain the Owner's approval to such proposal on the terms and conditions of this Agreement and for the purposes of obtaining the Approved Development Proposal; and
 - (B) if an Approved Development Proposal is obtained and the relevant parties enter into an Agreement for Ground Lease, the Developer will obtain all other Approvals required by Law, including a development consent from the Relevant Authority in relation to the Site Works for the relevant Development Site ("**Site Works Development Consent**").
 - (ii) The Developer must provide a copy of the Site Works Development Consent to the Owner promptly after it is issued to the Developer.
 - (iii) The Developer must, within 20 Business Days of receipt of the relevant Site Works Development Consent from the Council, notify the Owner whether or not the relevant Site Works Development Consent is on conditions acceptable to the Developer and the Approved Tenant. The Developer may only reject conditions of the Site Works Development Consent if:
 - (A) the conditions materially adversely affect the Developer's ability to comply with its obligations under this Agreement, an Agreement for Ground Lease or an agreement for lease with a future occupier of the Development Site; or
 - (B) compliance with the conditions of the relevant Site Works Development Consent will result in an increase of more than 5% of the aggregate Building Works and the Internal Site Works costs in the application.
 - (iv) If the Developer gives notice under clause 9.2(a)(iii) that the Site Works Development Consent is on conditions which are not acceptable to the Developer, the Developer may require that steps be taken to object to or appeal against the relevant conditions in which case the Owner and the Developer must co-operate with each other in pursuing such objection or appeal without delay. The Developer must pay the Owner's reasonable expenses in connection with such objection or appeal. If after any objection or appeal process required by the Developer has been exhausted, the Site Works Development Consent is still subject to conditions which are not acceptable to the Developer, having regard to the provisions of clause 9.2(a)(iii), the Developer may require that the Development of the relevant Development Land not proceed until such time as an Site Works

Development Consent is obtained on conditions which are acceptable to the Developer having regard to the provisions of clause 9.2(a)(iii).

- (b) Despite clause 9.2(a), and for the avoidance of doubt, the Owner agrees that the Developer may:
 - (i) obtain the relevant Site Works Development Consent at the same time as the Developer obtains the Approvals (including the development consent) for the relevant Development; and
 - (ii) prepare and submit applications for development consent from the Relevant Authority in relation to proposed Site Works for each Development Site before the Developer submits a Development Proposal to the Owner in relation to the relevant Development Site.

9.3 Development of a Development Site

If the Developer obtains all relevant Approvals for the Development on terms acceptable to it, the Developer must procure the design and construction of the buildings and works on the Development Site, including the External Infrastructure Works in accordance with the Approved Development Proposal, the Agreement for Ground Lease and all applicable Laws. The Developer must commence and complete the construction of the works on the Development Site within the time frames specified in the Approved Development Proposal.

10 Construction

10.1 Complete Development

The Developer shall complete each Development or cause each Development to be completed in accordance with:

- (a) this Agreement;
- (b) the Development Masterplan, subject to minor variations from the Development Masterplan or other variations from the Development Masterplan approved by the Owner in accordance with this Agreement;
- (c) the Approved Development Proposal, subject to minor variations which are not inconsistent with the Approved Development Proposal or other variations approved by the Owner (which approval must not be unreasonably withheld provided the variations are consistent with the requirements of this Agreement); and
- (d) all Approvals and applicable Laws.

10.2 Comply with Requirements

The Developer at its expense must:

- (a) comply with all proper and lawful requirements of any Relevant Authority in relation to each Development; and
- (b) comply with and give all notices and obtain all certificates, licences and permits required by any law and pay and indemnify the Owner against any statutory fees or charges legally payable in respect of each Development; and
- (c) for the avoidance of doubt, the Developer must pay all long service leave levies required to be paid by Law in respect of each Development.

10.3 Insurance

- (a) From the date of commencement of any Development until the date of expiry of the defects liability period for such Development, the Developer must keep, or must ensure that its contractor carrying out the Development keeps:
 - (i) contracts work insurance in the name of the Developer with the Owner to be listed as an additional insured;
 - (ii) public liability insurance in the name of the Developer as well as any contractor, with the Owner to be listed as an additional insured for liability arising out of the Developer's or contractor's actions of an amount not less than \$50,000,000.00;
 - (iii) motor vehicle third party property insurance in the name of the Developer in respect of the Developer's passenger motor vehicles;
 - (iv) workers compensation insurance for all workers; and
 - (v) professional indemnity insurance in the name of the Developer for its potential liability in relation to civil liability claims, by reason of any act, error or omission of the Developer which results in an actual or alleged breach of professional duty under this Agreement;
- (b) All insurers for the insurances referred to in clauses 10.3(a)(i), (ii) and (v) must be from a reputable insurer.
- (c) Each insurance policy referred to in clauses 10.3(a)(i) and (ii) must include a cross liability clause under which the insurer agrees to waive all rights of subrogation against each party noted on the policy.
- (d) Prior to commencement of any works, the Developer must produce to the Owner a copy of the certificate of currency of each policy and evidence that such policies satisfy the requirements of this clause 10.3.

11 Payment

11.1 Upfront Development Payment

In consideration of the Developer receiving the Development Rights, the Developer shall pay the Upfront Development Payment to the Owner on the Effective Date.

11.2 Take-up Fee

- (a) The Developer and the Owner have agreed that:
 - (i) the Developer will aim to achieve each Take-up Target by the relevant Take-up Target Date; and
 - (ii) if the Developer fails to achieve the Take-up Targets by the Take-up Target Dates, the Developer will pay certain amounts to the Owner in accordance with this clause 11.2.
- (b) Subject to clause 11.2(f), if the Developer fails to reach a Take-up Target by the Take-up Target Date as is set out in Part 3 of Schedule 4, the Developer must pay the Take-up Fee calculated in accordance with Part 3 of Schedule 4 to the Owner annually in advance during the Term in accordance with this clause 11.2.

- (c) At least 15 Business Days prior to the beginning of each year of the Term, the Developer must notify the Owner of its calculation of:
 - (i) the Developing Site Areas at the relevant time; and
 - (ii) the Take-up Fee payable by the Developer for the upcoming year.
- (d) If the Owner does not agree with the Developer's calculation of the Developing Site Areas or Take-up Fee set out in the Developer's notice under clause 11.2(c), then the Owner must notify the Developer within 10 Business Days of the date of the Developer's notice under clause 11.2(c), and the parties must co-operate in good faith to agree the relevant Developing Site Areas and Take-up Fee.
- (e) The parties agree that:
 - (i) subject to clause 11.2(e)(ii), the calculation of the Developing Site Areas for any relevant time is to be based on the calculation of Developing Site Areas as set out in the Development Masterplan; and
 - (ii) the Developable Site Area as set out in the Development Masterplan must be adjusted upon execution of each Agreement for Ground Lease.
- (f) Notwithstanding any other provision of this Agreement, the Developer is not required to pay the Take-up Fee during, or in respect of, the period commencing on the Effective Date and ending on the date that is 12 months after the Effective Date.
- (g) It is agreed that should future Take-up Targets be achieved, any Take-up Fee paid to the Owner in respect of the failure to reach a Take-up Target by a prior Take-up Target Date will be reimbursed to the Developer through credits to future Upfront Land Payments as part of the calculation of Net Land Payments.

11.3 Upfront Land Payment

- (a) The Developer must give prompt written notice to the Owner and Approved Tenant after an Agreement for Ground Lease becomes unconditional. The Approved Tenant will be required to pay the Upfront Land Payment to the Nominated Developer on the later of:
 - (i) the Commencement of Construction; and
 - (ii) the date the Agreement for Ground Lease becomes unconditional,
 in accordance with the Agreement for Ground lease.
- (b) As soon as reasonably practicable after the Nominated Developer has received the Upfront Land Payment in respect of a Development, the Developer must notify the Owner:
 - (i) when the Nominated Developer has received the Upfront Land Payment from the Approved Tenant; and
 - (ii) of the Developer's calculation of the amount of that Upfront Land Payment that is to be paid to the Owner, being the Upfront Land Payment plus or minus any variance in accordance with this agreement ("**Estimated Net Land Payment**").

- (c) Within 5 Business Days of the date of the Developer's notice under clause 11.3(b), the Owner must notify the Developer whether or not the Owner accepts the Estimated Net Land Payment. If the Owner notifies that it does not accept the Estimated Net Land Payment, or the Owner does not give a notice in accordance with this clause 11.3(c), the parties must refer the matter for determination under clause 19.
- (d) The "**Net Land Payment**" is:
 - (i) the amount of the Estimated Net Land Payment if the Owner notifies the Developer that it accepts the Estimated Net Land Payment under clause 11.3(c); or
 - (ii) the amount determined under clause 19 as the Net Land Payment if the Owner notifies the Developer that it does not accept the Estimated Land Payment under clause 11.3(c) or the Owner does not give a notice in accordance with clause 11.3(c).
- (e) The Owner must give a tax invoice to the Developer within 5 Business Days of the date the Net Land Payment is determined in accordance with clause 11.3(d).
- (f) For the purposes of clause 4.1(b) of the Construction Licence, the Owner must notify the Developer or Approved Tenant in writing of receipt of the Net Land Payment within 5 Business Days of the date the Owner receives the Net Land Payment.
- (g) Despite any other provision of this Agreement:
 - (i) Commencement of Construction must not commence until the Developer has paid the relevant Net Land Payment to the Owner as well as any Take-up Fee due under clause 11.2; and
 - (ii) the Developer must pay the Net Land Payment to the Owner on the later of:
 - (A) the earlier of:
 - (aa) the date that the Nominated Developer (or relevant appointed subcontractor) is ready for Commencement of Construction; and
 - (ab) the date being 3 months after the date the Agreement for Ground Lease becomes unconditional; and
 - (B) 10 Business Days after the Owner provides a tax invoice under clause 11.3(e).

11.4 Leasing Commission

- (a) If:
 - (i) the Owner, without the involvement or assistance of an external real estate agent, procures a non-related third party to enter into an Agreement for Ground Lease with the Owner and Developer ("**New Transaction**");
 - (ii) no commission is payable to any other agent in respect of the New Transaction; and

- (iii) the Development proposed under the New Transaction is substantially different to the Development of the relevant Development Site proposed in the Development Masterplan,

then the Developer must pay to the Owner the Leasing Commission in respect of that Development.

- (b) The Developer must pay the Leasing Commission to the Owner as follows:

- (i) 50% of the Leasing Commission when the Agreement for Ground Lease becomes unconditional; and
- (ii) 50% of the Leasing Commission on commencement of the Ground Lease.

- (c) For the avoidance of any doubt, only one Leasing Commission is payable in respect of a Ground Lease.

11.5 Construction Licence Fee

- (a) The Developer or the Approved Tenant, as directed by the Developer, must pay the Construction Licence Fee to the Owner under the Construction Licence from commencement of the Construction Licence.
- (b) The Construction Licence Fee must be paid in accordance with the relevant Construction Licence.

11.6 Tax invoices

Despite any other provisions in this Agreement, the parties agree that:

- (a) a party's ("**Paying Party**") obligation to make a payment to any other party ("**Receiving Party**") only arises upon receipt of a relevant tax invoice from the Receiving Party; and
- (b) the Paying Party must make the relevant payment within 10 Business Days from the date it receives the relevant tax invoice from the Receiving Party.

12A NSW Government Supplier Code of Conduct and Building and Construction Procurement Guidelines

In addition to terms defined in this Agreement, terms used in clauses 12A.1 to 12A.5 have the same meaning as is attributed to them in the Building and Construction Procurement Guidelines (as published by the NSW Treasury July 2013). The NSW Government Supplier Code of Conduct and the Building and Construction Procurement Guidelines are available at www.industrialrelations.nsw.gov.au.

12A.1 Primary Obligation

- (c) The Developer must at all times comply with, and meet any obligations imposed by:
 - (i) the NSW Government Supplier Code of Conduct, in undertaking the construction of the Access Road ("**Access Road Works**"), the External Infrastructure Works, the Drainage Basin Works; and
 - (ii) the Building and Construction Procurement Guidelines in undertaking the Building Works and Internal Site Works.

- (d) The Developer must notify the Construction Compliance Unit (CCU) and the Owner of any possible non-compliance with:
 - (i) the NSW Government Supplier Code of Conduct, in relation to the Access Road Works, the External Infrastructure Works, the Drainage Basin Works; and
 - (ii) the Building and Construction Procurement Guidelines, in relation to the Building Works and Internal Site Works,
 and of remedial action taken, within 24 hours of becoming aware of the possible non-compliance.
- (e) Where the Developer engages a subcontractor or consultant (including, without limitation, the Builder) in relation to the Building Works and Internal Site Works after the Effective Date, the Developer must ensure that the contract imposes on the subcontractor or consultant equivalent obligations to those in clauses 12A.1 to 12A.4, including that the subcontractor or consultant must, at all times comply with, and meet any obligations imposed by:
 - (i) the NSW Government Supplier Code of Conduct, in relation to the Access Road Works, the External Infrastructure Works, the Drainage Basin Works only; and
 - (ii) the Building and Construction Procurement Guidelines, in relation to the Building Works and Internal Site Works.
- (f) The Developer must not appoint or engage another party in relation to the Building Works and Internal Site Works where that appointment or engagement would breach a sanction imposed on the other party in relation to:
 - (i) the NSW Government Supplier Code of Conduct, in relation to the Access Road Works, the External Infrastructure Works, the Drainage Basin Works only; and
 - (ii) the Building and Construction Procurement Guidelines, in relation to the Building Works and Internal Site Works.
- (g) For the avoidance of doubt, the Developer is not required to comply with the NSW Government Supplier Code of Conduct in relation to the Building Works and the Internal Site Works (other than the Access Road Works, the External Infrastructure Works, the Drainage Basin Works including any provisions of the Building and Construction Procurement Guidelines that refer to the NSW Government Supplier Code of Conduct.

12A.2 Access and information

- (a) The Developer must maintain adequate records of compliance with:
 - (i) the NSW Government Supplier Code of Conduct, in relation to the Access Road Works, the External Infrastructure Works, the Drainage Basin Works only; and
 - (ii) the Building and Construction Procurement Guidelines, in relation to the Building Works and Internal Site Works,
 by it, its subcontractors, consultants and Related Entities (as applicable).
- (b) The Developer must allow, and take reasonable steps to facilitate, authorised personnel (including personnel of the CCU) to:

- (i) enter and have access to Development Sites controlled by the Developer;
- (ii) inspect any work, material, machinery, appliance, article or facility;
- (iii) access information and documents;
- (iv) inspect and copy any record relevant to the Access Road Works, the External Infrastructure Works, the Drainage Basin Works;
- (v) have access to personnel; and
- (vi) interview any person,

as is necessary for the authorised personnel to monitor and investigate compliance with:

- (vii) the NSW Government Supplier Code of Conduct, in relation to the Access Road Works, the External Infrastructure Works, the Drainage Basin Works; and
- (viii) the Building and Construction Procurement Guidelines, in relation to the Building Works and Internal Site Works,

by the Developer, its subcontractors, consultants and Related Entities.

- (c) The Developer must agree to, and comply with (and procure its Related Entities agree to, and comply with), a request from authorised personnel (including personnel of the CCU) for the production of specified documents, in relation to the Access Road Works, the External Infrastructure Works, the Drainage Basin Works, by a certain date, whether in person, by post or electronic means.

12A.3 Sanctions

- (a) The Developer warrants that at the time of entering into this Agreement, neither it, nor any of its Related Entities, are subject to a sanction in connection with the NSW Government Supplier Code of Conduct or the Building and Construction Procurement Guidelines that would have precluded it from responding to a procurement process for work to which the NSW Government Supplier Code of Conduct and the Building and Construction Procurement Guidelines apply.
- (b) If the Developer does not comply with, or fails to meet any obligation imposed by:
 - (i) the NSW Government Supplier Code of Conduct, in relation to the Access Road Works, the External Infrastructure Works, the Drainage Basin Works; or
 - (ii) the Building and Construction Procurement Guidelines, in relation to the Building Works and Internal Site Works,

a sanction may be imposed against it in connection with the NSW Government Supplier Code of Conduct or the Building and Construction Procurement Guidelines (as applicable).

- (c) Where a sanction is imposed:

- (i) it is without prejudice to any rights that would otherwise accrue to the parties; and
- (ii) the State of NSW (through its agencies, Ministers and the CCU) is entitled to:
 - (A) record and disclose details of non-compliance with the NSW Government Supplier Code of Conduct or the Building and Construction Procurement Guidelines and the sanction; and
 - (B) take them into account in the evaluation of future procurement processes and responses that may be submitted by the Developer, or its Related Entities, in respect of work to which the NSW Government Supplier Code of Conduct and the Building and Construction Procurement Guidelines apply.

12A.4 Compliance

- (a) The Developer bears the cost of ensuring its compliance with:
 - (i) the NSW Government Supplier Code of Conduct, in relation to the Access Road Works, the External Infrastructure Works, the Drainage Basin Works, ; and
 - (ii) the Building and Construction Procurement Guidelines, in relation to the Building Works and Internal Site Works, including in respect of any positive steps it is obliged to take to meet its obligations under the Building and Construction Procurement Guidelines.

The Developer is not entitled to make a claim for reimbursement or an extension of time from the Owner or the State of NSW for such costs.

- (b) Compliance with the NSW Government Supplier Code of Conduct and the Building and Construction Procurement Guidelines in accordance with this clause 12A does not relieve the Developer from responsibility to perform the Access Road Works, the External Infrastructure Works, the Drainage Basin Works and any other obligation under this Agreement, or from liability for any defect in the Access Road Works, the External Infrastructure Works, the Drainage Basin Works or from any other legal liability, whether or not arising from its compliance with the NSW Government Supplier Code of Conduct and the Building and Construction Procurement Guidelines (as applicable).
- (c) Where a change in this Agreement, the Access Road Works, the External Infrastructure Works, the Drainage Basin Works and that change may, or may be likely to, affect compliance with the NSW Government Supplier Code of Conduct and the Building and Construction Procurement Guidelines, as required by this Agreement, the Developer must immediately notify the Owner (or nominee) of the change, or likely change and specify:
 - (i) the circumstances of the proposed change;
 - (ii) the extent to which compliance with the NSW Government Supplier Code of Conduct and the Building and Construction Procurement Guidelines in accordance with this Agreement will be, or is likely to be, affected by the change; and

- (iii) what steps the Developer proposes to take to mitigate any adverse impact of the change (including any amendments it proposes to a Workplace Relations Management Plan or Work Health and Safety Management Plan).

12A.5 General

The parties agree that clauses 12A.1 to 12A.4 is the Owner's (as a New South Wales Government agency) implementation of the NSW Government Supplier Code of Conduct and the Building and Construction Procurement Guidelines as a result of the Tender and this Agreement.

12 Development Masterplan

12.1 Development Masterplan

- (a) The parties acknowledge that the Development Masterplan is attached at Schedule 3.
- (b) The Developer must prepare an updated Development Masterplan every 6 months after the Effective Date during the Term ("**Updated Development Masterplan**").
- (c) Each Development Masterplan must include a statement of the Developable Site Area as at the relevant date of the Development Masterplan.
- (d) The Owner may provide its reasonable comments and any reasonable amendments to the draft Updated Development Masterplan submitted by the Developer within 14 Business Days of receipt of that draft Updated Development Masterplan from the Developer.
- (e) The Developer must incorporate any of the Owner's comments or amendments that it considers is appropriate (acting reasonably), and must submit a final Updated Development Masterplan to the Owner for approval. Subject to clause 12.1(f)(iv) and (v), the Owner must not unreasonably withhold its approval. When the Owner has approved the final Updated Development Master Plan, the parties must initial the final Updated Development Masterplan for identification purposes.
- (f) With respect to the Development Masterplan, the parties agree that:
 - (i) the intention is to maintain as much flexibility as possible to meet market demand;
 - (ii) the Development Masterplan or Updated Development Masterplan may be changed by the Developer from time to time, provided:
 - (A) the Developer prepares and submits the amended draft Development Masterplan to the Owner; and
 - (B) the parties comply with the provisions of clauses 12.1(d) and 12.1(e) in respect of the amended draft Development Masterplan;
 - (iii) subject to clause 12.1(f)(iv) and (v), the Owner must not unreasonably withhold its approval to the amended draft Development Masterplan; and
 - (iv) if the Developer submits an amended draft Development Masterplan and the permitted use for the Development Site is

residential, or is other than the Approved Permitted Use, the Owner has an absolute discretion in approving the amended draft Development Masterplan.

- (g) Without limiting the above and clause 8.3(f), the parties agree that the Developer may change (including by adding to) the "access roads" shown on the Development Masterplan or the Updated Development Masterplan (including but not limited to the layout or location of the access road) as is required for the Development, provided such change does not materially adversely affect the access to or through the Development Land or require the Owner to procure land or easement rights from third parties or cause a detrimental financial outcome for the Owner.

13 Access

13.1 Owner must permit access to Undeveloped Land

- (a) From the Effective Date, the Owner must permit the Developer and authorised representatives, consultants and agents of the Developer to enter the Undeveloped Land at reasonable times and upon reasonable notice to the Owner for the purposes of:
 - (i) undertaking pre-development investigations, including testing and other investigation of the condition of the site;
 - (ii) undertaking a survey or surveys;
 - (iii) showing prospective investors and users over the site; and
 - (iv) any other purpose requested by the Developer (acting reasonably).
- (b) Despite any other provision of this Agreement, the Developer acknowledges that the Developer's employees, contractors, agents, invitees and visitors may not access the Undeveloped Land before receiving the Owner's or the Developer's site induction training (as applicable). The Owner must make the Owner's site induction training available to the Developer's employees, contractors, agents, invitees and visitors on reasonable notice by the Developer and the parties agree that the Owner is not required to provide site induction training more than once. The Owner authorises the Developer to provide subsequent site induction training in place of the Owner to the Developer's employees, contractors, agents, invitees and visitors who did not attend the site induction training provided by the Owner.
- (c) The Owner must comply and cause its representatives and consultants to comply at all times with the reasonable requirements for the time being of the Developer and not to delay a Development.

13.2 Access to adjoining land

From the Effective Date, the Owner must permit the Developer and authorised representatives, consultants and agents of the Developer to enter, access and occupy any land adjoining any of the Development Land which is also owned by the Owner and which is identified for the purposes of this clause 13.2 on the plan in Schedule 2 ("**Adjoining Land**") for the purpose of:

- (a) accessing any part of the Development Land;

- (b) undertaking the External Infrastructure Works, Internal Site Works, and any other necessary works on the Development Land and relevant Adjoining Land; and
- (c) constructing a "batter" on the relevant Adjoining Land; and
- (d) repair and maintenance of the Drainage Basins during the relevant defects and maintenance period.

13.3 Battering

- (a) The Owner agrees that:
 - (i) the Developer will "batter" into those parts of the Adjoining Land identified as affected by batter on the plan in Schedule 2 as a part of the Internal Site Works; and
 - (ii) subject to clause 13.3(b), the Developer is not, and will not be, obliged to remove or do any works to alter the "batter" on the relevant Adjoining Land referred to in clause 13.3(a)(i).
- (b) The Developer must maintain the batters referred to in clause 13.3(a)(i) at its cost up to the date of Practical Completion of the Development on the Development Site relevant to the particular batters. After this time, the batters will be maintained by the Owner at the reasonable cost of the Developer or the Tenants under the Ground Leases.
- (c) The Developer must reimburse the Owner the reasonable cost of repairing any damage caused to batters by the Developer or the Developer's Agents.

13.4 Conditions

The Developer must:

- (a) keep the Owner informed in relation to the exercise of its rights under this clause 13;
- (b) not carry out any works on the Adjoining Land without the prior approval of the Owner, such approval not to be unreasonably withheld or delayed; and
- (c) comply with the reasonable directions of the Owner from time to time in relation to its access to and use of the Adjoining Land and the Undeveloped Land.

For the purposes of clause 13.4(b), the Owner has approved the "batter" works referred to in clause 13.3.

13.5 Release and Indemnity

- (a) The Developer releases the Owner from any claim, action, damage, loss, liability, cost or expense which the Developer incurs or is liable for in connection with any damage, loss, injury or death to or of any person or property arising from the Developer's access to or use of the Undeveloped Land or the Adjoining Land and any liability for damage to the Developer's property arising from the Developer's access to or use of the Undeveloped Land or the Adjoining Land.
- (b) The Developer indemnifies the Owner against any claim, action, damage, loss, liability, cost or expense which the Owner incurs or is liable for in connection with any damage, loss, injury or death caused or contributed to by the Developer or the Developer's authorised

representatives, consultants, employees, agents, contractors or invitees, access to or use of the Undeveloped Land or the Adjoining Land, except to the extent such damage, loss, injury or death caused or contributed to by the act or omission of the Owner or the Owner's authorised representative, consultants, employees, agents, contractors or invitees.

13.6 Undeveloped Land

- (a) Up to the Effective Date, the Owner retains control of the Development Land, and the Undeveloped Land remains at the risk of the Owner and the Owner must:
 - (i) maintain the Development Land in substantially the same condition that it was in at the date of this Agreement;
 - (ii) use reasonable endeavours to secure the Development Land; and
 - (iii) comply on time with all Laws and requirements of any Relevant Authority in connection with the Development Land.
- (b) From the Effective Date, the Developer accepts control of all the Development Land, and the Development Land is at the risk of the Developer and the Developer must:
 - (i) subject to Developments, External Infrastructure Works and Internal Site Works, maintain the Development Land in substantially the same condition that it was at the date of this Agreement;
 - (ii) seek the Owner's consent to fence the Development Land (such consent not to be unreasonably withheld to the style of fencing proposed by the Developer);
 - (iii) promptly following the consent of the Owner under clause 13.6(b)(ii), fence the Development Land and use reasonable endeavours to secure the Development Land; and
 - (iv) comply on time with all Laws and requirements of any relevant Authority in connection with the Development Land.

14 Environmental monitoring

14.1 Developer accepts Development Site

- (a) The Developer:
 - (i) accepts any Contamination existing in or on the Site as at the Effective Date; and
 - (ii) releases the Owner from any liability in respect of any Contamination existing in or on the Site as at the Effective Date.
- (b) Subject to the Owner complying with its obligations under this clause 14, if any activity carried out by or on behalf of the Developer on a Development Site necessitates remediation of any Contamination, then any remediation works to be carried out by the Developer will be:
 - (i) subject to the consent of the Owner (which must not be unreasonably withheld or delayed); and
 - (ii) at the Developer's cost and risk.

- (c) Without limiting clauses 14.1(a) and (b), the Developer is responsible for the remediation and management of any Contamination existing in or on the Development Land to the extent such Contamination:
 - (i) renders the Development Land unsuitable for commercial and industrial use; and
 - (ii) is not caused by the Owner or the Owner's Agents.
- (d) The Developer must as soon as reasonably practicable remediate and manage any Contamination for which the Developer is responsible to the extent that such Contamination renders the land unsuitable for commercial and industrial use.
- (e) If permitted by Law or any government agency, the Developer may construct a Contamination containment cell or other appropriate containment methodology in a location within the Site approved by the Owner (acting reasonably), subject to the Developer prior to the commencement of the Contamination construction or containment methodology works:
 - (i) submitting to the Owner for its written approval (not to be unreasonably withheld) a contamination containment strategy and management plan prepared by a qualified environmental engineering consultant; and
 - (ii) Obtaining, and providing to the Owner a copy of, any required Approval.

The Developer must provide the Owner with a Site Audit Statement upon completion of any Contamination containment works that the Developer carries out pursuant to this clause 14.1(e).

- (f) The Owner must respond to a request for approval under clause 14.1(e) within 10 Business Days of the date of the request.

14.2 Notice of Contamination

During the Term:

- (a) the Owner must promptly notify the Developer if it becomes aware of the existence of Contamination in, on or emanating from the Development Land to the extent the existence of that Contamination is not already known by the Developer; and
- (b) the Developer must promptly notify the Owner if it becomes aware of the existence of Contamination in, on or emanating from the Development Land to the extent the existence of that Contamination is not already known by the Owner.

14.3 Owner gives no warranties

The Owner gives no warranties and makes no representations as to the physical condition of the Site (including latent conditions and Contamination) or other conditions or existing services or structures on the Site. The Developer will accept the Development Land subject to any physical conditions, services or structures, including any changes to such physical conditions, services or structures during the Term.

15 Project Control Group

15.1 Creation of Project Control Group

- (a) Not later than 10 Business Days from the Effective Date, the parties must establish a Project Control Group, which will consist of:
 - (i) at least two (2) representatives of the Developer; and
 - (ii) at least two (2) representative of the Owner.
- (b) The purpose of the Project Control Group is to provide a forum for consultation between the Owner and the Developer with a view to:
 - (i) coordinating the efficient implementation of each Development and monitoring the progress of each Development; and
 - (ii) coordinating the efficient implementation of the Site Works and monitoring the progress of the Site Works.
- (c) Either party may request any other person to attend a meeting of the Project Control Group.
- (d) The Developer and the Owner agree to cooperate and use all reasonable endeavours to use the mechanisms of the Project Control Group to achieve mutually acceptable outcomes in relation to all matters discussed at the Project Control Group.

15.2 Meetings of Project Control Group

- (a) The Project Control Group must meet bi-monthly, commencing promptly after its establishment and until Practical Completion of the last Development, or as otherwise agreed.
- (b) Meetings will be minuted by the representative of the Developer. The Developer's representative will chair meetings of the Project Control Group.
- (c) If a member of the Project Control Group is unable to be present at a meeting, the member may authorise another person to attend the meeting in their place, or may participate in the meeting by telephone or other electronic means.
- (d) A quorum for the Project Control Group meeting requires at least one representative of the Developer and at least one representative of the Owner.

15.3 Conduct of Project Control Group meetings

- (a) The role of the Project Control Group is to monitor, identify and discuss:
 - (i) relevant opportunities to procure a Development on the Development Land;
 - (ii) market conditions;
 - (iii) competitor movements and any other factors relevant to this Agreement;
 - (iv) failures to comply with this Agreement by either party;
 - (v) progress of the Development;
 - (vi) current claims for extensions of time, including details of dates submitted, dates determined and extensions granted;

- (vii) any other relevant matters suggested by either party (both acting reasonably in this regard); and
 - (viii) status of matters in dispute.
- (b) The Developer's representative must provide notice of each meeting to the Owner's representative at least 5 Business Days before each meeting. The notice must contain an agenda for the meeting.
 - (c) The Developer must maintain up to date minutes of each meeting of the Project Control Group, and provide a copy of such minutes to the Owner.

15.4 Reporting

- (a) The Developer must, at least 5 Business Days before each meeting of the Project Control Group, provide a written report to the Owner setting out reasonable details in relation to the items listed in clause 15.4(b).
- (b) The Developer must prepare a report for each meeting of the Project Control Group, which includes the following areas of reporting:
 - (i) executive summary;
 - (ii) copy of previous minutes;
 - (iii) marketing and leasing status, including the current opportunities, marketing initiatives and budget, competitor analysis and market conditions;
 - (iv) legal issues;
 - (v) Approvals;
 - (vi) Design Documentation;
 - (vii) construction, including details and progress of the External Infrastructure Works, Internal Site Works and other facilities;
 - (viii) financials;
 - (ix) programme;
 - (x) occupation health and safety issues;
 - (xi) occupational health and safety policies and procedures with regards to principal contractors on the Development Land; and
 - (xii) any other general issues relating to this Agreement.

15.5 Costs of Project Control Group

The Owner and the Developer shall bear their own costs in relation to the Project Control Group.

16 Single Sites

16.1 Single Site for each Development Site

- (a) The parties agree it is intended that each Development Site will be contained in a separate folio identifier to identify each Development Site as a single site and a separate Certificate of Title will be issued in

respect of that folio identifier to facilitate the registration of each Ground Lease.

- (b) In respect of each Development Site the Developer must prepare proposed plans of subdivision, consolidation or amalgamation (as applicable) for each Development Site to ensure each Development Site is contained within a separate folio identifier ("**Subdivision Plan**").
- (c) In respect of each Subdivision Plan:
 - (i) the Developer must lodge the Subdivision Plan for approval to the Relevant Authority, and must use reasonable endeavours to procure the Relevant Authority's approval to the Subdivision Plan;
 - (ii) the Developer must lodge the Subdivision Plan for registration with the LRS and must use reasonable endeavours to procure registration of the Subdivision Plan and issue of a Certificate of Title in respect of the relevant Development Site; and
 - (iii) the Owner must execute all documentation and do all things reasonably required by the Developer to assist the Developer to prepare the Subdivision Plan or procure registration of the Subdivision Plan with the LRS.
- (d) The parties agree that a Subdivision Plan may include easements, covenants and such other encumbrances as reasonably required (including as reasonably required by the Developer or as required by any Authority), affecting the Development Land and adjoining land, to facilitate the relevant subdivision and Development, provided that such easements, covenants and other encumbrances have been approved by the Owner, such approval not to be unreasonably withheld. The Owner must execute all documentation and do all things reasonably required by the Developer in respect of any such required easements, covenants and other encumbrances.
- (e) Without limiting clause 16.1(d), the parties agree that easements to benefit Development Sites and burden adjoining land may be required for the Internal Site Works (including batters) and in relation to the Drainage Basins .

16.2 Development Site Contributions or Levies

- (a) The Developer and Owner agree that:
 - (i) any contributions levied as a result of any planning application or other action of the Developer in respect of the Development Land (**Developer Contributions**) will be responsibility of the Developer;
 - (ii) any Developer Contributions levied in respect of the External Infrastructure Works, Internal Site Works, the Building Works and any subdivision works to the Site will be the responsibility of the Developer; and
 - (iii) any Developer Contributions levied in respect of the buildings or other improvements or proposed use (and not the subdivision) in relation to an Approved Development Proposal or an Approved Tenant or a particular Development Site are the responsibility of the Developer or an Approved Tenant and must be paid by the Developer or an Approved Tenant.

17 No assignment by the Developer

17.1 Consent

- (a) The Developer shall not assign or dispose of any right, interest, duty or obligation under this Agreement to any person, firm or corporation.
- (b) An assignment of the Developer's interest under this Agreement shall be deemed not to be a breach of clause 17.1(a) if:
 - (i) the Developer has given the Owner at least one month's notice in writing of the proposed assignment together with details of the parties and a copy of all proposed documentation and all other relevant information; and
 - (ii) the Developer is not in default under this Agreement or the Developer is in default under this Agreement and such default has been waived by the Owner; and
 - (iii) the Developer establishes to the Owner's satisfaction that any proposed assignee meets each of the Assignment Tests; and
 - (iv) the Developer, assignee, Guarantor and any guarantor of the proposed assignee (if applicable) enter into a deed in the form reasonably required by the Owner and Developer under which (amongst other things):
 - (A) the assignee agrees to perform all of the Developer's express and implied obligations under this Agreement, including the obligation to indemnify the Owner, and (if applicable) the proposed guarantor agrees to guarantee the proposed assignee's obligations in accordance with clause 24 of this Agreement;
 - (B) the Developer releases the Owner from all obligations under this Agreement from the date of assignment except in respect of any claim(s) that have arisen before the date of assignment;
 - (C) the Owner releases the Developer and Guarantor from all obligations under this Agreement from the date of assignment except in respect of any claim(s) that have arisen before the date of assignment;
 - (D) despite paragraph (C), if there is an assignment of the Developer's rights or obligations under this Agreement to a Related Body Corporate of the Developer and the Developer does not satisfy the condition in clause 17.1(b)(iii), the Developer and Guarantor acknowledge that they are not released from their obligations under this Agreement or such guarantee as a result of such assignment; and
 - (E) the assignee's and its guarantor's (if applicable) limitation of liability clause is included, provided that the limitation of liability includes warranties by the assignee and guarantor (if applicable) in their capacity as trustee, responsible entity or custodian of the Developer and its guarantor (if applicable) that it is the holder of the assets of the relevant trust, that (in the case of the assignee) its interest in this agreement and in the premises to be leased pursuant to the Ground Lease will be assets of

the relevant trust and that the assignee and guarantor (if applicable) is and will be entitled to be indemnified out of the assets of the relevant trust in relation to its obligations under or in relation to this Agreement (but subject to the usual exclusions); and

- (v) the Owner has given its written consent to the proposed assignment, which consent is not to be unreasonably withheld.
- (c) Despite the provisions of clause 17.1(b):
 - (i) the Developer need not satisfy the condition in clause 17.1(b)(iii) in relation to an assignment of the Developer's rights or obligations under this Agreement to a Related Body Corporate of the Developer (including in relation to a solvent reconstruction); and
 - (ii) if the condition in clause 17.1(b)(iii) is not satisfied, such assignment shall not release or diminish the obligations of the Developer or the Guarantor under this Agreement.
- (d) The parties agree that if the Developer:
 - (i) elects to satisfy clause 17.1(b)(iii) in relation to a proposed assignment to a Related Body Corporate of the Developer (including in relation to a solvent reconstruction); and
 - (ii) satisfies clause 17.1(b)(iii) in respect of such assignment,
 - (iii) then clause 17.1(c) does not apply in respect of such assignment.
- (e) The Owner must execute the deed referred to in clause 17.1(b)(iv) in a timely manner.
- (f) The Developer will pay to the Owner all reasonable costs of and incidental to enquiries concerning the proposed dealing or persons concerned in such dealing and of the perusal, negotiation, preparation and stamping of all documents and obtaining the mortgagee's consent to such documents reasonably required by the Owner and all stamp duty and mortgagee consent fees.

18 No sale by Owner

- (a) The Owner must not:
 - (i) sell, assign, or transfer its interest in the Development Land, or any Development Site or Development or this Agreement; or
 - (ii) do anything which is analogous or in substitution of a sale, assignment or transfer referred to in clause 18(a)(i).
- (b) Clause 18(a) will not apply in relation to any transfer to any government or statutory authority, or any transfer effected by any statute, provided that in the case of a transfer to any government or statutory authority which is not effected by statute, the Owner procures the proposed new registered proprietor to enter into a deed with the Developer and the Guarantor and all other parties to any Agreement for Ground Lease, Ground Lease or Construction Licence assuming the Owner's obligations under this Agreement and any Agreement for Ground Lease, Ground Lease and Construction Licence and covenanting to comply with

the Owner's obligations under this Agreement and any Agreement for Ground Lease, Ground Lease and Construction Licence from the date of transfer.

- (c) Any such deed will include covenants by the Developer and the Guarantor to perform the Developer's and Guarantor's obligations under this Agreement and any Agreement for Ground Lease, Ground Lease and Construction Licence from the date of transfer, and a release of the Owner's obligations under this Agreement and any Agreement for Ground Lease, Ground Lease and Construction Licence and the Developer and the Guarantor must and must procure that all other parties to any Agreement for Ground Lease, Ground Lease or Construction Licence, enter into any such deed when requested to do so.
- (d) The Owner must not:
 - (i) create or allow to exist a mortgage, security agreement, bill of sale, charge, lien or pledge or Security Interest over any or all of the Development Land, Development Site, Development or this Agreement; or
 - (ii) do anything which is analogous or in substitution of the items described in clause 18(a)(i).
- (e) The deed referred to in clause 18(c) must also include the Developer's or Guarantor's (or any assignee's or any guarantor of the assignee's (if applicable)) limitation of liability clause, provided that the limitation of liability includes warranties by the Developer, Guarantor, assignee or the guarantor of the assignee (if applicable) in their capacity as trustee, responsible entity or custodian of the Developer, Guarantor (or any assignee or any guarantor of the assignee) (if applicable) that it is the holder of the assets of the relevant trust, that its interest in this Agreement will be assets of the relevant trust and that the Developer, Guarantor, assignee or the guarantor of the assignee is and will be entitled to be indemnified out of the assets of the relevant trust in relation to its obligations under or in relation to this Agreement (but subject to the usual exclusions).

19 Dispute resolution

19.1 Notification

If a dispute between the Owner and the Developer arises out of or in connection with this Agreement, each party must (except in any proceedings for equitable relief, in which case this clause 19.1 does not apply) furnish in writing to the other party detailed particulars of that party's claim, or, where the other party is not the claimant, the reasons for rejecting the claimant's claim.

19.2 The reply

The party against whom the claim is made must reply within 14 days after receipt of the detailed particulars.

19.3 The dispute

If the claim is not accepted within 14 days of the party making the claim then a dispute is deemed to exist.

19.4 Compulsory CEO conference

Upon a dispute being deemed to exist under clause 19.3, the parties must cause their respective chief executives to meet within 14 days to attempt to resolve the

dispute acting reasonably, and if they cannot resolve the dispute to attempt to agree to a process to resolve the dispute between the parties before appointing an expert under clause 19.5.

19.5 Expert

- (a) If the parties fail to resolve the dispute in accordance with clause 19.4, the parties must appoint a person ("**Expert**") to resolve the dispute. If the parties cannot agree on the appointment of the Expert within 7 days, then the Expert must be appointed by the President of the Australian Resolution Institute, New South Wales Chapter. Either party may approach the President of the Australian Resolution Institute, New South Wales Chapter to appoint the Expert.
- (b) The Expert shall be appointed under such form of expert determination agreement as may be customarily recommended or used by the Australian Resolution Institute for that purpose, or if there is no such form of agreement, then in such form as may be reasonable required by the Expert.
- (c) Upon the Expert being appointed under clause 19.5(a) and accepting the appointment, the parties must direct the Expert to make a determination in relation to the dispute within 14 days of the appointment.
- (d) The parties may make submission to the Expert.
- (e) The Expert must act and make a decision acting as an expert and not as an arbitrator.
- (f) The parties agree that the decision of the Expert will be final and binding upon them.
- (g) The costs of the Expert must be borne equally by the Owner and the Developer.
- (h) The parties must sign all documents and do all things reasonably necessary to effect the appointment of the Expert and to give effect to the intention of this clause 19.

20 Default

20.1 Termination Events

- (a) A Termination Event occurs if:
 - (i) the Developer becomes Insolvent; or
 - (ii) the Developer fails to pay any amount to the Owner under this Agreement by the due date for payment; and
- (b) the Owner gives written notice to the Developer in respect of such event and demanding that the event be rectified; and
- (c) the Developer fails to rectify the event within 30 days after the giving of the notice referred to in paragraph (b); and
- (d) the Owner gives further written notice to the Developer demanding that the Developer rectify such event and stating its intention to terminate the Agreement; and

- (e) the Developer fails to rectify the event within 60 days after the giving of the Owners notice under paragraph (d).

20.2 Termination

- (a) If a Termination Event occurs, the Owner may terminate this Agreement by written notice to each other party to this Agreement, without prejudice to any other rights that the Owner may have against any other party to this Agreement.
- (b) For the avoidance of any doubt, the parties agree that a termination of this Agreement under this clause 20 does not and will not affect any Agreement for Ground Lease, Ground Lease or Construction Licence entered into by the parties as at the date of the termination under clause 20.2(a).

20.3 Obligations on termination

- (a) If this Agreement is terminated under clause 20.1:
 - (i) the Developer must remove the Developer's property from the Undeveloped Land; and
 - (ii) the Developer must return the Undeveloped Land to the condition it was in at the date the Developer was given access to it if required by the Owner; and
 - (iii) the Developer must vacate the Undeveloped Land; and
 - (iv) the Developer must give the Owner the keys, access cards and similar devices in respect of the Undeveloped Land held by the Developer, the Developer's employees and agents and any person who has been given them by the Developer or the Developer's employees and agents.
- (b) The Owner may treat the Developer's property on the Undeveloped Land as abandoned and deal with it in any way it sees fit at the Developer's expense if the Developer does not remove its property in accordance with this clause 20.3 or a notice given under it.
- (c) Despite any other provision of this Agreement, the Developer must not remove property which:
 - (i) the Owner has stated (as a condition of giving approval to the works) may not be removed; or
 - (ii) is part of structural work done by the Developer to the Development Land unless the Owner give the Developer a notice requiring the Developer to remove that property.

20.4 No other right to terminate

Despite any Law to the contrary, no party may terminate this Agreement other than in accordance with an express provision of this Agreement.

21 Notices

21.1 General

Any notice, demand, certification or other communication in this Agreement:

- (a) shall be given in writing and in the English language; and

(b) may be given by an authorised representative of the sender.

21.2 Method of service

In addition to any means authorised by law any communication may be given by:

- (a) being personally served on a party;
- (b) being left at the party's current address for service;
- (c) being sent to the party's current address for service by pre-paid ordinary mail or if the address is outside Australia, by pre-paid airmail;
- (d) being sent by facsimile to the party's current numbers for service; or
- (e) being sent by email to the party's current email address.

21.3 Address for service

- (a) The addresses and numbers for service are initially:

THE OWNER

address: Level 7, 10 Valentine Avenue, Parramatta NSW 2150

facsimile: +61 2 9895 7580

email: Kerry.Jahangir@wspt.nsw.gov.au

attention: Kerry Jahangir

DEVELOPER

address: Level 20, 1 Martin Place, Sydney NSW 2000

facsimile: +61 2 8295 8659

email: chcosecandlegal@charterhall.com.au

attention: Company Secretary for Bieson Pty Ltd

GUARANTOR

address: Level 20, 1 Martin Place, Sydney NSW 2000

facsimile: +61 2 8295 8659

email: chcosecandlegal@charterhall.com.au

attention: Company Secretary for Charter Hall Investment Management Limited

- (b) A party may from time to time change its address or numbers for service by notice to the other party.

21.4 Service by post

A communication given by post shall be deemed received:

- (a) if posted within Australia to an Australian address, on the third Business Day after posting; and

(b) in any other case, on the tenth Business Day after posting.

21.5 Service by facsimile

A communication sent by facsimile shall be deemed received when the sender's facsimile machine produces a transmission report stating that the facsimile was sent to the addressee's facsimile number.

21.6 Service by email

A communication sent by email shall be deemed received when the sender's email system confirms that it has been successfully sent and provided an undeliverable message is not subsequently received by the sender.

21.7 Form received

A communication sent by facsimile shall be deemed given in the form transmitted unless the message is not fully received in a legible form and the addressee immediately notifies the sender of that fact.

21.8 Service after hours

If a communication to a party is received by it:

- (a) after 5.00 pm; or
- (b) on a day which is not a Business Day,

it will be deemed to have been received on the next Business Day.

22A GST

- (c) An amount payable by a party under this Agreement in respect of a taxable supply by the other party, unless expressed to represent the price of supply, represents the value of the supply and the recipient of the supply must, in addition to that amount and at the same time, pay to the supplier the GST in respect of the supply.
- (d) If this Agreement requires a party to pay, reimburse or contribute to an amount paid or payable by the other party in respect of a creditable acquisition from a third party, the amount for payment, reimbursement or contribution will be the value of the acquisition by the other party plus, if the payment, reimbursement or contribution is consideration for a taxable supply, the GST payable in respect of that supply.
- (e) A party is not obliged under clauses 22A(a) or 22A(b) to pay the GST on a taxable supply to it under this Agreement until that party is given a valid tax invoice for the supply.
- (f) Expressions used in this clause 22A have the meanings given to them in the GST Act.

22 Representations and warranties

22.1 Owner representation and warranties

- (a) The Owner represents and warrants that:
 - (i) it has been duly constituted under the WSPT Act;
 - (ii) it has power to enter into and observe its obligations under this Agreement and all documents and transactions contemplated by this Agreement, including without limitation the Agreement for

Ground Lease, Ground Lease and Construction Licence (each a "Transaction Document" and together the "Transaction Documents"); and

- (iii) it has in full force and effect the authorisations necessary under the WSPT Act to enter into each Transaction Document, observe obligations under each Transaction Document, and allow each Transaction Document to be enforced; and
- (iv) its obligations under this Agreement and each Transaction Document are valid and binding and are enforceable against it in accordance with its terms; and
- (v) this Agreement and the Transaction Documents the transactions contemplated under them do not contravene its constituent documents, WSPT Act or any other Law, regulation or official directive or any of its obligations or undertakings by which it or any of its assets are bound or cause a limitation on its powers; and
- (vi) except as provided in the WSPT Act, it does not hold its interest under this Agreement as trustee.

- (b) The Owner represents and warrants to the Developer that, the Owner has obtained all necessary consents to enter into this Agreement, (including all consents required under the WSPT Act, any finance, security or other documents).

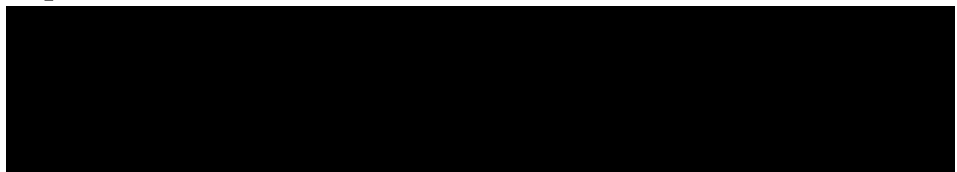
22.2 Developer and Guarantor representations and warranties

The Developer and the Guarantor each represents and warrants that:

- (a) it has power to enter into and observe its obligations under this Agreement and all documents and transactions contemplated by this Agreement; and
- (b) it has in full force and effect the authorisations necessary to enter into this Agreement and all documents and transactions contemplated by this Agreement, observe obligations under them, and allow them to be enforced; and
- (c) its obligations under this Agreement and all documents and transactions contemplated by this Agreement are valid and binding and are enforceable against it in accordance with its terms; and
- (d) this Agreement, the Agreement for Ground Lease, Ground Lease and Construction Licence and the transactions contemplated under them do not contravene its constituent documents or any law, regulation or official directive or any of its obligations or undertakings by which it or any of its assets are bound or cause a limitation on its powers or, the powers of its directors, to be exceeded.

23 Miscellaneous

23.1 Legal costs





23.2 Stamp Duty

The Developer shall, as between the parties, be liable for and duly pay all stamp duty (including any fine or penalty except where it arises from default by the other party) on or relating to this Agreement and any document executed under it including the Agreements for Ground Lease, Construction Licences and Ground Leases.

23.3 Amendment

This Agreement may only be varied or replaced by a document duly executed by the parties.

23.4 Waiver and exercise of rights

- (a) A single or partial exercise or waiver of a right relating to this Agreement will not prevent any other exercise of that right or the exercise of any other right.
- (b) A party will not be liable for any loss, cost or expense of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

23.5 Rights cumulative

Subject to any express provision in this Agreement to the contrary, the rights of a party under this Agreement are cumulative and are in addition to any other rights of that party.

23.6 Further assurance

Each party shall promptly execute all documents and do all things that any other party from time to time reasonably requires of it to effect, perfect or complete the provisions of this Agreement and any transaction contemplated by it.

23.7 Computation of time

Where time is to be reckoned by reference to a day or event, that day or the day of that event is excluded.

23.8 Governing law and jurisdiction

- (a) This Agreement is governed by and is to be construed in accordance with the laws in force in New South Wales.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

23.9 Joint and several liability

An obligation of two or more persons binds them jointly and severally.

23.10 Counterparts

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

23.11 Effect of execution

This Agreement is not binding on any party unless it or a counterpart has been duly executed by, or on behalf of, each person named as a party to the Agreement.

23.12 Entire understanding

- (a) This Agreement embodies the entire understanding and agreement between the parties as to the subject matter of this Agreement.
- (b) All previous negotiations, understandings, representations, warranties, memoranda or commitments in relation to, or in any way affecting, the subject matter of this Agreement are merged in and superseded by this Agreement and shall be of no force or effect whatever and no party shall be liable to any other party in respect of those matters.
- (c) No oral explanation or information provided by any party to another shall:
 - (i) affect the meaning or interpretation of this Agreement; or
 - (ii) constitute any collateral agreement, warranty or understanding between any of the parties.

23.13 No agency

The parties acknowledge that the relationship of the parties under this Agreement does not constitute one of agency, partnership, trust or joint venture.

23.14 Owner must execute

The Owner must execute all documentation and do all things:

- (a) reasonably required by the Developer in respect of the Development; and
- (b) reasonably required for compliance with any agreement, Law or Approval in respect of the Development,

including without limitation, executing any consents, forms, reports, application or plans.

23.15 Exercise of power

Notwithstanding any other provision of this agreement, the Owner must exercise its power under the WSPT Act and the relevant regulations insofar as they relate to this Agreement or the Developer's rights under this Agreement independently and objectively and without regard to the Owner's interests and rights under this Agreement.

24 Guarantee

24.1 Guarantee

In consideration of the Guarantor entering into this Agreement at the request of the Owner and the Developer, the Guarantor unconditionally and irrevocably guarantees to the Owner the due performance, observance and completion of:

- (a) all the terms, conditions and obligations imposed on the Developer under this Agreement including the due and punctual payment of all monies now or hereafter becoming payable under this Agreement at any time; and
- (b) all of the terms conditions and obligations of:
 - (i) the Developer under this Agreement and the Site Construction Licence;
 - (ii) the Nominated Developer under the Agreement for Ground Lease and Construction Licence;
 - (iii) any assignee of the Developer's obligations under clause 17.1(c) of this Agreement; or
 - (iv) any assignee of the Nominated Developer's obligations under an Agreement for Ground Lease or a Construction Licence to which clause 5.1(c) of the Agreement for Ground Lease applies,

("Developer Entities"), including the due and punctual payment of all moneys now or hereafter becoming payable under this Agreement, each Agreement for Ground Lease and each Construction Licence by the Developer Entities, but only in relation to terms, conditions, obligations and payments to be observed, performed or made in the period up to the Practical Completion of the relevant Development under the relevant Agreement for Ground Lease.

(the "Guaranteed Obligations").

24.2 Indemnity

As a separate and distinct covenant, the Guarantor unconditionally and irrevocably indemnifies the Owner and shall keep the Owner indemnified and held harmless from and against all losses, damages, costs, claims, charges and expenses whatsoever suffered or incurred (whether direct or consequential) by the Owner by virtue of or as a consequence of the breach, default or failure by any of the Developer Entities for any reason whatsoever to duly and punctually perform, observe and complete the Guaranteed Obligations as contemplated in clause 24.1.

24.3 Payment

The Guarantor must pay to the Owner immediately upon demand any amounts due to the Owner under clauses 24.1 and 24.2.

24.4 Performance

If any of the Developer Entities for any reasons fail to duly perform, observe or complete the Guaranteed Obligations, without affecting the generality of the foregoing, the Owner may require the Guarantor to perform, observe or complete this Agreement and each Agreement for Ground Lease and each Construction Licence under the same terms and conditions and the Guarantor shall be responsible for the satisfaction of all those terms and conditions.

24.5 Effect

This guarantee continues in full force and effect until the whole of the Guaranteed Obligations have been satisfied in full unless the Owner in the meantime gives notice in writing to the Guarantor that this guarantee is no longer required.

24.6 Primary obligations

The Guarantor's obligations with respect to the Guaranteed Obligations are primary obligations and the Owner is not obligated to proceed against or enforce any right against any of the Developer Entities or any other party before making a demand on the Guarantor pursuant to this guarantee or otherwise enforcing this guarantee.

24.7 No limitation

Neither the existence of any legal disability on the part of the Developer Entities or the Guarantor or any one or more of them, nor the granting of any time concession or indulgence to, nor the making of any composition of, nor the waiver of any breach or default on the part of any of the Developer Entities, nor the neglect or forbearance of the Owner to enforce this Agreement or any Agreement for Ground Lease or Construction Licence, nor any arrangement or release made between the Owner and any of the Developer Entities or any Approved Tenant with or without the consent of the Guarantor, nor any alteration to or variation of this Agreement or any Agreement for Ground Lease or Construction Licence or the powers rights or obligations of any of the parties, nor assignment of any of the Developer Entities' rights or obligations under this Agreement or any Agreement for Ground Lease or Construction Licence nor any of the Developer Entities' becoming insolvent, defunct or otherwise ceasing to exist, nor any assignment being made of the property of any of the Developer Entities for the benefit of creditors, nor this guarantee being executed in counterparts shall limit, vitiate, void, render voidable, release or discharge this guarantee or the Guarantor or any one or more of them nor the guarantee in any Agreement for Ground Lease or Construction Licence not being executed by the Guarantor.

24.8 Guarantor liability continues

No sum or sums of money received by the Owner which it may be obliged to refund to any liquidator of any of the Developer Entities or which it may in its discretion refund to any liquidator of any of the Developer Entities shall be considered as received by the Owner or discharge or diminish in any way the liability of the Guarantor under this guarantee.

24.9 Purpose

The Guarantor is a party to this Agreement solely for the purpose of this clause 24.

24.10 Survival

The obligations of the Guarantor under this clause 24 survive the expiry or earlier termination of this Agreement.

24.11 Guarantor may not transfer

The Guarantor may not transfer or otherwise dispose of its obligations under this clause 24.

25 Confidentiality

25.1 Confidential

The Owner and the Developer agree that the contents of this Agreement are sensitive commercial information and that they must use reasonable endeavours to keep the terms of this Agreement confidential.

25.2 Exceptions

The Owner and the Developer will not be in breach of their obligations under clause 25.1 if they give information to:

- (a) a professional adviser;
- (b) an agent or employee;
- (c) a prospective purchaser of the whole or part of the Site;
- (d) a financier;
- (e) an actual or prospective shareholder; or
- (f) any other person as required by law,

so long as:

- (g) the disclosure is reasonably necessary; and
- (h) the person who discloses the information uses reasonable endeavours to ensure that the person who receives the information keeps the information confidential.

25.3 Overriding Obligations and Rights

- (a) Notwithstanding the other provisions of this clause 25, the parties acknowledge and agree that:
 - (i) under the GIPA Act, the Owner has obligations to:
 - (A) publicly disclose government information that is open access information (as that term is defined in the GIPA Act), including by publishing this Agreement on the Owner's contract register; and
 - (B) release information pursuant to an access application unless the Owner is reasonably satisfied that there is an overriding public interest against disclosure; and
 - (ii) nothing in this clause 25 will limit or otherwise affect the discharge of the Owner's obligations to disclose information in connection with the Development as required by any Law including but not limited to the GIPA Act; and
 - (iii) the Developer may request the redaction of commercial in confidence provisions of this Agreement or any other agreement to which the Developer is a party.

26 No merger

The provisions of this Agreement shall not merge on the commencement or execution of any Agreement for Ground Lease but shall continue in full force and effect after such execution or commencement.

27 Interest

A party must pay the other party interest on any money owing to the first party under this Agreement which is not paid on the due date. The interest payable:

- (a) is at a rate 2% per annum higher than the National Australia Bank Limited ABN 12 004 044 937 Business Lending Indicator Base Rate on the date on which default occurs;
- (b) applies from the day after the money should have been paid to the day that the money is actually paid; and
- (c) is capitalised on the last day of each month.

28 Limitation of Liability of Guarantor

- (a) The Guarantor enters into this Agreement in its capacity as responsible entity of the Fund and in no other capacity.
- (b) The parties acknowledge that the Guarantor incurs the Guarantor Liabilities solely in its capacity as responsible entity of the Fund.
- (c) A Guarantor Liability may be enforced against the Guarantor only to the extent to which:
 - (i) the Guarantor is actually indemnified in respect of that Guarantor Liability out of the property of the Fund; and
 - (ii) there is sufficient property held by the Guarantor as responsible entity at the time, which is available to meet that indemnity (after all Fund assets have been allocated to meet the indemnity and any other valid claims).
- (d) Subject to subclause (e), no person will be entitled to:
 - (i) claim from or commence proceedings against the Guarantor in respect of any Guarantor Liability in any capacity other than as responsible entity of the Fund;
 - (ii) enforce or seek to enforce any judgment in respect of any Guarantor Liability against any property of the Guarantor other than property held by the Guarantor as responsible entity of the Fund;
 - (iii) take any steps to procure or support the appointment of a liquidator, administrator or any other similar office holder to the Guarantor on the basis of a Guarantor Liability, or prove in any liquidation, administration or arrangement of or affecting the Guarantor; or
 - (iv) in respect of a Guarantor Liability, appoint or take any steps to procure or support the appointment of a receiver or receiver and manager to any property of the Guarantor, other than property which is held by it in its capacity as responsible entity of the Fund.

- (e) The restrictions in subclauses (c) and (d) do not apply to any Guarantor Liability to the extent to which there is, whether under the constitution or by operation of law, a reduction in the extent of the Guarantor's indemnification, or in respect of which the Guarantor is not entitled to be indemnified, out of the property of the Fund, as a result of the Guarantor's fraud, negligence or breach of trust.
- (f) No attorney, agent or other person appointed in accordance with this Agreement has authority to act on behalf of the Guarantor in a way which exposes the Guarantor to any personal liability, and no act or omission of such a person will be considered fraud, negligence or breach of trust of the Guarantor for the purposes of clause (e).
- (g) This limitation of the Guarantor's Liability applies despite any other provisions of this Agreement and extends to all Guarantor Liabilities of the Guarantor in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Agreement or its performance.
- (h) The Guarantor is not obliged to do or refrain from doing anything under this Agreement (including incur any liability) unless the Guarantor's liability is limited in the same manner as set out in subclause (a) to subclause (g).
- (i) In this clause, "**Fund**" means the Charter Hall Prime Industrial Fund ARSN 113 339 316.
- (j) In this clause, "**Guarantor**" means Charter Hall Investment Management Limited ACN 168 439 763.
- (k) In this clause, "**Guarantor Liability**" means any liability or obligation (of any kind including, without limitation, for negligence, in tort, in equity, or under statute) of the Guarantor which arises in any way under or in connection with this Agreement or its performance, or any representation, warranty, conduct, omission, agreement or transaction made under or in connection with this Agreement or its performance.
- (l) Despite anything to the contrary in this clause 28, the Guarantor warrants that:
 - (i) it is the only responsible entity of the Fund;
 - (ii) no action has been taken to remove it as responsible entity of the Fund;
 - (iii) it has the power to enter into and observe its obligations under this Agreement;
 - (iv) it will perform and comply of its obligations under this Agreement;
 - (v) it has all authorisations to:
 - (A) enter this Agreement;
 - (B) perform its obligations under this Agreement; and
 - (C) allow those obligations to be enforced against it;
 - (vi) it is the legal holder of all assets of the Fund;
 - (vii) its interest in this Agreement will be an asset of the Fund;

- (viii) other than with respect to breach of trust, fraud or negligence on the part of the Guarantor, it is entitled to be indemnified out of the assets of the Fund for all obligations and liabilities of whatever kind undertaken by or devolving on the Guarantor under or in respect of this Agreement; and
 - (ix) it will not, during this Agreement, surrender or limit its rights of indemnification out of the assets of the Fund.
- (m) Subclauses (a) to subclause (l) inclusive, contained heretofore, will survive the termination or expiry of this Agreement.

29 Limitation of Liability of Developer

- (a) The Trustee enters into this Agreement in its capacity as trustee of the Trust and in no other capacity.
- (b) The parties acknowledge that the Trustee incurs the Trustee Liabilities solely in its capacity as trustee of the Trust.
- (c) A Trustee Liability may be enforced against the Trustee only to the extent to which:
 - (i) the Trustee is actually indemnified in respect of that Trustee Liability out of the property of the Trust; and
 - (ii) there is sufficient property held by the Trustee as trustee at the time, which is available to meet that indemnity (after all Trust assets have been allocated to meet the indemnity and any other valid claims).
- (d) Subject to subclause (e), no person will be entitled to:
 - (i) claim from or commence proceedings against the Trustee in respect of any Trustee Liability in any capacity other than as trustee of the Trust;
 - (ii) enforce or seek to enforce any judgment in respect of any Trustee Liability against any property of the Trustee other than property held by the Trustee as trustee of the Trust;
 - (iii) take any steps to procure or support the appointment of a liquidator, administrator or any other similar office holder to the Trustee on the basis of a Trustee Liability, or prove in any liquidation, administration or arrangement of or affecting the Trustee; or
 - (iv) in respect of a Trustee Liability, appoint or take any steps to procure or support the appointment of a receiver or receiver and manager to any property of the Trustee, other than property which is held by it in its capacity as trustee of the Trust.
- (e) The restrictions in subclauses (c) and (d) do not apply to any Trustee Liability to the extent to which there is, whether under the constitution or by operation of law, a reduction in the extent of the Trustee's indemnification, or in respect of which the Trustee is not entitled to be indemnified, out of the property of the Trust, as a result of the Trustee's fraud, negligence or breach of trust.
- (f) No attorney, agent or other person appointed in accordance with this Agreement has authority to act on behalf of the Trustee in a way which

exposes the Trustee to any personal liability, and no act or omission of such a person will be considered fraud, negligence or breach of trust of the Trustee for the purposes of subclause (e).

- (g) This limitation of the Trustee's Liability applies despite any other provisions of this Agreement and extends to all Trustee Liabilities of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Agreement or its performance.
- (h) The Trustee is not obliged to do or refrain from doing anything under this Agreement (including incur any liability) unless the Trustee's liability is limited in the same manner as set out in subclause (a) to subclause (g).
- (i) In this clause, "**Custodian**" means Trust Company (Australia) Limited ACN 000 000 993.
- (j) In this clause, "**Trust**" means CPIF LHBH Trust.
- (k) In this clause, "**Trustee**" means Bieson Pty Ltd ACN 110 465 168.
- (l) In this clause, "**Trustee Liability**" means any liability or obligation (of any kind including, without limitation, for negligence, in tort, in equity, or under statute) of the Trustee which arises in any way under or in connection with this Agreement or its performance, or any representation, warranty, conduct, omission, agreement or transaction made under or in connection with this Agreement or its performance.
- (m) Despite anything to the contrary in this clause 29, the Trustee warrants to the Owner that:
 - (i) the Trustee is the only trustee of the Trust;
 - (ii) no action has been taken to remove the Trustee as trustee of the Trust;
 - (iii) the Trustee has all authorisations to instruct the Custodian to:
 - (A) enter this Agreement;
 - (B) perform its obligations under this Agreement; and
 - (C) allow those obligations to be enforced against it;
 - (iv) the Trustee is the legal holder of all assets of the Trust;
 - (v) the Trustee's interest in this Agreement will be an asset of the Trust;
 - (vi) other than with respect to breach of trust, fraud or negligence on the part of the Custodian or the Trustee, the Trustee is entitled to be indemnified out of the assets of the Trust for all obligations and liabilities of whatever kind undertaken by or devolving on the Trustee under or in respect of this Agreement; and
 - (vii) the Trustee will not, during this Agreement, surrender or limit its rights of indemnification out of the assets of the Trust.
- (n) Subclauses (a) to subclause (m) inclusive, contained heretofore, will survive the termination or expiry of this Agreement.

30 Limitation of Liability of Custodian

30.1 Limitation of Liability

- (a) The Trust Company (Australia) Limited ACN 000 000 993 ("**Custodian**") enters into this Agreement only as custodian and agent for Bieson Pty Ltd ACN 110 465 168 as trustee for the CPIF LHBH Trust ("**Trustee**"). The Custodian can only act in accordance with the terms of the agreement under which it is appointed as the Trustee's agent and is not liable under any circumstances to any party under this Agreement. This limitation of the Custodian's liability applies despite any other provision of this Agreement and extends to all liabilities and obligations of the Custodian in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Agreement.
- (b) The Custodian is not obliged to do or refrain from doing anything under this Agreement (including, without limitation, incur any liability) unless the Custodian's liability is limited in the same manner as set out in subclauses (a) to (d).
- (c) No attorney, agent, receiver or receiver and manager appointed in accordance with this Agreement has authority to act on behalf of the Custodian in a way which exposes the Custodian to any liability.
- (d) If, whether by the express provisions of this Agreement or by implication of law, the Custodian makes or is taken to have made any representation or warranty then, except for the representations and warranties that can only be within the Custodian's actual corporate knowledge, those representations and warranties are taken to have been made by the Trustee.
- (e) The Custodian agrees and warrants to the Owner, that:
 - (i) it is the only custodian of the Trustee;
 - (ii) no action has been taken to remove it as custodian of the Trustee;
 - (iii) the Trustee has the power to instruct the Custodian to enter into and observe its obligations, under this Agreement;
 - (iv) it has been instructed by the Trustee to perform and comply with its obligations under this Agreement;
 - (v) it has all authorisations to:
 - (A) enter this Agreement;
 - (B) perform its obligations under this Agreement; and
 - (C) allow those obligations to be enforced against it;
 - (vi) its interest in this Agreement will be for the benefit of the Trustee and an asset of the Trust;
 - (vii) other than with respect to breach of trust, fraud or negligence on the part of the Custodian, it is entitled to be indemnified by the Trustee out of the assets of the Trust for all obligations and liabilities of whatever kind undertaken by or devolving on the Custodian under or in respect of this Agreement; and

- (viii) it will not, during this Agreement, surrender or limit its rights of indemnification from the Trustee.

30.2 Custodian as agent

- (a) The Trustee has appointed the Custodian as its agent to hold the assets of the Trust on behalf of the Trustee in accordance with a custody agreement dated 14 October 2015 between the Custodian and the Trustee as amended from time to time ("**the Custody Agreement**").
- (b) The parties agree that:
 - (i) any reference to the Custodian as Tenant in this Agreement means the Custodian in its capacity as custodian of assets of the Trust and as agent for the Trustee;
 - (ii) any act or omission of the Custodian in respect of this Agreement in its capacity as agent for the Trustee is taken to have been done (or failed to have been done) by the Trustee.

30.3 Trustee as principal

- (a) The Trustee agrees that it will:
 - (i) perform or procure the performance of all of the Custodian's obligations under this Agreement (**Custodian's Obligations**) as if every reference in this Agreement to the Developer or the Custodian was a reference to the Trustee; and
 - (ii) properly instruct the Custodian to comply with the Custodian's Obligations to the extent that only the Custodian can perform the relevant Custodian's Obligations; and
 - (iii) ensure that the Custodian performs the Custodian's Obligations to the extent that only the Custodian can perform the relevant Custodian's Obligations.
- (b) Each Custodian's Obligation is discharged if it is complied with by either the Trustee or the Custodian.
- (c) Any duty or obligation of the Owner under this Agreement is discharged if it is complied with in favour of either the Trustee or the Custodian.

EXECUTED as an agreement

Signing page

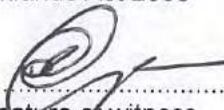
DATED: 9 April 2021

Owner

Executed on and behalf of the body)
named below by the authorised)
delegate(s) whose signature(s))
appear(s) below pursuant to the)
authority specified.)


Body: **Western Sydney Parklands Trust (ABN 85 202 544 800)**

Authority: s 8 of the Western Sydney Parklands Act 2006


.....
Signature of witness

Mark Glynn
.....
Name of witness (print)

Solicitor
.....
Occupation of witness (print)


.....
Signature of delegate

Suellen Fitzgerald
Name of delegate

.....
Position: Chief Executive

Developer

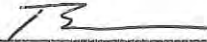
SIGNED for and on behalf of **THE TRUST COMPANY (AUSTRALIA) LIMITED** ACN 000 000 993 as custodian for Bieson Pty Limited ACN 110 465 168 as trustee for the CPIF LHBH Trust by its attorney under power of attorney registered book 4676 no 134 in the presence of:



Signature of witness



Full name of witness (print)



Signature of attorney

Trent Franklin
Senior Client Manager

Full name of attorney (print)

By signing this document the attorney confirms that, at the date of signing this document, the attorney has no notice of revocation of the power of attorney specified above.

Trustee

EXECUTED by **BIESON PTY LIMITED** ACN 110 465 168 as trustee for the CPIF LHBH Trust in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by authority of its directors:



Signature of director

Richard Stacker

Name of director (block letters)



Signature of director/company secretary*

*delete whichever is not applicable

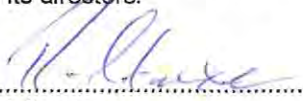
Mark Robert Bryant

Name of director/company secretary* (block letters)

*delete whichever is not applicable

Guarantor

EXECUTED by CHARTER HALL)
INVESTMENT MANAGEMENT)
LIMITED ACN 168 439 763 as)
responsible entity for the Charter Hall)
Prime Industrial Fund ARSN 113 339)
316 in accordance with section 127(1))
of the *Corporations Act 2001* (Cth) by)
authority of its directors:)


.....
Signature of director

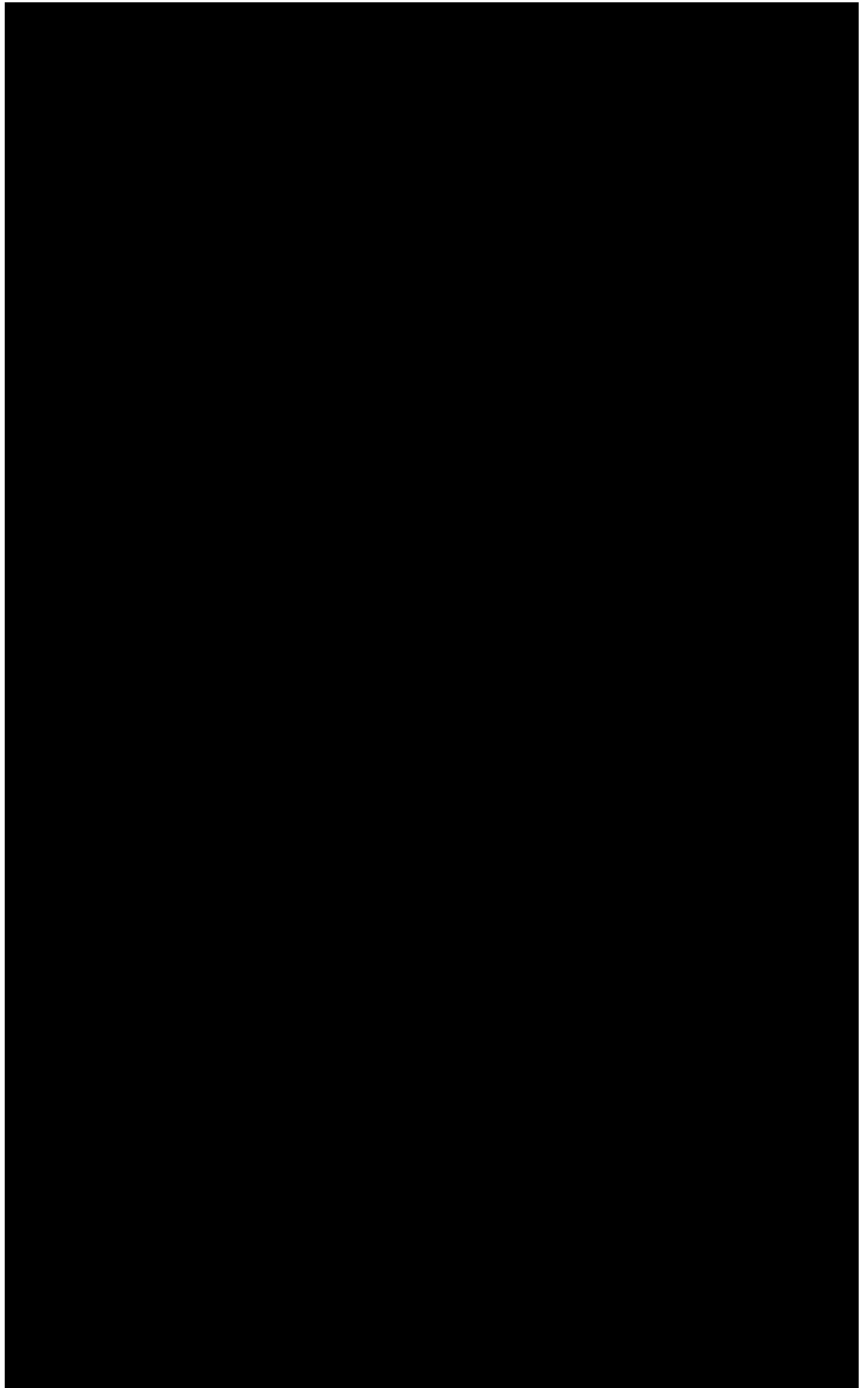
Richard Stacker
.....
Name of director (block letters)

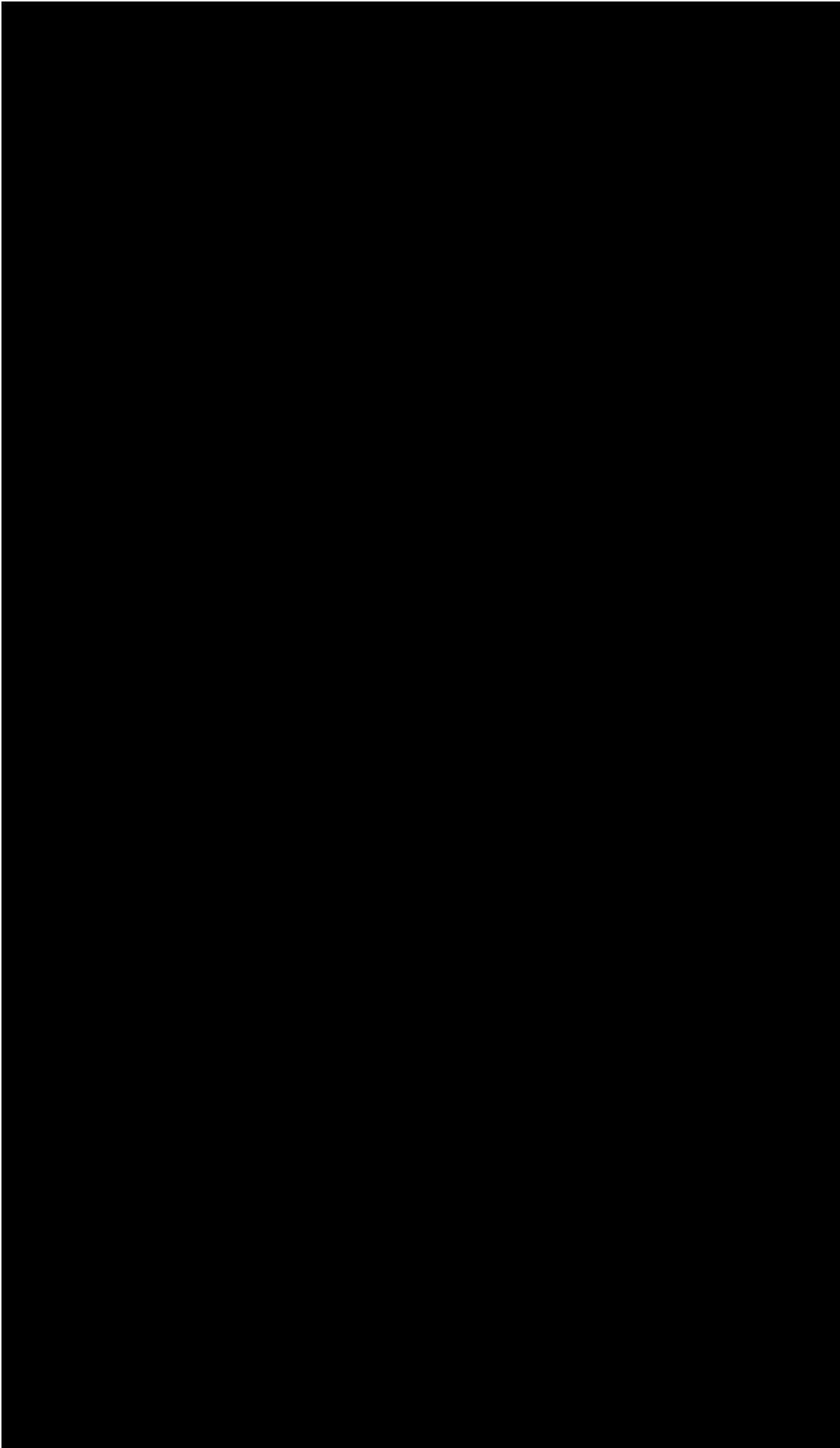

.....

Signature of director/company
secretary*
*delete whichever is not applicable
Mark Robert Bryant

.....
Name of director/company secretary*
(block letters)
*delete whichever is not applicable

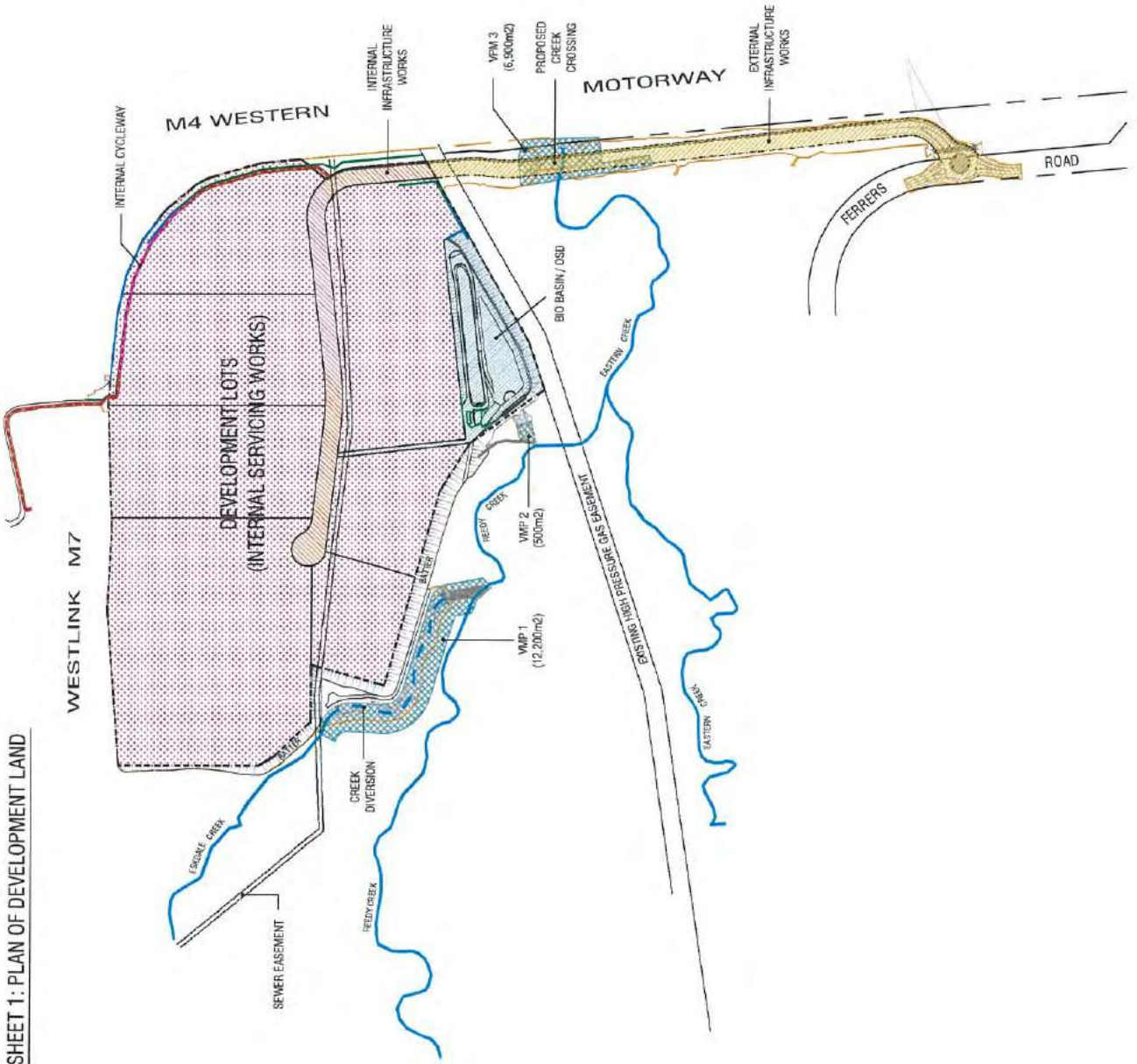
Schedule 1 –Development Proposal Criteria





Schedule 2 – Plan of Development Land, Site and Adjoining Land

SCHEDULE 2 - SHEET 1: PLAN OF DEVELOPMENT LAND



LEGEND

- DEVELOPMENT LAND
- INTERNAL ACCESS ROAD
- EXTERNAL ACCESS ROAD
- BIO BASIN
- CREEK DIVERSION/VMP
- CYCLEWAY
- RETAINING WALL



Drawn: TT
 Date: 26.03.2021
 Scale: 1:3000 @ A1
 1:3000 @ A3
 LHI_EC_SC01
 Drawing no: B

SCHEDULE 2 - SHEET 1:
 PLAN OF DEVELOPMENT LAND



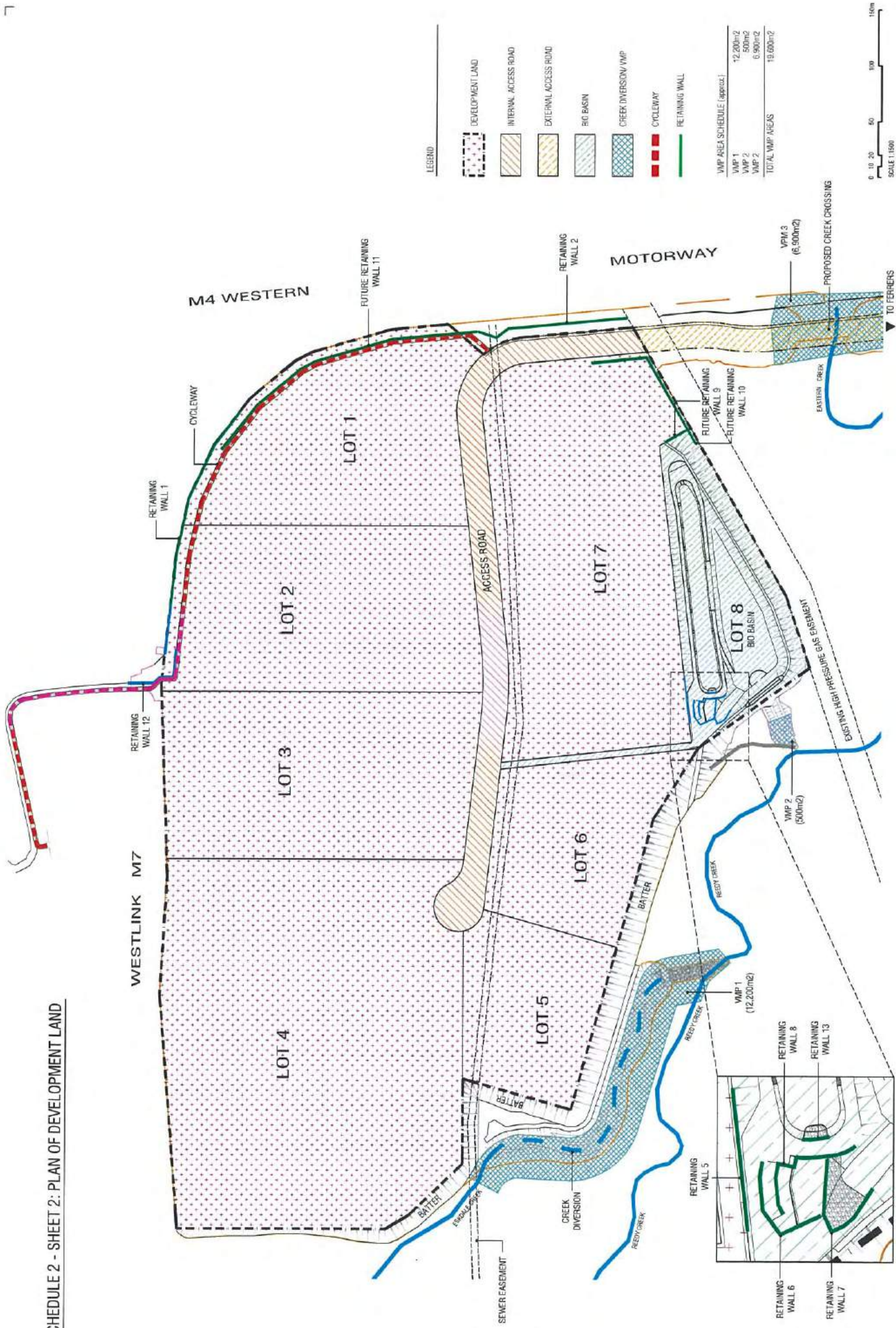
www.tdesign.net.au
 TDESIGN Pty Ltd
 10/105 E50 602
 e: sales@tdesign.net.au



LIGHT HORSE INTERCHANGE BUSINESS HUB
 EASTERN CREEK, NSW



SCHEDULE 2 - SHEET 2: PLAN OF DEVELOPMENT LAND



LEGEND

- DEVELOPMENT LAND
- INTERNAL ACCESS ROAD
- EXTERNAL ACCESS ROAD
- BIO BASIN
- CREEK DIVERSION/VMP
- CYCLEWAY
- RETAINING WALL

VMP AREA SCHEDULE (approx.)	Area
VMP 1	12,200m ²
VMP 2	500m ²
VMP 3	6,900m ²
TOTAL VMP AREAS	19,600m²



Rev: TT
 Date: 26.03.2021
 Scale: 1:1500 @ A1
 1:3000 @ A3
 LHI_EC_SC02 A
 rev

SCHEDULE 2 - SHEET 2:
 PLAN OF DEVELOPMENT LAND

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 e: staff@tdesign.net.au
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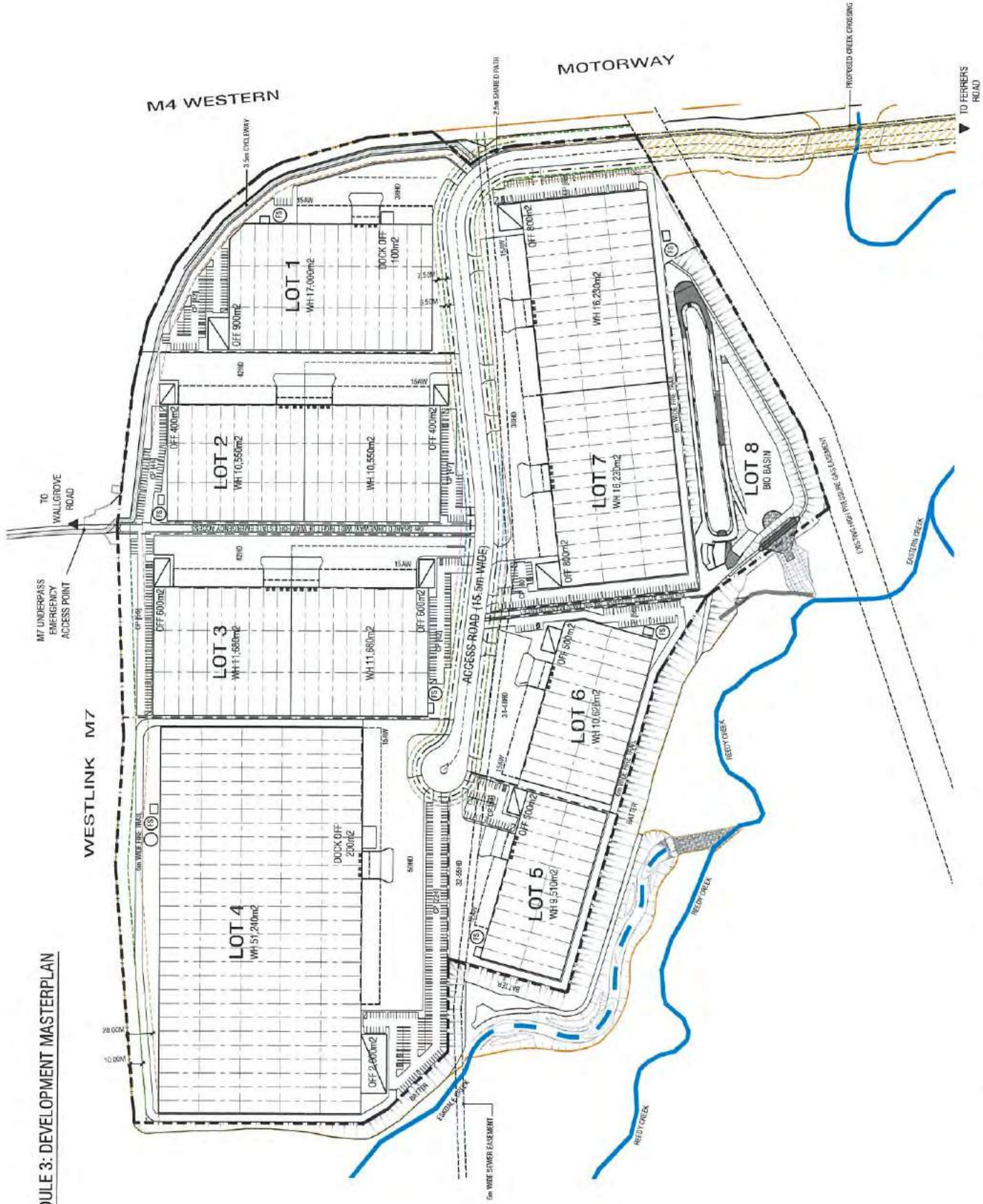


LIGHT HORSE INTERCHANGE BUSINESS HUB
 EASTERN CREEK, NSW



Schedule 3 – Development Masterplan

SCHEDULE 3: DEVELOPMENT MASTERPLAN



DEVELOPMENT DATA

Overall Site Area	343,411m ²
Lot 8 - Bio Basin	25,511m ²
Access Road (Pave off Lot 11)	12,230m ²
Proposed (Overall) Area (Lot 1 to 7)	296,175m ²
15m Office Area	7,500m ²
15m Warehouse Area	165,550m ²
Total Building Footprint	173,070m ²
Floor Space Ratio	50.4%

LOT 1 SITE AREA	17,000m ²
Office Area	13,000m ²
Warehouse Area	4,000m ²
Access Road	10,000m ²
LOT 2 SITE AREA	10,500m ²
Office Area	8,000m ²
Warehouse Area	2,500m ²
Access Road	2,000m ²
LOT 3 SITE AREA	11,950m ²
Office Area	7,000m ²
Warehouse Area	4,950m ²
Access Road	2,000m ²
LOT 4 SITE AREA	51,240m ²
Office Area	2,000m ²
Warehouse Area	49,240m ²
Access Road	5,000m ²
LOT 5 SITE AREA	9,510m ²
Office Area	8,000m ²
Warehouse Area	1,510m ²
Access Road	2,000m ²
LOT 6 SITE AREA	10,020m ²
Office Area	8,000m ²
Warehouse Area	2,020m ²
Access Road	2,000m ²
LOT 7 SITE AREA	16,230m ²
Office Area	13,000m ²
Warehouse Area	3,230m ²
Access Road	2,000m ²
LOT 8 SITE AREA	16,230m ²
Office Area	13,000m ²
Warehouse Area	3,230m ²
Access Road	2,000m ²

NOTE: All site areas shall be subject to final survey

Carpark Provisions
 RMS Carparking requirements:
 Warehouse 1 carspace/300m²
 Office 1 carspace/50m²

Legend
 RW Access Road
 CP Car Parking
 FS Fire Services
 RD Heavy Duty Pavement
 RW Retaining Wall
 --- Bi-Lining Subsoil
 --- Landscape Subsoil

0 10 20 50 100 150m
 SCALE 1:1500

Drawn TT
 Date 26.03.2021
 Project LHI_EC_SC03
 Scale 1:1500 @ A1
 1:3000 @ A3
 Drawing No B

SCHEDULE 3:
 DEVELOPMENT MASTERPLAN



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 157 Adelaide St
 Adelaide SA 5000



LIGHT HORSE INTERCHANGE BUSINESS HUB
 EASTERN CREEK, NSW



Schedule 4 – Calculations

1 Lease Value Rate

1.1 Initial Land Value Rate

The parties agree that the initial land value rate as at the Effective Date for the Development Land is [REDACTED]

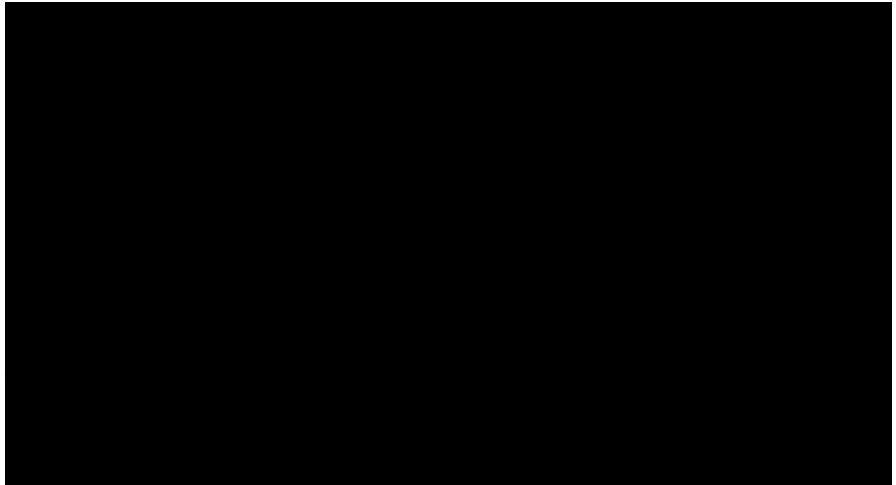
("Initial Land Value Rate").

1.2 Lease Value Rate

The parties agree that the Initial Land Value Rate is subject to a fixed [REDACTED] per annum percentage increase on each anniversary of the Effective Date. The Lease Value Rate is the Initial Land Value Rate increased by [REDACTED] per annum under this clause 1.2.

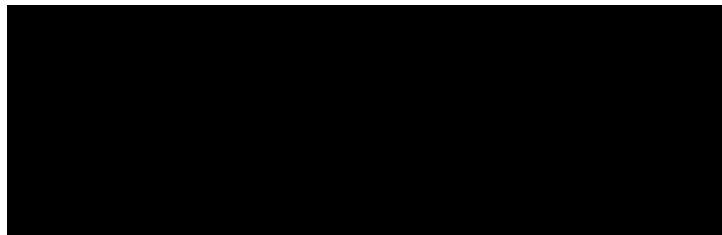
1.3 Lease Value

(a) The parties agree that the Lease Value for a Development Site is calculated as follows:



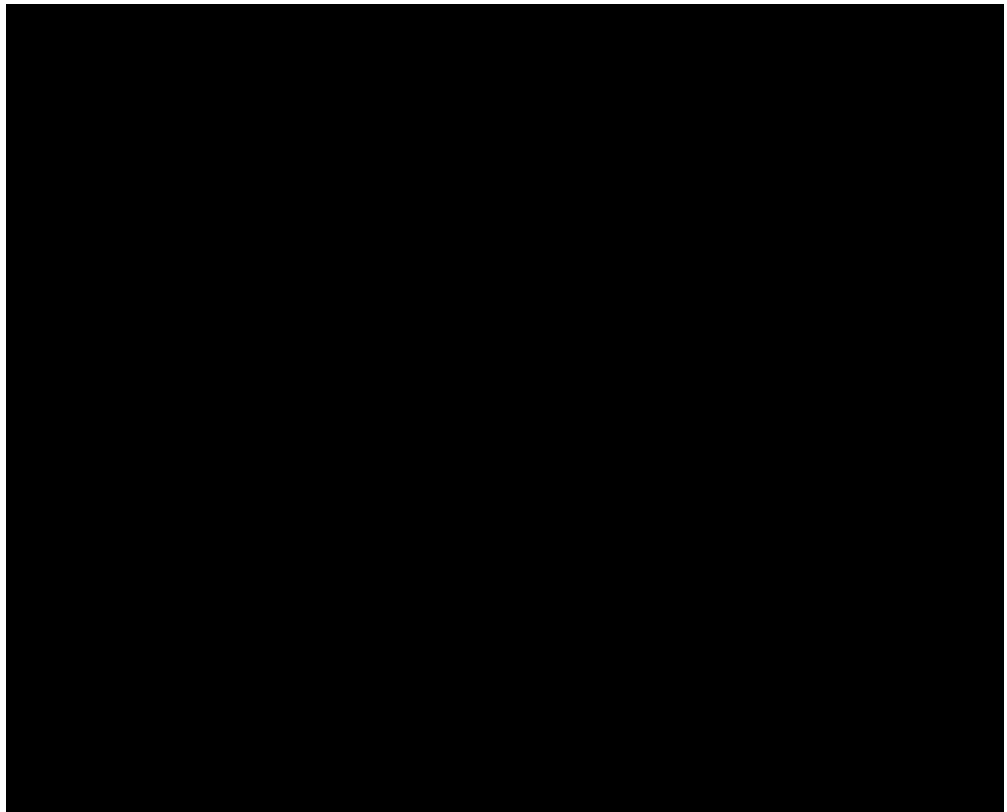
1A Upfront Land Payment

The parties agree that the upfront land payment will be calculated in accordance with the following formula:

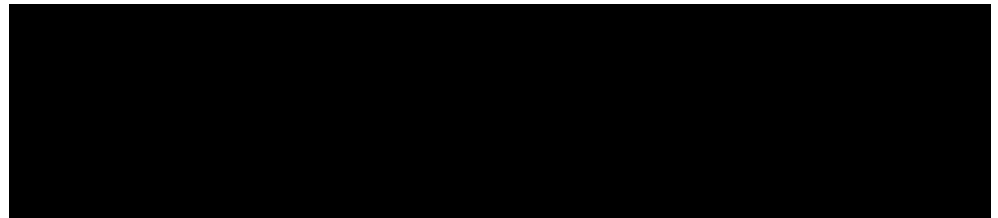


2 Initial Ground Rent



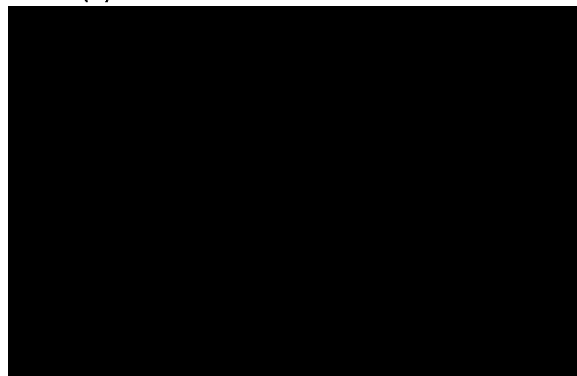


The above example is subject to rounding each figure to the nearest dollar.

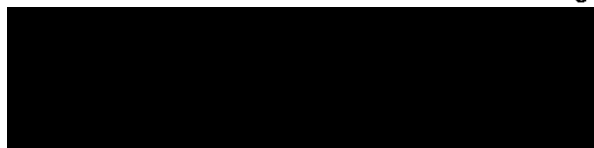


3 Take-up Target

- (a) The Take-up Target is set out in the table in this paragraph (a) and the Take-up Fee is calculated in accordance with the formula in paragraph (b):



- (b) Subject to paragraphs (c) and (d), the Take-up Fee per annum is calculated in accordance with the following formula:



(c)

(d)

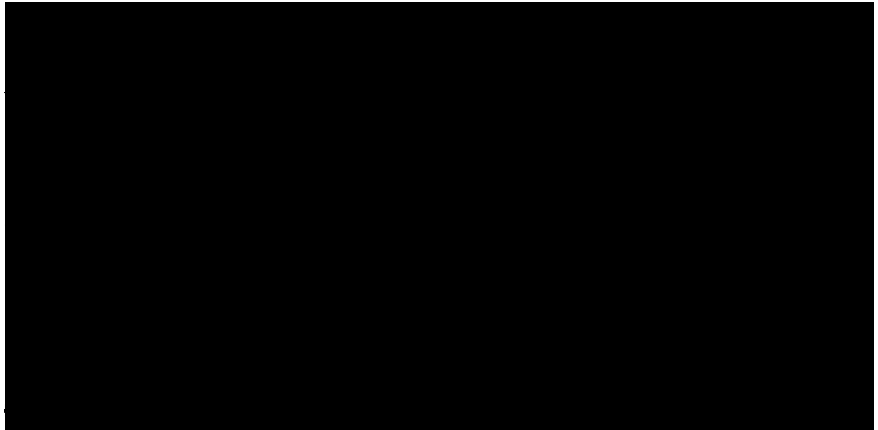


4 Adjustment to Net Land Payment

- (a) The parties agree that the Net Land Payment calculated in accordance with clause 11.3 will be adjusted for Take-up Fee reimbursements in accordance with clause 11.2(g).

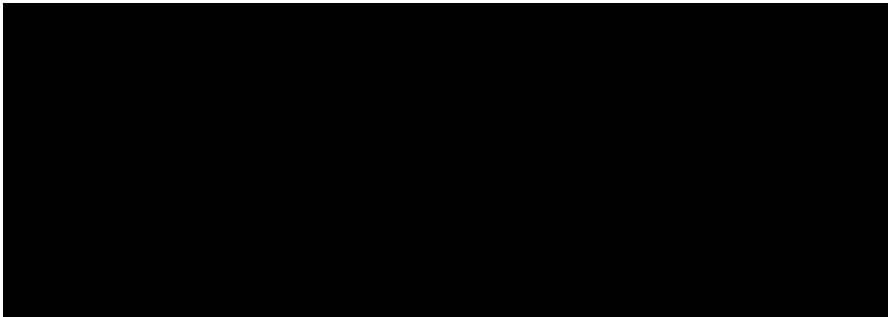
5 Construction Licence Fee

- (a) The Construction Licence Fee payable by the Developer to the Owner in respect of a Development Site is to be paid monthly in arrears and calculated as follows:

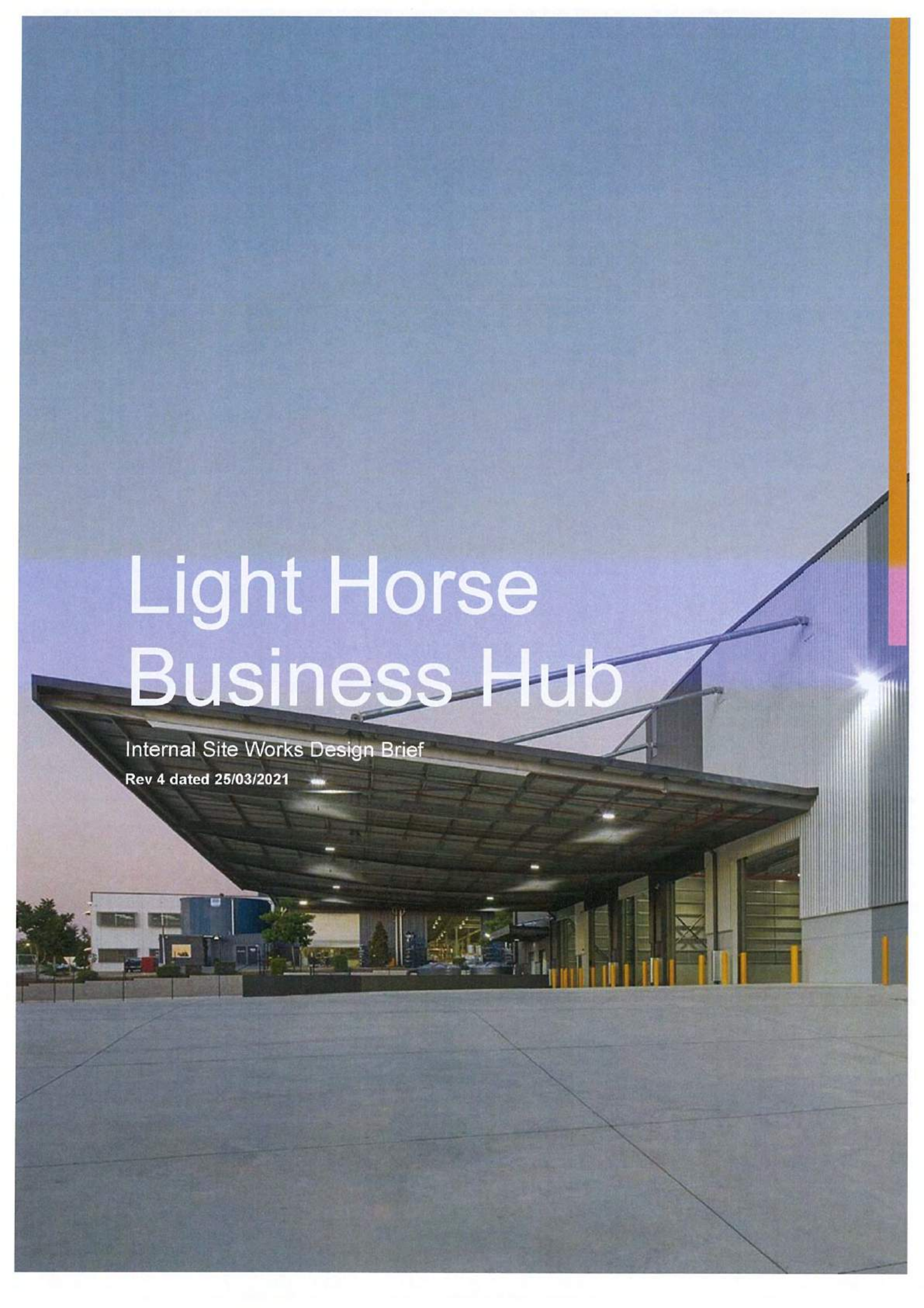


For the avoidance of doubt, the monthly Construction Licence Fee is the variable CLF in the above formula divided by 12.

(b)



Schedule 5 – Internal Site Works Design Brief



Light Horse Business Hub

Internal Site Works Design Brief

Rev 4 dated 25/03/2021

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Disclaimer

This Design Brief does not preclude the Developer from reviewing the existing designs and implementing an alternate design that remains in accordance with future Authority Approvals and relevant design standards, subject to the terms of the Development Management Agreement (DMA).

The Internal Site Works (ISW) will be generally in accordance with the scope outlined below. This scope relies on the design drawings prepared by Henry & Hymas as approved by the Department of Planning & Environment within the SSD 9667 approval, however Western Sydney Parklands Trust (Owner) provides no assurance over the accuracy of the documentation. The final scope of works will be subject to detailed design, and authority requirements and approvals. All ISW will comply with all relevant authority requirements.

All services within the boundary of the Site are classified as part of the ISW. For the avoidance of doubt, a service delivered from external to the Site, ceases being part of the External Infrastructure Works at the Site boundary.

Definitions

Generally, the definitions within this document have the same meaning as in the Development Agreement except for the below:

Internal Access Road that part of the Site which encompasses a road corridor which is common to all development lots

Residual Land means that part of the internal site which is not part of the Development Land or Internal Access Road.

1. Overview

The Internal Site Works Design Brief outlines the scope of works which forms a part of the Internal Site Works.

2. General Requirements

The scope of works includes all works required to render to provide a site which is generally level, free draining and serviced to enable development of the Development Land. This includes ancillary works to enable construction which includes but is not limited to:

- Permanent and temporary design works
- Obtaining planning approvals and payment of Authority fees relating to the Site
- Management plans required to obtain approvals
- Engagement of consultants to aid in the delivery of the works as required including project management, peer reviewers, surveyors, quantity surveyors and independent certifiers
- Legal costs for contractor and consultant engagement
- Statutory and charges including planning contributions, levies and Authority charges
- Insurances relating to the Internal Site Works

3. Site Works

3.1. Demolition

Demolition and disposal of all buildings, structures, fencing and pavements to enable development of the lots.

3.2. Aboriginal and European Heritage

Undertaking of aboriginal salvage and any other mitigation measures required to minimise impact to Aboriginal Heritage within the internal site. The works is to be generally in accordance with *Aboriginal Cultural Heritage Assessment Report dated February 2020 – Draft Report* and with the Aboriginal Cultural Heritage Management Plan still to be finalised.

3.3. Clearing

Demolition and clearing of all onsite vegetation located within the internal site, to be undertaken in accordance with SSD-9667 and federal EPBC2019/8395 approvals including:

- Clearing and mulching of all trees within the development lot as approved
- Reuse or removal of excess mulch as necessary
- Removal or treatment of all unsuitable material as necessary
- Erosion and sediment control measures during the works.

3.4. Remediation works

Remediation works within the internal site generally in accordance with the *Remediation Action Plan Proposed Light Horse Interchange Business Hub SSDA-9667* report dated 7 April 2020, Version 4.

The Developer will prepare and submit to WSPT a Contamination Containment Strategy for approval prior to the commencement of works. The Development may seek to contain existing site contaminants within a containment cell appropriately located within the internal site with no ongoing management requirements.

3.5. Bulk Earthworks

The bulk earthworks will be undertaken generally in accordance with the SSDA-9667 Stage 1 – Civil Engineering Works plans and report prepared by Henry & Hymas dated 5/5/2020.

The works will require cut and fill. The filling works are substantial in nature, requiring an import in the order of 800,000m³ of VENM or ENM. All earthworks will be undertaken in accordance with the SSDA-9667 approval, including all works being undertaken under Level 1 Geotechnical Supervision.

The bulk earthworks will include:

- Striping of topsoil for
 - reuse within landscaping
 - blended with fill as directed by the geotechnical specifications
 - removed off-site
- Bulk earthworks to create benched gradually sloping pads suitable for the development of the land in accordance with the pads/lots outlined in Annexure A;
- Landscaping of the Residual Land
- Boundary fencing and gates (as required for access) around the internal site perimeter and any fencing required on all perimeters of the site. Access gates and fencing is to be in accordance with 5.0 Barriers of the Western Sydney Parklands Design Manual 2020.
- Sediment and erosion control measures within the internal site including construction of temporary drains and sedimentation basins in accordance with the approved construction environmental management plan (CEMP) required under the SSDA-9667 approval.
- Maintenance of ERSED control measures within the internal site until the development is complete

3.6. Batters & Retaining Walls

Retaining walls to be included in the scope of work are those located:

- On the boundary between Development Land and any Residual Land within the internal site
- On the boundary between the Development Land and the Access Road
- Within Residual Land where these are not already included above
- As required to suit the Shared Path from the Internal Access Road to Wallgrove Rd

The retaining wall scope is to include any handrails required for fall protection and open drainage at the top of cutting retaining walls.

The Development Site will be supported by a series of batters and retaining walls. The batters will be provided around much of the perimeter of the Development Site at a maximum slope of 1 in 3 or as directed by a suitably qualified Geotechnical Engineer.

Retaining walls will be constructed generally in accordance with the Henry & Hymas SSDA-9667 Stage 1 – Civil Engineering Works plans.

Other

Boundary fencing around the internal site perimeter and any temporary fencing required to secure the development lots.

4. Roadworks

4.1. Internal Access Road

The Internal Access Road is to be designed and delivered as an industrial collector road comprising:

- A carriageway of 15.5m wide (2 travel lanes and 2 parking lanes);
- Each side footway of 3.75m; and
- Total road reserve of 23m.

Road pavement design will be subject to further design, however, will be generally in accordance with the design intent outlined in the Henry & Hymas Civil Engineering Report.

New pavements are to be constructed to suitable specification to accommodate B-double vehicles and the requirements of specific tenants.

Parties agree that it is the intent of both the Developer and WSPT design the road to a standard acceptable to Council in order to vest the road in Council's interest upon completion.

The works include construction of the following as required for the Internal Access Road and the shared path connection from the Internal Access Road to Wallgrove Rd:

- Preliminary and final erosion and sediment controls
- Pavements,
- Kerb and gutter,
- Footpaths, shared paths and driveways and cross overs
- Street-lighting and electrical reticulation
- Signposting, crash barriers and landmarking
- Associated earthworks pertaining to the road construction
- Provision of temporary services as required
- Protection and adjustment of existing underground services (as applicable);
- Pedestrian ramps in accordance with Authority requirements
- Streetscape and landscape works in accordance with Authority requirements
- Estate pylon signs and wayfinding

5. Bio-Basin and Creek Diversion

The internal site Works includes the construction of drainage bio-basin(s) and on-site detention basins (if required). Basin works are to be constructed to service the overall estate development lots. The bio-basin is to be generally in accordance with the Henry & Hymas SSDA-9667 Stage 1 – Civil Engineering Works plans and Authority requirements.

A section of Eskdale Creek will be diverted via a reconstructed waterway, generally in accordance with the Henry & Hymas SSDA-9667 Stage 1 – Civil Engineering Works plans.

The scope of works for the above two areas is to include but not be limited to:

- Earthworks required to construct the works
- Landscaping and scour protection
- Stormwater and furniture and spillway required for the basin outlet
- Access paths for maintenance
- Fencing and gates as required with consideration to WSPT Design Manual 2020

6. Site servicing

6.1. Stormwater

The development lots will benefit from legal points of discharge with connection to pipes and/or culverts linked to the estate bio-retention basin. The legal points of discharge are subject to

change based on the requirements of the development lots, however will follow the intent of the Henry & Hymas SSDA-9667 Stage 1 – Civil Engineering Works plans.

Overland stormwater works will also be required to redirect flow from outside the Development Lots, such as water draining from the western boundary of the site abutting the M7 Motorway, will be collected and re-directed via bypass channels and discharged directly into Reedy Creek on the eastern side of the site.

All stormwater works within the development lots will form part of the individual development project works and costs. Provision of GPTs and OSD tanks for individual lots are Site Development Works and are excluded from ISW.

6.2. Sewer

The development lots will benefit from a suitably located sewer point, which will be gravity fed and reticulated to connect to either:

- the 375dia main which runs to the north of the site, or
- the 600dia main dissecting the site.

6.3. Potable Water

Potable water will be extended within the estate road to a tap in point servicing each of the development lots. This new DN150mm main potable water main will connect to a DN200mm main within Ferrers Road.

6.4. Electrical

Provision of inground electrical services based on the Ultegra design, which currently provides for 1 x 500kVAPadmount Substation to provide Street Lighting Supply and 2 x 11kV Feeder. The Developer will be responsible for the cost of any additional electrical load requirements above the supply capable of being provided by 2 x 11 kV feeders, generally in the method outlined in the Ultegra design, as part of the ISW Budget.

The Internal Servicing Works will include:

- Extend the feeder from the External Servicing Works feed to a first padmount substation,
- Provision for conduit pathways reticulation to the location of all future padmount substation locations (assumes each site will require its own suitably sized substation based on the requirements of the specific building/user);
- At the time of each development, provide a suitably sized substation (incl. easement) and cables to service the applicable development lot.





6.5. Telecommunications

Provision of telecommunication services (NBN) in accordance with Authority requirements to pits located at the frontage of each development lot in locations to be specified by the Developer.

6.6. Existing Services

The scope of works is to include the adjustment, protection or relocation of existing services as required by the relevant Authority.

Annexure A– Internal Site Works Plan

SERVICES LEGEND	
	SEWER SERVICE
	SEWER MANHOLE
	FALL TO IN
	EXISTING SERVICES
	



<p>at&I Civil Engineers and Project Managers Level 7, 101 Walker Street North Sydney NSW 2060 Tel: 61 2 9429 1177 Fax: 61 2 9429 1056 at&i@atand.com.au</p>		<p>Project: LIGHTHORSE PROJECT</p>	<p>Scale: 1:2000</p>	<p>Drawn: [] Checked: [] Approved: []</p>	<p>Sheet: 01 of 01</p>
<p>THIS DRAWING CANNOT BE COPIED OR REPRODUCED IN ANY FORM OR USED FOR ANY OTHER PURPOSE OTHER THAN THAT ORIGINALLY INTENDED WITHOUT THE WRITTEN PERMISSION OF AT&I.</p>		<p>Client: Charter Hall</p>	<p>Scale: 1:2000 @ A1</p>	<p>Design: [] Check: [] Approve: []</p>	<p>Sheet: 01 of 01</p>
<p>FOR INFORMATION ONLY NOT FOR CONSTRUCTION</p>		<p>Project: SEWERAGE RETICULATION INTERNAL SKETCH</p>	<p>Scale: 1:2000 @ A1</p>	<p>Design: [] Check: [] Approve: []</p>	<p>Sheet: 01 of 01</p>
<p>PH: 20/08/2024</p>		<p>Project: LIGHTHORSE PROJECT</p>	<p>Scale: 1:2000 @ A1</p>	<p>Design: [] Check: [] Approve: []</p>	<p>Sheet: 01 of 01</p>
<p>PH: 20/08/2024</p>		<p>Project: SEWERAGE RETICULATION INTERNAL SKETCH</p>	<p>Scale: 1:2000 @ A1</p>	<p>Design: [] Check: [] Approve: []</p>	<p>Sheet: 01 of 01</p>

SERVICES LEGEND	
PROPOSED SERVICES	
HV ELECTRICITY	— HV —



		at&I Civil Engineers and Project Managers Level 7, 151 Water Street North Sydney NSW 2060 Tel: 61 61 9539 1777 Fax: 61 61 9539 1025 Email: info@atand.com.au www.atand.com.au		Project: LIGHTHORSE PROJECT Title: HIGH VOLTAGE ELECTRICAL ALIGNMENT INTERNAL SKETCH Scale: 1:2000 Drawn: [] Checked: [] Approved: [] Date: []	Drawing No.: 20-795-C003 Issue: P1
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REF: 65846		0 50 100 150 200m 1:2000 @ A1		Date: 28/02/21 D/R: []	
P1: 05/02/21 Description:	1:2000 @ A1 Issue: P1				

SERVICES LEGEND

POTABLE WATER SERVICE

PROPOSED SERVICES

EXISTING SERVICES

WATER SERVICE



<p>at&I Civil Engineers and Project Managers Level 7, 151 Water Street North Sydney NSW 2060 Tel: 61 61 95 94 24 17 22 Fax: 61 61 95 94 16 55 www.atand.com.au</p>		<p>Project: LIGHTHORSE PROJECT Title: WATER RETICULATION INTERNAL SKETCH</p>							
<p>Client: Charter Hall</p>		<p>Scale: 1:2000 Sheet: 01 of 01 Drawing No: 20-795-C005</p>							
<p>THIS DRAWING CANNOT BE COPIED OR REPRODUCED IN ANY FORM OR USED FOR ANY OTHER PURPOSE OTHER THAN THAT ORIGINALLY INTENDED WITHOUT THE WRITTEN PERMISSION OF AT&I.</p>		<p>Scale: 1:2000 @ A1 0 50 100 150 200m</p>							
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No.	Description	Date							
1	CONCEPTUAL DESIGN	28/02/21							
<p>FOR INFORMATION ONLY NOT FOR CONSTRUCTION</p>		<p>Sheet: A1 Total: P1</p>							

Schedule 6 – External Infrastructure Works Design Brief



Light Horse Business Hub

External Infrastructure Works scope

Rev.2 dated 25/3/2021

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Disclaimer

This Design Brief does not preclude the Developer from reviewing the existing designs and implementing an alternate design that remains in accordance with future Authority Approvals and relevant design standards, subject to the terms of the Development Management Agreement (DMA).

The External Infrastructure Works (EIW) will be generally in accordance with the scope outlined below. This scope relies on the design drawings prepared by Henry & Hymas as approved by the Department of Planning & Environment within the SSD 9667 approval, however Western Sydney Parklands Trust (Owner) provides no assurance over the accuracy of the documentation. The final scope of works will be subject to detailed design, and authority requirements and approvals. All ISW will comply with all relevant authority requirements.

All services within the boundary of the Site are classified as part of the ISW. For the avoidance of doubt, a service delivered from external to the Site, ceases being part of the External Infrastructure Works at the Site boundary.

Definitions

Generally, the definitions within this document have the same meaning as in the Development Agreement except for the below:

External Access Road that part of the Site which encompasses a road corridor which is east to the Gas Pipeline Easement.

Residual Land means that part of the internal site which is not part of the Development Land or External Access Road.

1. Overview

External Infrastructure Works involve lead-in infrastructure and services to enable the development of the land. The External Infrastructure Works will require the clearing of trees and vegetation, earthworks, a new section of road, bridge works, roundabout and services connections.

2. General Requirements

The scope of works includes all works required to provide access and services to enable development of the Development Land. This includes ancillary works to enable construction which includes but is not limited to:

- Permanent and temporary design works
- Obtaining planning approvals and payment of Authority fees relating to the Site
- Management plans required to obtain approvals
- Engagement of consultants to aid in the delivery of the works as required including project management, peer reviewers, surveyors, quantity surveyors and independent certifiers
- Legal costs for contractor and consultant engagement
- Statutory and charges including planning contributions, levies and Authority charges
- Insurances relating to the External Servicing Works

3. Site Works

3.1. Demolition

Demolition and disposal of all structures, fencing and pavements to enable development of the lots.

3.2. Aboriginal and European Heritage

Undertaking of aboriginal salvage and any other mitigation measures required to minimise impact to Aboriginal Heritage within the internal site. The works is to be generally in accordance with *Aboriginal Cultural Heritage Assessment Report dated February 2020 – Draft Report* and with the Aboriginal Cultural Heritage Management Plan still to be finalised.

3.3. Clearing

Demolition and clearing of all onsite vegetation located within the external site, to be undertaken in accordance with SSD-9667 and federal EPBC2019/8395 approvals including:

- Clearing and mulching of all trees within the development lot as approved
- Reuse or removal of excess mulch as necessary
- Removal or treatment of all unsuitable material as necessary
- Erosion and sediment control measures during the works.

3.4. Remediation works

Remediation works generally within the EIW areas in accordance with the *Remediation Action Plan Proposed Light Horse Interchange Business Hub SSDA-9667* report dated 7 April 2020, Version 4.

The Developer will prepare and submit to WSPT a Contamination Containment Strategy for approval prior to the commencement of works. The Developer may seek to contain existing site contaminants within a containment cell appropriately located on the land with no ongoing management requirements.

3.5. Bulk Earthworks

The bulk earthworks will be undertaken generally within the EIW areas in accordance with the SSDA-9667 Stage 1 – Civil Engineering Works plans and report prepared by Henry & Hymas dated 5/5/2020.

The works will require mainly fill to establish road level. The material will be VENM or ENM. All earthworks will be undertaken in accordance with the SSDA-9667 approval, including all works being undertaken under Level 1 Geotechnical Supervision.

The bulk earthworks will include:

- Striping of topsoil for
 - reuse within landscaping
 - blended with fill as directed by the geotechnical specifications
 - removed off-site
- Bulk earthworks to create benched gradually sloping pads suitable for the development of the land in accordance with the pads/lots outlined in Annexure A;
- Landscaping of the Residual Land
- Boundary fencing and gates (as required for access) around the internal site perimeter and any fencing required on the
- Sediment and erosion control measures within the internal site including construction of temporary drains and sedimentation basins in accordance with the approved construction environmental management plan (CEMP) required under the SSDA-9667 approval.
- Maintenance of ERSED control measures within the internal site until the development is complete.

3.6. Batters & Retaining Walls

The external access road will be supported by batters and retaining walls. The batters will be provided at a maximum slope of 1 in 3 or as directed by a suitably qualified Geotechnical Engineer.

Retaining walls will be constructed generally in accordance with the Henry & Hymas SSDA-9667 Stage 1 – Civil Engineering Works plans.

4. Site Access

4.1. Access Road

The External Access Road is to be designed and delivered as an industrial collector road in accordance with the LHIBH Urban Design Guidelines included within the SSDA-9667 approval comprising:

- A carriageway of 15.5m wide (2 travel lanes and 2 parking lanes);
- Shared path 2.5m wide on northern side of access road; and
- Total road reserve of 23m.

Road pavement design will be subject to further design, however will be generally in accordance with the design intent outlined in the Henry & Hymas Civil Engineering Report.

New pavements are to be constructed to suitable specification to accommodate B-double vehicles and the requirements of specific tenants.

Parties agree that it is the intent of both the Developer and WSPT design the road to a standard acceptable to Council in order to vest the road in Council's interest upon completion.

The works include construction of the following as required for the Internal Access Road and the shared path connection from the Internal Access Road to Wallgrove Rd:

- Preliminary and final erosion and sediment controls

- Pavements;
- Kerb and gutter;
- Footpaths, shared paths and driveways and cross overs;
- Street-lighting and electrical reticulation;
- Signposting, crash barriers and landmarking;
- Associated earthworks pertaining to the road construction;
- Provision of temporary services as required;
- Protection and adjustment of existing underground services (as applicable);
- Pedestrian ramps in accordance with Authority requirements;
- Streetscape and landscape works in accordance with Authority requirements.

4.2. Eastern Creek Bridge

A bridge will be required where the access road crosses Eastern Creek. This bridge will be constructed using an RMS type plank system with a concrete topping slab on six rows of piles/columns. The bridge will span approximately 61.5m with individual spans ranging from 10-15m. The bridge has been designed with a full width of the access road carriageway (including shared path).

4.3. Roundabout

A roundabout will be required at the intersection of the new access road and Ferrers Road. This roundabout will be in accordance with the relevant Authority requirements and be capable of accommodating b-doubles.

The roundabout design will be generally in accordance with the design intent outlined in the Henry & Hymas SSDA-9667 Stage 1 – Civil Engineering Works plans.

4.4. Cycleway

The shared path will then be integrated into the external road network between the ISW and Ferrers Road.

5. Services

5.1. Stormwater

Stormwater drainage works associated with the External Access Road. These works will include piping a small section of existing creek line adjacent to the proposed Ferrers Road roundabout, as well as outfalls into the creek associated with inroad stormwater infrastructure.

5.2. Sewer

No sewer works are proposed as part of the EIW.

5.3. Potable Water

Potable water will be extended within the external section of the estate road linking into the ISW. This new DN150mm main potable water main will connect to a DN200mm main within Ferrers Road.

5.4. Electrical

Provision of electrical services based on the Ultegra design, which currently provides for 2 x 11kV feeder from the Huntingwood Zone Substation to the Internal Servicing Works boundary. The Developer will be responsible for the cost of any additional electrical load requirements above the supply capable of being provided by 2 x 11 kV feeders, generally in the method outlined in the Ultegra design, as part of the EIW Budget.

5.5. Telecommunications

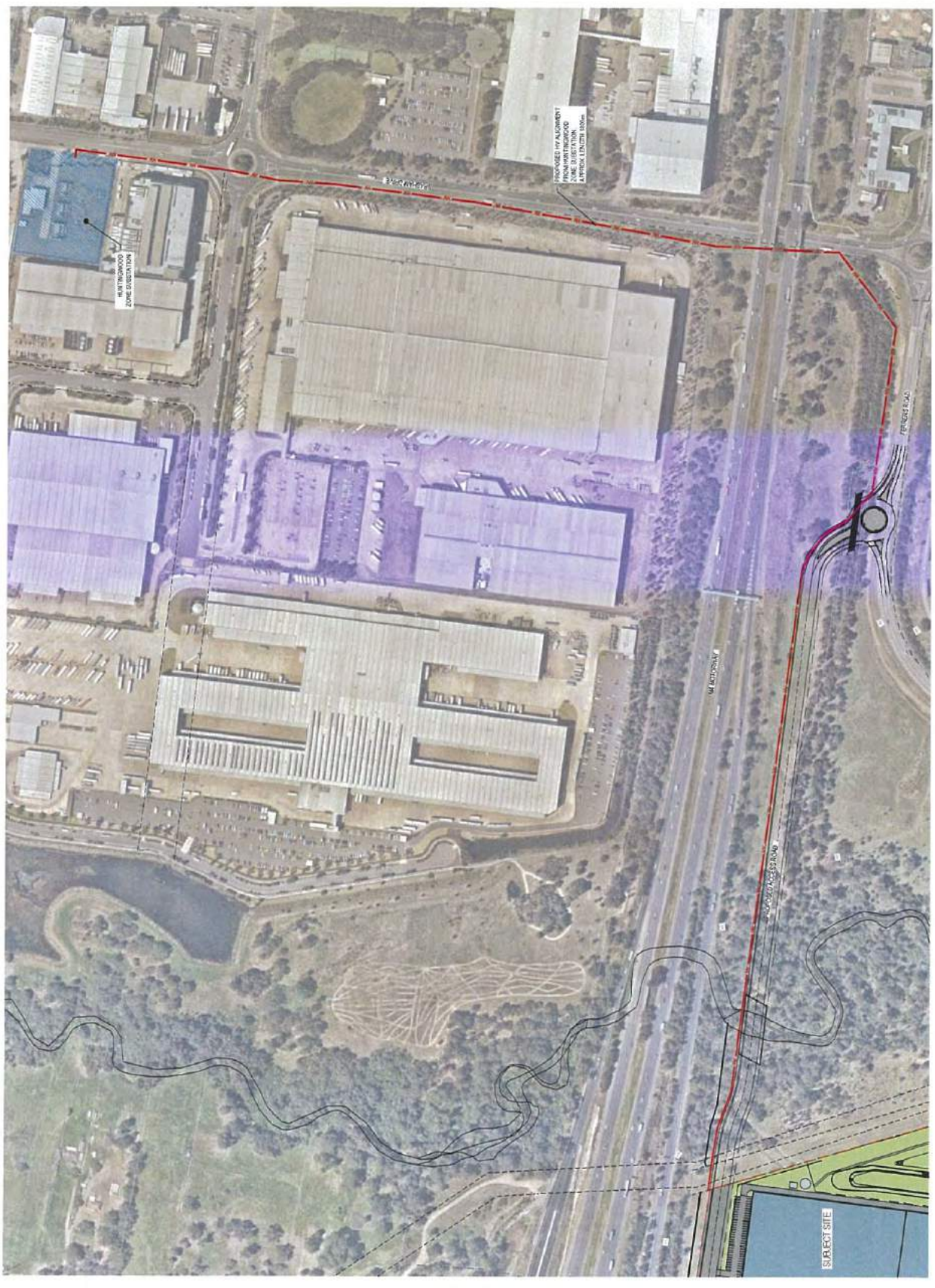
Provision of telecommunication services lead-in (NBN) in accordance with Authority requirements.

Annexure A– External Infrastructure Works Plans

SERVICES LEGEND

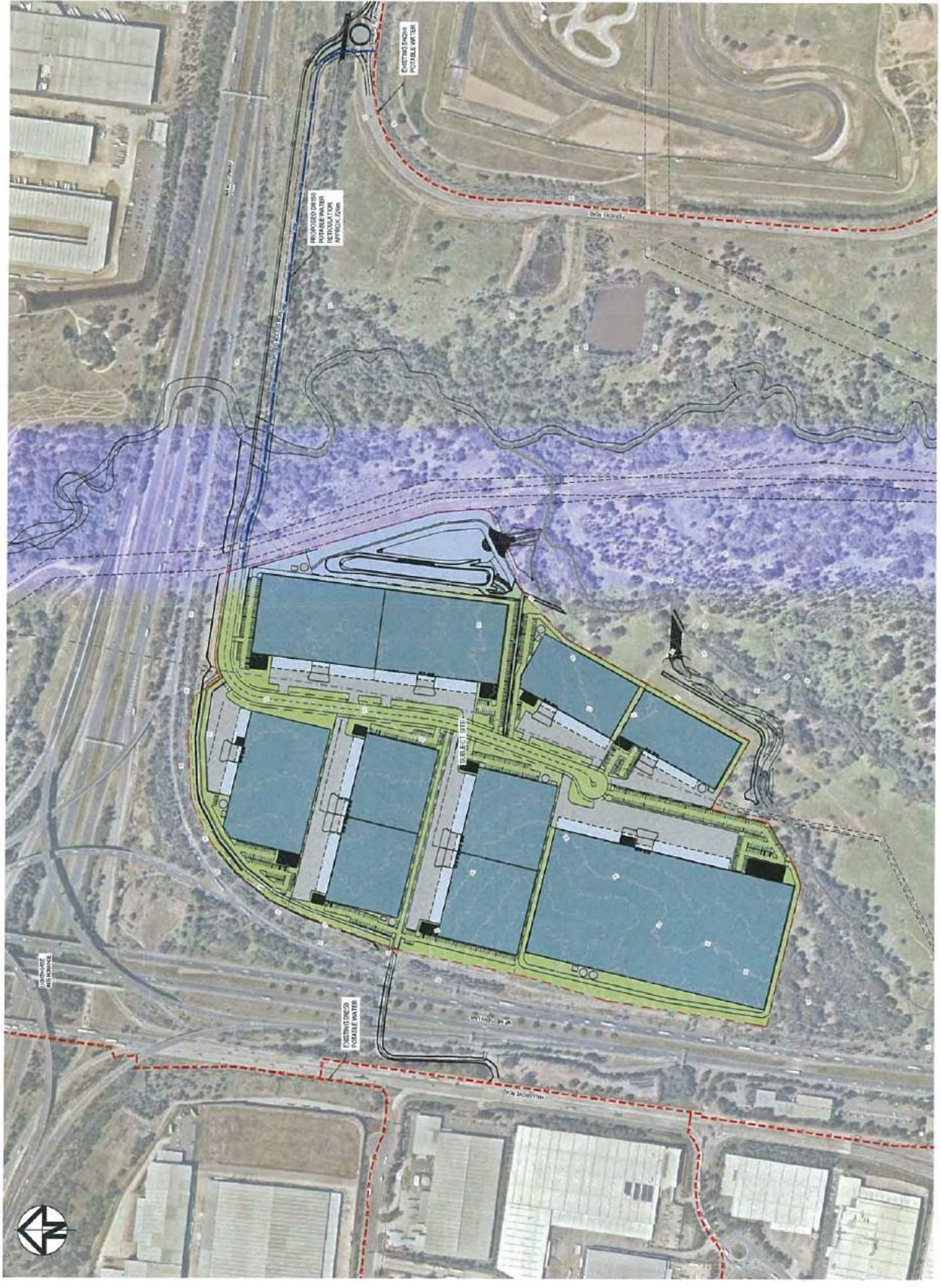
PROPOSED SERVICES

HW ELECTRICITY



<p>Level 2, 150 Water Street Suite 1000, NSW 2060 Tel: 61 61 9393 7777 Fax: 61 61 9393 1025 www.atand.com.au</p> <p>at&l</p> <p>Civil Engineers and Project Managers</p>		<p>Project: LIGHORSE PROJECT</p>	
<p>Scale: 1:2000</p> <p>Drawn: [] Designed: [] Checked: [] Approved: []</p>		<p>Client: Charter Hall</p>	
<p>THIS DRAWING CANNOT BE COPIED OR REPRODUCED IN ANY FORM OR USED FOR ANY OTHER PURPOSE OTHER THAN THAT ORIGINALLY INTENDED WITHOUT THE WRITTEN PERMISSION OF AT&L</p>		<p>Project: HIGH VOLTAGE ELECTRICAL ALIGNMENT EXTERNAL SKETCH</p>	
<p>Scale: 1:2000 @ A1</p> <p>0 50 100 150 200m</p>		<p>Project - Drawing No: 20-795-C004</p>	
<p>RI CONCEPT ISSUE</p> <p>Date: 24/02/21</p>		<p>FOR INFORMATION ONLY FACILITY CONSTRUCTION</p>	
<p>Description</p>		<p>Sheet: P1</p>	
<p>Date</p>		<p>Total: P1</p>	

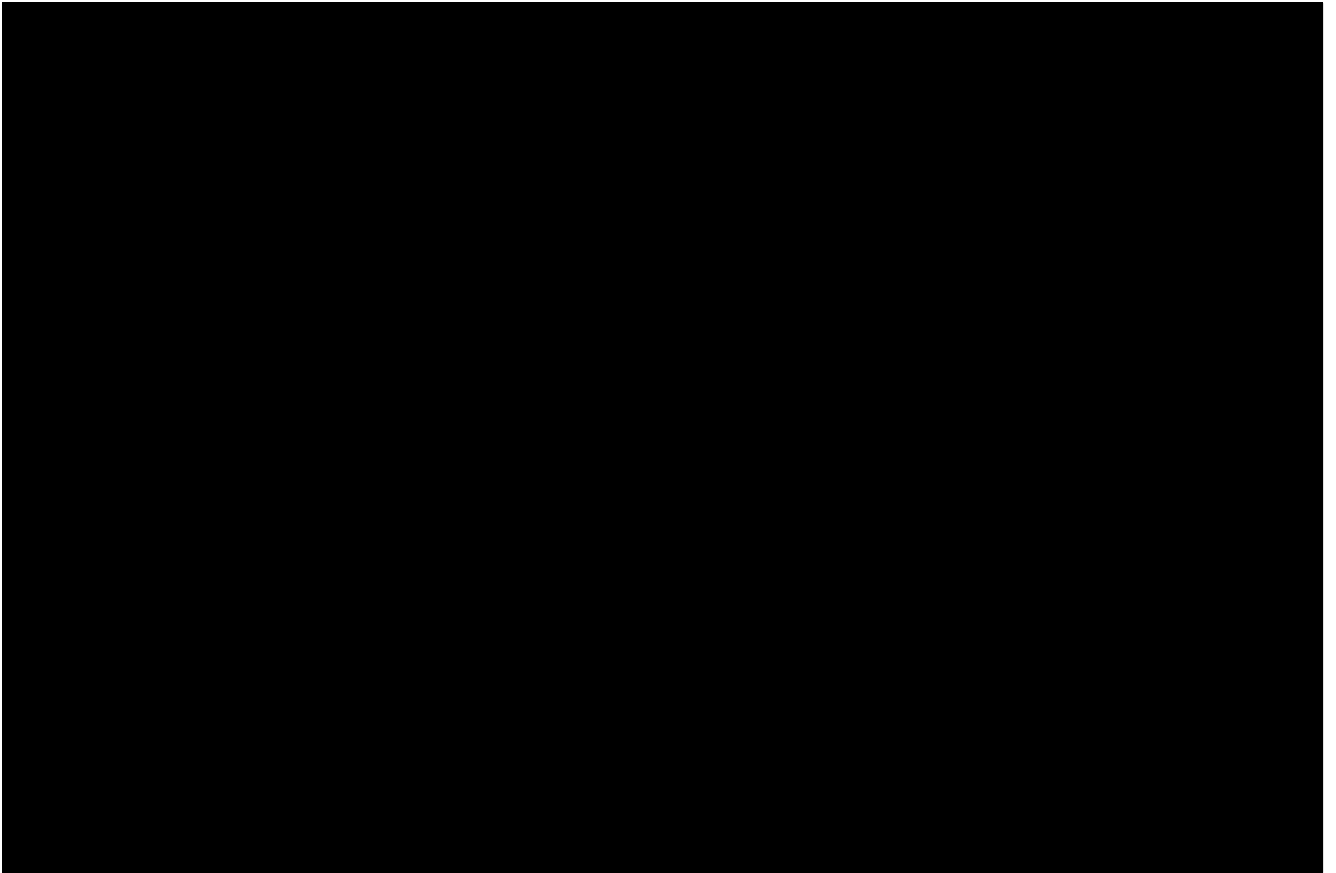
SERVICES LEGEND	
PROPOSED SERVICES	EXISTING SERVICES
POTABLE WATER SERVICE	POTABLE WATER SERVICE
WATER SERVICE	WATER SERVICE



<p>THIS DRAWING CANNOT BE COPIED OR REPRODUCED IN ANY FORM OR USED FOR ANY OTHER PURPOSE OTHER THAN THAT ORIGINALLY INTENDED WITHOUT THE WRITTEN PERMISSION OF AT&I</p>		<p>Client</p>	<p>Project</p> <p>LIGHTHORSE PROJECT</p>	<p>Drawn</p> <p>Designed</p> <p>Checked</p> <p>Approved</p>	<p>Scale</p> <p>1:2500</p> <p>Sheet</p> <p>24 of 24</p>	<p>Project</p> <p>Level 7, 153 Water Street New Sydney NSW 2000 Tel: 61 2 9248 1215 Fax: 61 2 9248 1155 info@atand.com.au</p>
<p>Scale</p> <p>0 50 100 150 200 250m</p> <p>1:2500 @ A1</p>						
<p>DATE</p> <p>24/03/21</p>		<p>FOR INFORMATION ONLY NOT FOR CONSTRUCTION</p>		<p>Project - Drawing No.</p> <p>20-795-C006</p>		<p>Sheet</p> <p>A1</p>

Schedule 7 – Leasing Commission

Leasing Commission



Schedule 8 - Multi-Party Side Deed Principles

- 1 The Owner consents to the grant of the Security by the Developer to the Financier, and consents to the Security Agreement.
- 2 The Financier consents to the execution of the Development Management Agreement, Agreements for Ground Lease, Ground Leases and Construction Licences (each being a "**Transaction Document**" and together the "**Transaction Documents**") by the Developer.
- 3 The Owner agrees that a grant under paragraph 1 does not constitute a breach or default event under the Transaction Documents and does not entitle the Owner to terminate or suspend performance of any of its obligations under the Transaction Documents.
- 4 If the Developer breaches or defaults under the Transaction Documents, which breach or default gives rise to a right of termination or rescission of all or any of the Transaction Documents to the Owner, the Owner will:
 - (a) give the Financier a copy of any breach or default notice it sends to the Developer in respect of such breach or default on the same day it is given to the Developer;
 - (b) if requested, give the Financier any update as to the Developer's progress in remedying such breach or default;
 - (c) give the Financier written notice that the Developer's breach or default may give the Owner a right to terminate or rescind any or all of the Transaction Documents if not remedied; and
 - (d) not exercise its right to terminate or rescind or suspend performance of any of its obligations under the relevant Transaction Documents for a period of 90 days after the notice in paragraph 4(a) ("**Cure Period**").
- 5 The Financier may at any time and from time to time assume the rights and obligations of the Developer under any or all of the Transaction Documents by notice to the Owner during the Cure Period ("**Step-in Notice**").
- 6 A Step-in Notice will be effective on and from the date that the notice is received by the Owner ("**Enforcement Date**").
- 7 If the Financier issues a Step-in Notice, the Financier:
 - (a) must perform all obligations of the Developer under the relevant Transaction Documents arising on and from the Enforcement Date;
 - (b) must remedy any default or breach of the relevant Transaction Documents by the Developer which is the subject of the notice under paragraph 4; and
 - (c) is entitled to exercise all rights, powers and to perform all obligations of the Developer under the relevant Transaction Documents.
- 8 If a Step-in Notice has been issued, the Owner will only be entitled to terminate the Transaction Document if the Financier does not cure the breach or default the subject of the notice under paragraph 4 within the Cure Period.

- 9 If a Step-In Notice has been issued, the Financier may at any time, with prior notice to the Owner, terminate the Step In from the date specified in that notice being a date after that notice is given to the Owner ("**Step-Out Notice**").
- 10 If the Financier issues a Step-Out Notice, with effect from the date nominated under the Step-Out Notice, the Financier will be released from any and all obligations to the Owner under the relevant Transaction Documents other than for the period between the issue of the Step-in Notice and the issue of the Step-Out Notice. Such release will not affect or prejudice the continuation of the Developer's obligations to the Owner under the relevant Transaction Documents.
- 11 Exercise of any rights or powers under the Security Agreement by the Financier will not of itself constitute a default or breach of the Transaction Documents and will not of itself entitle the Owner to exercise any right of termination of the Transaction Documents.
- 12 The Owner and Developer must not amend or vary or agree to amend or vary the Transaction Documents without the prior written consent of the Financier.
- 13 Definitions
- (a) "**Financier**" means the recipient of the Security.
 - (b) "**Encumbrance**" means an interest or power:
 - (i) reserved in or over an interest in any asset including any retention of title; or
 - (ii) created or otherwise arising in or over any interest in any asset under a bill of sale, mortgage, charge, lien, pledge, trust or power,
 - (iii) by way of, or having similar commercial effect to, security for the payment of a debt, any other monetary obligation or the performance of any obligation, and includes any agreement to grant or create any of the above.
 - (c) "**Security**" means an Encumbrance granted by the Developer in favour of the Financier from time to time in respect of the Developer's interest in the Transaction Documents.
 - (d) "**Security Agreement**" means an agreement for the grant of the Security between the Developer and Financier.
 - (e) "**Step In**" means the assumption of rights and obligations of the Developer under the Transaction Documents by the Financier in accordance with the Step-In Notice.

Schedule 9 – Form of Ministerial Consent

Recommendations

The Minister approves:

1. The Development Management Agreement dated2021 between Western Sydney Parklands Trust ("Owner"), The Trust Company (Australia) Limited as custodian for Bieson Pty Limited as trustee for the CPIF LHBH Trust ("Developer"), Bieson Pty Limited as trustee for the CPIF LHBH Trust ("Trustee") and Charter Hall Investment Management Limited as responsible entity for the Charter Hall Prime Industrial Fund ARSN 113 339 316 ("Guarantor") ("Development Management Agreement"), a copy of which is attached.
2. All of the transactions contemplated under the Development Management Agreement.
3. The class of dealings with the Owner's land constituted by the grant of any and all agreements for ground lease and/or ground leases by the Owner to an "Approved Tenant" (as that term is defined in the Development Management Agreement) in accordance with the terms and conditions of the Development Management Agreement in respect of the development and occupation of the whole or parts of the "Site" (as that term is defined in the Development Management Agreement).
4. The grant of any construction licences over the whole or any part of the "Site" (as that term is defined in the Development Management Agreement) by the Owner to the Developer or a "Nominee" or an "Approved Tenant" (as those terms are defined in the Development Management Agreement) in accordance with the terms and conditions of the Development Management Agreement.

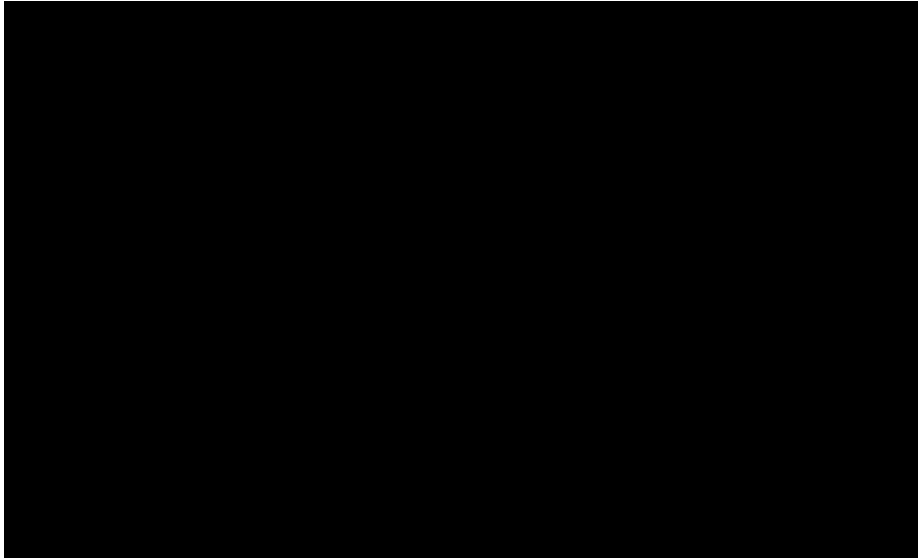
The Minister signs:

5. The DMA Schedule 9 Form of Ministerial Consent.

Approved: Suellen Fitzgerald, Chief Executive Western Sydney Parklands Trust	date
Approved: Alex O'Mara, Group Deputy Secretary PDPS	date
Contact: Suellen Fitzgerald, Chief Executive Greater Sydney Parklands	0422 009 220
Robert Stokes MP, Minister	Date

Schedule 10 – Plan of Retaining Walls Work and Retaining Walls Work Estimate

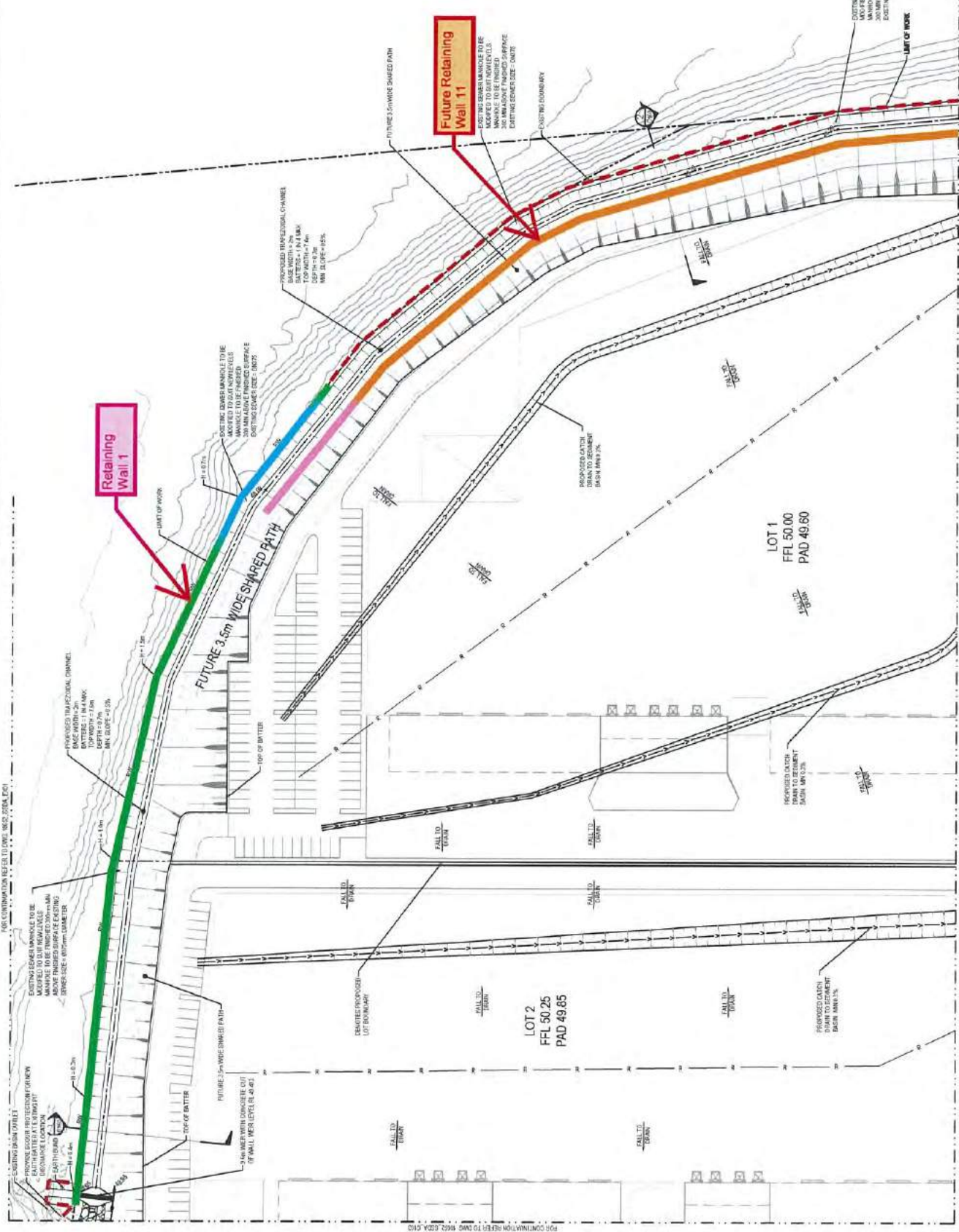
Retaining Walls Work Estimate





IMPORTANT NOTE:

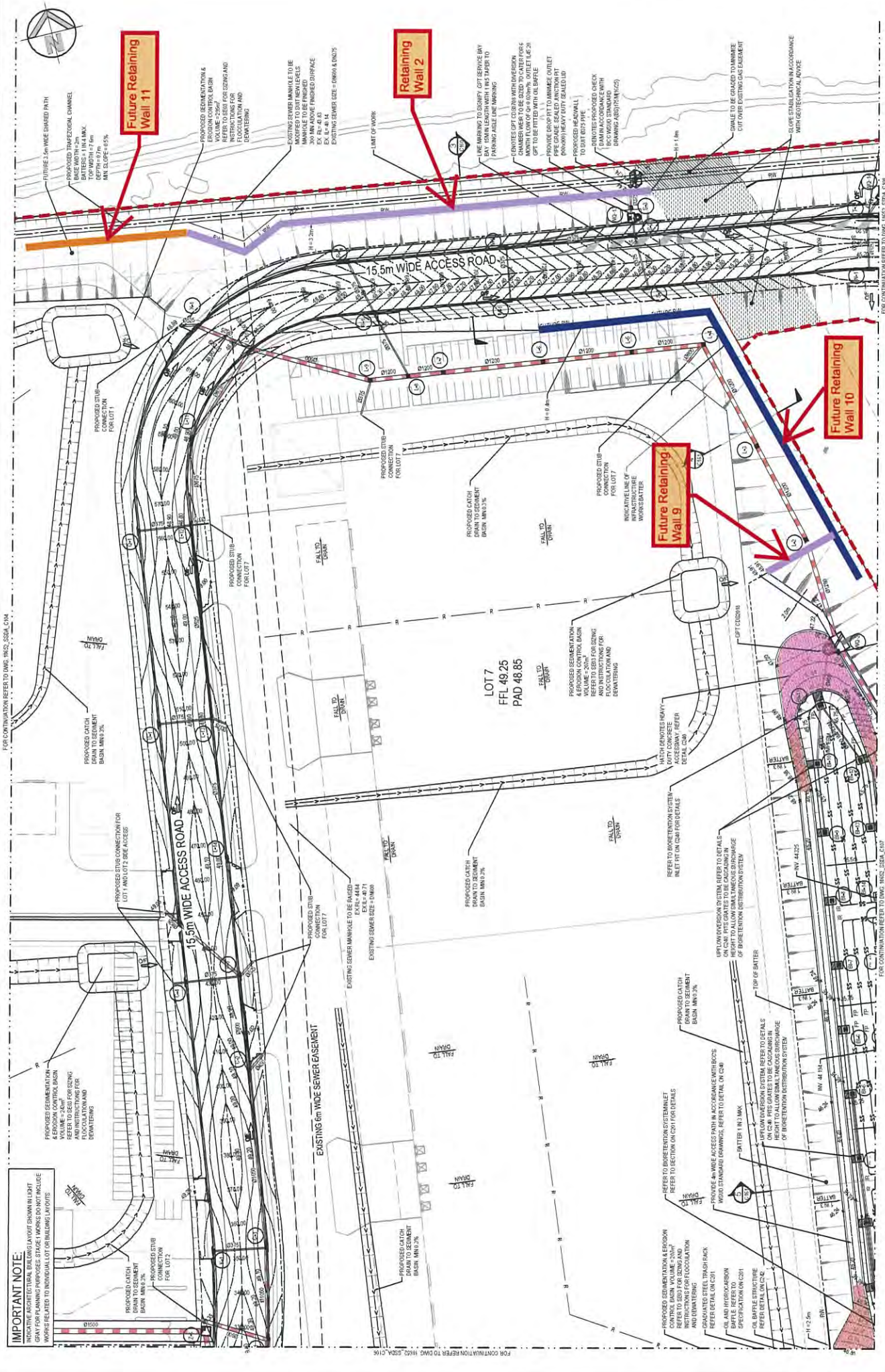
PROVISED WORK SHALL BE CONSIDERED AS A PRELIMINARY DESIGN. ANY WORKS BELONGING TO INDIVIDUALS OR BUSINESSES ARE THE RESPONSIBILITY OF THE INDIVIDUALS OR BUSINESSES. THIS PLAN DOES NOT INCLUDE ANY LIABILITY FOR DAMAGE TO ANY PROPERTY OR PERSONS.



DETAIL PLAN
SCALE 1:500

ISSUED FOR APPROVAL

 Western Sydney Parklands Trust	NETTLETON TRIBE <small>TRUSTEES AND MANAGING PARTNERS: A GROUP OF INDIVIDUALS, A COMPANY, OR ANOTHER LEGAL ENTITY AS PROVIDED FOR IN THE TRUST DEED.</small>	PROJECT NO: 18652_SSDA_C104	
		PROJECT NAME: LIGHT HORSE INTERCHANGE BUSINESS HUB	PROJECT ADDRESS: EASTERN CREEK, NSW (SSD9667)
		PROJECT LOCATION: [Red Circle]	PROJECT OWNER: [Red Circle]
		PROJECT DATE: 14/06/2024	PROJECT SCALE: 1:500



IMPORTANT NOTE:
 INDICATIVE ARCHITECTURAL BUILDING LAYOUT SHOWN IN LIGHT GRAY FOR PLANNING PURPOSES. STAGE 1 WORKS DO NOT INCLUDE WORKS RELATED TO INDIVIDUAL LOT OR BALANCING LAYOUTS.

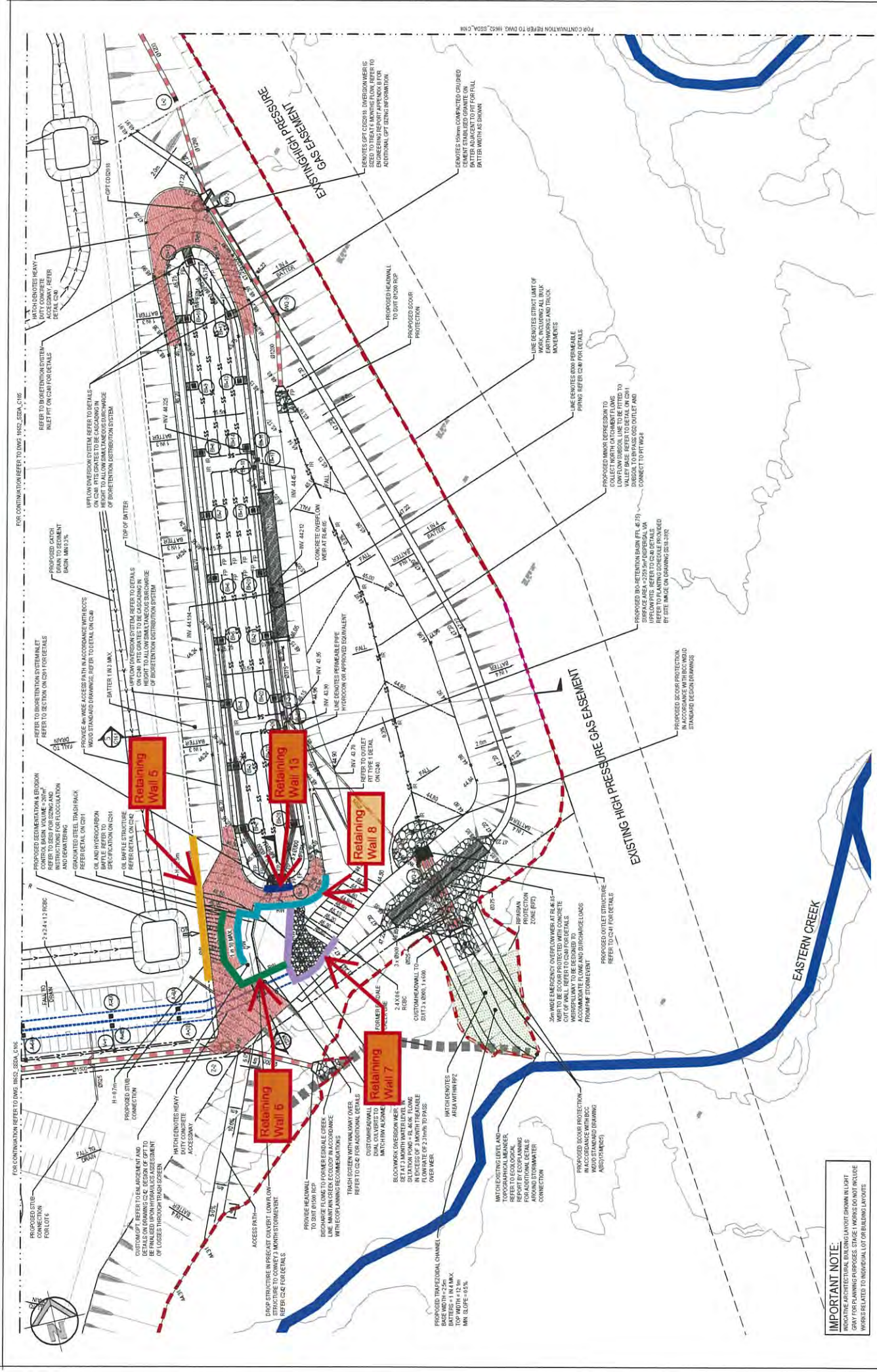
FOR CONTINUATION REFER TO DWG: 18652_SSDA_C104
 FOR CONTINUATION REFER TO DWG: 18652_SSDA_C105
 FOR CONTINUATION REFER TO DWG: 18652_SSDA_C107

SCALE 1:500
 DETAIL PLAN

SCALE 1:500

ISSUED FOR APPROVAL

 Western Sydney Parklands Trust	PROJECT NO: 18652_SSDA_C105 SHEET 5 OF 9
	PROJECT NAME: LIGHT HORSE INTERCHANGE BUSINESS HUB EASTERN CREEK, NSW (SSD9667)
PROJECT OWNER: NETTLETONTRIBE <small>The above and other contents are property of Netley & Hyatt, and shall not be used for any other purpose without the prior written approval of Netley & Hyatt.</small>	PROJECT NO: 18652_SSDA_C105 SHEET 5 OF 9
PROJECT ADDRESS: 18652_SSDA_C105 EASTERN CREEK, NSW (SSD9667)	PROJECT NO: 18652_SSDA_C105 SHEET 5 OF 9
PROJECT CONTACT: Netley & Hyatt 18652_SSDA_C105 EASTERN CREEK, NSW (SSD9667)	PROJECT NO: 18652_SSDA_C105 SHEET 5 OF 9
PROJECT CONTACT: Netley & Hyatt 18652_SSDA_C105 EASTERN CREEK, NSW (SSD9667)	PROJECT NO: 18652_SSDA_C105 SHEET 5 OF 9



IMPORTANT NOTE:
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 TO BE USED FOR CONSTRUCTION. ALL WORKS SHOWN IN LINES
 GRAY FOR PLANNING PURPOSES. STAGE 1 WORKS DO NOT INCLUDE
 WORKS RELATED TO INDIVIDUAL LOTS OR BUILDING LAYOUTS.



DETAIL PLAN
 SCALE: 1:500

WESTERN SYDNEY PARKLANDS TRUST
 NETTLETON TRIBE

Level 15, 150
 CHANDLER STREET
 SYDNEY NSW 2000

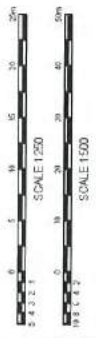
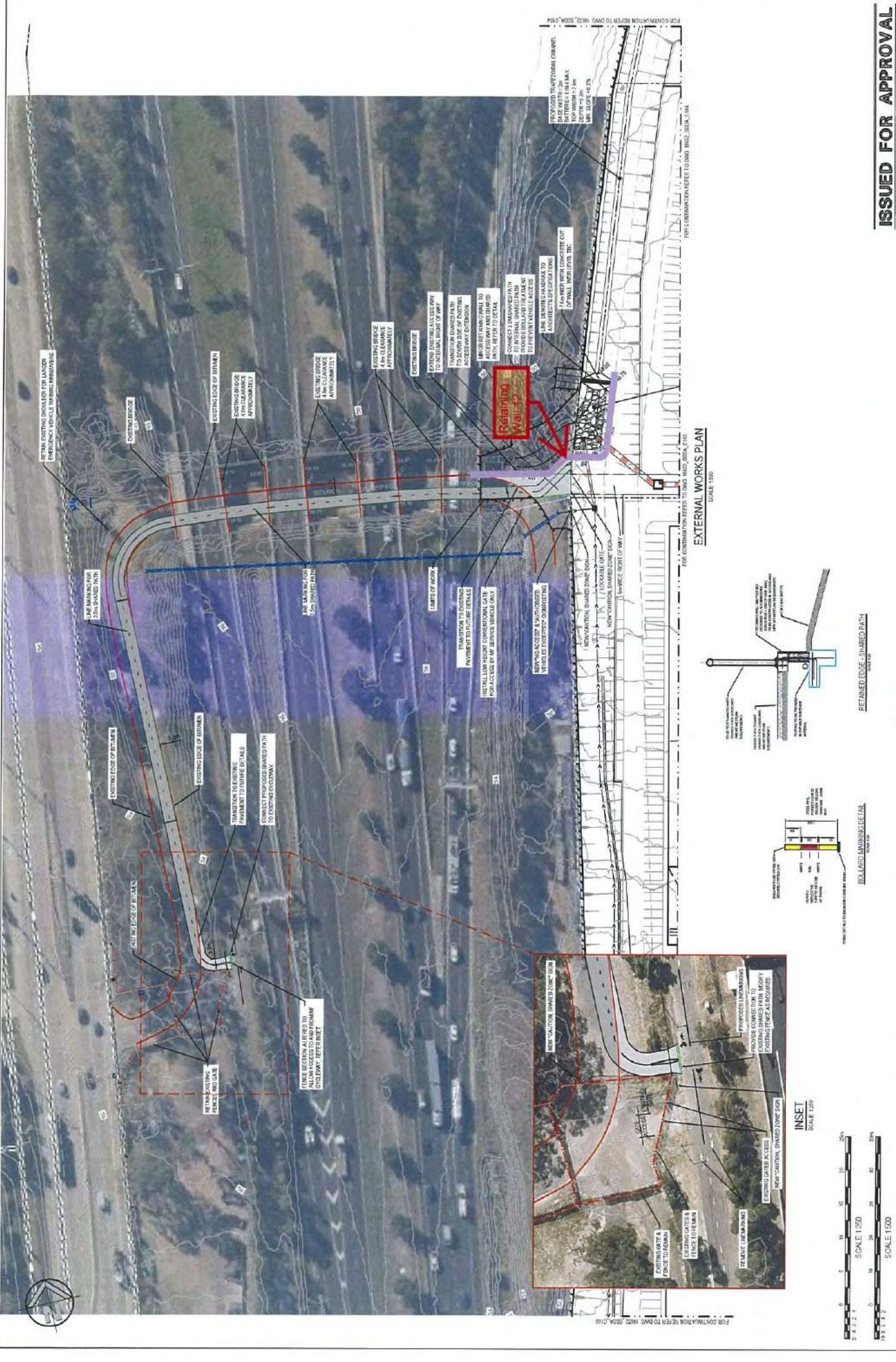


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 SHEET 7 OF 9

Light Horse Interchange Business Hub
 Eastern Creek, NSW (ISSD9667)

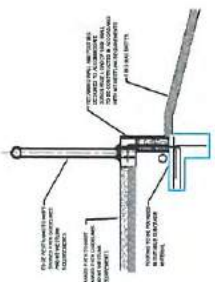
ISSUED FOR APPROVAL

NO	DATE	BY	REVISION
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02	15/05/2024	...	ISSUED FOR APPROVAL
03	15/05/2024	...	ISSUED FOR APPROVAL
04	15/05/2024	...	ISSUED FOR APPROVAL
05	15/05/2024	...	ISSUED FOR APPROVAL
06	15/05/2024	...	ISSUED FOR APPROVAL
07	15/05/2024	...	ISSUED FOR APPROVAL
08	15/05/2024	...	ISSUED FOR APPROVAL
09	15/05/2024	...	ISSUED FOR APPROVAL
10	15/05/2024	...	ISSUED FOR APPROVAL
11	15/05/2024	...	ISSUED FOR APPROVAL

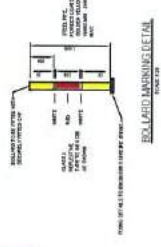


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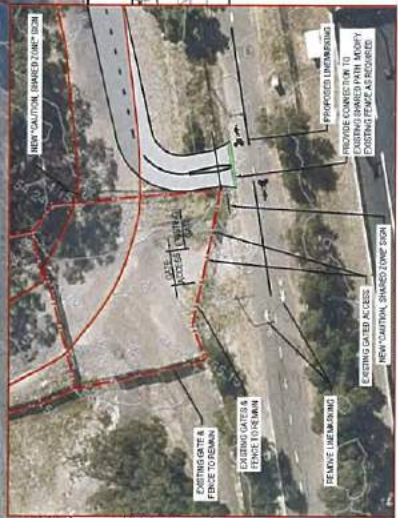
EXTERNAL WORKS PLAN
SCALE 1:500



RETAINING WALL DETAIL
SCALE 1:50



BOLLARD MARKING DETAIL
SCALE 1:50



INSET
SCALE 1:250

ISSUED FOR APPROVAL

PROJECT: LIGHT HORSE INTERCHANGE BUSINESS HUB
EASTERN CREEK, NSW (SSD9867)

CLIENT: WESTERN SYDNEY PARKLANDS TRUST
NETTLETON TRIBE

DATE: 18/05/2024

SCALE: 1:500

FOR CONTINUATION REFER TO DWG: 18652_SSDA_EX01

18652_SSDA_EX01 07

WESTERN SYDNEY PARKLANDS TRUST
NETTLETON TRIBE

DATE: 18/05/2024

SCALE: 1:500

FOR CONTINUATION REFER TO DWG: 18652_SSDA_EX01

Annexure A – Pro Forma Agreement for Ground Lease

Agreement for Ground Lease

Premises: Light Horse Business Hub

Dated

[#insert name of Developer entity] ("Developer")

Western Sydney Parklands Trust ABN 85 202 544 800 ("Landlord")

[#insert name of tenant – To be an Approved Tenant as per the DMA]
("Tenant")

[#insert name of Tenant Guarantor entity] ("Guarantor")

Agreement for Ground Lease

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Agreement for Ground Lease

Details

Parties	Developer, Landlord, Tenant and Guarantor	
Developer	Name	[#To be inserted]
	ACN	[#To be inserted]
	Address	[#To be inserted]
	Telephone	[#To be inserted]
	Email	[#To be inserted]
	Attention	[#To be inserted]
Landlord	Name	Western Sydney Parklands Trust
	ABN	85 202 544 800
	Address	Level 7, 10 Valentine Avenue, Parramatta, NSW 2150
	Telephone	+61 2 9895 7500
	Fax	+61 2 9895 7580
	Email	Kerry.Jahangir@wspt.nsw.gov.com.au
	Attention	Kerry Jahangir
Tenant	Name	[#To be inserted]
	ABN/ACN/ARBN	[#To be inserted]
	Address	[#To be inserted]
	Telephone	[#To be inserted]
	Email	[#To be inserted]
	Attention	[#To be inserted]
Guarantor	Name	The person or persons identified in Item 10 of Schedule 1
Recitals	A	The Landlord has agreed to grant and the Tenant has agreed to take a lease of the Premises.

- B** The Developer has agreed to construct or procure the construction of the Works and otherwise comply with the terms of this agreement.
- C** The Guarantor has agreed to guarantee the obligations of the Tenant under this agreement.

Date of agreement See Signing page

Agreement for Ground Lease

General terms

1 Interpretation

1.1 Definitions

The following words have these meanings in this agreement unless the contrary intention appears:

Access Date means the date set out in Item 6 of Schedule 1.

Approval Date means the date set out in Item 6 of Schedule 1.

Approved Development Proposal has the meaning given to that term in the Development Management Agreement.

Assignment Tests means that a person:

- (a) is not Insolvent;
- (b) (combined with any proposed guarantor) is of sufficient financial standing to perform its relevant obligations under this agreement and the Construction Licence (if applicable) and has equity and/or debt funding available to fund the Works;
- (c) has procured the insurances required under this agreement;
- (d) has not been convicted of a criminal offence which carries a maximum sentence of equal to or more than 12 months in prison or multiple sentences that add up to equal to or more than 12 months in prison;
- (e) has not been the subject of a formal adverse finding by the Independent Commission against Corruption for conduct which, if prosecuted, carries a maximum sentence of equal to or more than 12 months in prison; and
- (f) is otherwise ready, willing and able to carry out the obligations of the relevant party under this agreement.

Authorised Officer means:

- (a) in the case of the Developer, Tenant and Guarantor, a director, secretary or an officer whose title contains the word "manager" or a person performing the functions of any of them; and
- (b) in the case of the Landlord and any other party to this agreement, a person appointed by that party to act as an Authorised Officer for the purpose of this agreement.

Authority means:

- (a) any government department or Minister;
- (b) the Council or any other local government;
- (c) any government or statutory Authority; or

- (d) any other person under a Law who or which has a right to impose a requirement, or whose consent is required, with respect to the Land or the Works.

Bank Guarantee means an unconditional undertaking by an Australian trading bank or insurance company.

Building means the building contemplated by the Works.

Business Day means a day on which trading banks are opened for general banking business in Sydney.

CC Date means the date set out in Item 6 of Schedule 1.

Commencement Date means the first to occur of:

- (a) the date the Tenant commences to use the Premises for the Permitted Use; and
- (b) the day after the later of:
 - (i) the day Practical Completion is achieved; and
 - (ii) the day "Practical Completion" (as contemplated under the Development Management Agreement) of the Site Works (or such of those works as are required to be completed to facilitate the construction of the Works and the use of the Premises) is achieved; and

any alternative date as agreed in writing by the parties.

Construction Bank Guarantee means an irrevocable and unconditional Bank Guarantee in favour of the Landlord for the Construction Bank Guarantee Amount issued by a financial institution with a credit rating not lower than AA-

Construction Bank Guarantee Amount means the Threshold Amount less the Upfront Land Payment.

Construction Certificate has the meaning given to that term under the *Environmental Planning and Assessment Act 1979* (NSW).

Construction Licence means a licence between the Landlord and Developer in respect of the Land permitting access to the Land for the carrying out of the Works.

Control means:

- (a) if the Tenant or Developer (as applicable) is not acting in its capacity as trustee, responsible entity or custodian of a unit trust, the holding of more than 49% of the issued shares of the Tenant or the Developer (as applicable); or
- (b) if the Tenant or Developer (as applicable) is acting in its capacity as trustee, responsible entity or custodian of a unit trust, the holding of more than 49% of the units in the relevant unit trust.

Contamination means the presence in, on or under land, air or water of a substance (whether a soil, liquid, gas, odour, heat, sound, vibration or radiation) at a concentration above the concentration at which the substance is normally present, on or under (respectively) land, air or water in the same locality, being a

presence that presents a risk of harm to human health or any other aspect of the Environment and **Contaminant** has a corresponding meaning;

Costs includes costs, charges and expenses, including those incurred in connection with advisors.

Council means the local government authority set out in Item 2 of Schedule 1 or other relevant development consent authority.

COVID-19 Event means any:

- (a) failure or delay in the availability of materials or equipment; or
- (b) labour shortage or other labour disturbance,

arising from or in connection with COVID-19 or any variation, mutation or derivative of COVID-19.

Date of Part Practical Completion means:

- (a) subject to (b) below, the date when the conditions in part (b)(ii) of the definition of "Commencement Date" in clause 1.1 and clauses 4.4(c)(ii) and 4.4(c)(iii) are satisfied; and
- (b) for the avoidance of doubt, the condition in clause 4.4(c)(i) is not required to be satisfied for the purpose of this definition.

Date for Practical Completion has the meaning given to it in clause 4.4.

Defect Liability Period means a period of 12 months from Practical Completion.

Development Application means an application for Development Consent and includes all documentation required in respect of any such application.

Development Consent means development/planning consent from the Authority for the construction and use of the Works, including by way of modification to the Initial Development Consent.

Development Management Agreement means the development management agreement between the Landlord and the **[insert name of developer under DMA]** (and other parties) dated **[insert]**.

DMA Date means **[insert date of the Development Management Agreement]**.

Employees and Agents means the employees, agents or contractors of any party and includes, for the purposes of clause 18, authorised representatives, consultants and invitees of that party.

Environment includes:

- (c) ecosystems and their constituent parts, including people and communities, natural and physical resources;
- (a) the qualities and characteristics of locations, places and areas; and
- (b) the social, economic, aesthetic and cultural aspects of a thing mentioned in paragraphs (a) or (b).

Escalation Date means the date calculated as:



Expiry Date means the expiry date of the Ground Lease.

External Infrastructure Works has the meaning given to that term in the Development Management Agreement, in so far as those works are within, or for the benefit of, the Land.

FATA means the *Foreign Acquisitions and Takeovers Act 2015 (Cth)*.

FIRB means the Australian Foreign Investment Review Board.

FIRB Clearance means:

- (a) receipt of a No Objection Notification in respect of the Tenant's entry into this agreement and the Ground Lease;
- (b) receipt of an exemption certificate under the FATA that covers the Tenant's entry into this agreement and the Ground Lease; or
- (c) by reason of lapse of time, the Australian Commonwealth Treasurer is no longer empowered to make an order prohibiting the Tenant's entry into this agreement and the Ground Lease under the FATA.

Force Majeure Event means any of the following event:

- (a) earthquake, civil commotion, riot, act of God or the public enemy, sabotage, war, threat of war, demonstrations, insurrections, riots, acts of terrorism or damage caused by articles dropped from an aircraft;
- (b) inclement weather, storm or lightning;
- (c) fire, smoke, flood, water damage, explosion, ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste not caused by the Developer;
- (d) industrial disputes or industrial actions in relation to the Land or the Works;
- (e) latent conditions, including without limitation, contamination of the Land or its surroundings and/or physical conditions on the Land or its surroundings;
- (f) the provisions of any Law or the direction of any Authority with respect to the Land or the Works, except those arising due to any non-compliance by the Developer with its obligations under this agreement;
- (g) any delay by any government, public, statutory, governmental, semi-governmental, local government or judicial body, entity or Authority (including a Minister of the Crown (in any right)) in connection with the Land or the Works;
- (h) failure of:
 - (i) utilities; and/or

- (ii) other plant and equipment;
- (i) damage to goods, plant or equipment relating to the Land or the Works in transportation;
- (j) any blockade, embargo or confiscation by any government, public, statutory, governmental, semi-governmental, local government or judicial body, entity or Authority;
- (k) emergency situation which requires evacuation of the Land; and
- (l) actions of neighbours adjoining the Land or community groups which prevent the Developer from carrying out the Works in accordance with this agreement.

Form of Ground Lease means a lease in the form of annexure "A".

Ground Lease means the ground lease of the Premises in the form of the Form of Ground Lease as completed under clause 2.6.

Ground Rent means the initial ground rent payable under the Ground Lease, being the rent set out in item 5 of Schedule 1, subject to variation in accordance with clauses 2.11 and 3.8.

GST has the same meaning as given to that term under the GST Act.

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

Initial Development Consent means the development consent issued by the Minister for Planning for the development of the Site known as "SSD 9667 Light Horse Interchange Business Hub Eastern Creek".

Interim Occupation Licence means a licence in the form of annexure "B".

Insolvent means in relation to a body corporate:

- (a) a "controller" (as defined in the Corporations Act 2001 (Cth)), Manager, Trustee, Receiver, Receiver and Manager, Administrator or similar officer is appointed in respect of the body corporate or any asset of the body corporate;
- (b) a liquidator or provisional liquidator is appointed in respect of the body corporate;
- (c) an application is made to the court for an order, a court makes an order, a meeting is convened or a resolution is passed, for the purpose of:
 - (i) appointing a person referred to in paragraph (a) or (b);
 - (ii) winding up or deregistering the body corporate; or
 - (iii) proposing or implementing a scheme of arrangement (other than a scheme of arrangement relating to a reconstruction or amalgamation while solvent),

other than an application which is withdrawn, dismissed or set aside within 21 days after it is made; and
- (d) the body corporate enters into, resolves to enter into or proposes a reorganisation, moratorium or other form of administration involving an arrangement, composition or compromise with, or assignment for the

benefit of, its creditors generally or any class of them, other than for the purposes of a reconstruction or amalgamation while solvent.

Internal Site Works has the meaning given to that term in the Development Management Agreement, in so far as those works are within, or for the benefit of, the Land.

Land means the land referred to in Item 4 of Schedule 1.

Law means:

- (a) Commonwealth and State legislation, including regulations, by-laws and other subordinate legislation;
- (b) common law and equity; and
- (c) Authority requirements.

LHBH means the Light Horse Business Hub at the intersection of the M4 and M7 Motorways in Eastern Creek.

Net Land Payment has the meaning given to that term in the Development Management Agreement.

Occupancy Permit means such certificate, permit, document or letter issued by the appropriate Authority which is required by Law before the Premises may be lawfully occupied.

Payment Sunset Date means the date set out in Item 6 of Schedule 1, as extended under this Agreement.

Plans and Specifications means the plans, specifications and schedules of finishes set out in Schedule 2 as may be varied under clause 4.2.

Practical Completion means the stage of completion of the Works described in clause 4.4(c).

Premises means the whole of the Land, including the Building and any other improvements on the Land.

Project Consents means all necessary permits, consents and approvals from Council and any Authority for the construction of the Works, including development and building approvals.

Project Manager means the person referred to in Item 1 of Schedule 1 or any other project manager appointed by the Developer for the purpose of this agreement.

Provision of Interim Access has the meaning given to it in clause 3.1(a)(iii).

Related Body Corporate means has the meaning given to that term under the *Corporations Act 2001* (Cth).

Security Interest includes:

- (a) a mortgage, charge, lien or pledge or any other right by way of security; and
- (b) a security interest within the meaning of section 12(1) of the *Personal Properties Securities Act 2009* (Cth).

Services means all services and utilities to or of the Premises or the Land provided by Authorities, the Landlord or the Developer, including (but not limited to) power, water, gas, telecommunications, fire services, sewerage, trade waste removal and similar utility services.

Site Works means the External Infrastructure Works and the Internal Site Works combined.

Subdivision Application means an application for the Subdivision Approval and includes all documentation required in respect of any such application.

Subdivision Approval means all necessary approvals for registration of the Subdivision Plan.

Subdivision Date means the date set out in Item 6 of Schedule 1.

Subdivision Plan means the plan in Schedule 3, with such variations as are necessary to enable registration and which have been approved in writing by the Owner (acting reasonably).

Substantial Commencement of Construction means the stage of physical works whereby the footings for construction have been placed on the Land by the Developer (or a relevant appointed subcontractor).

Tax Invoice means a tax invoice that complies with the GST Act.

Termination Event has the meaning given to it in clause 6.1.

Threshold Amount means [REDACTED] being \$[#insert amount].

Transaction Document means this agreement, the Ground Lease and the Construction Licence.

Unusual Conditions means each of the condition or conditions of a Development Consent that are not acceptable to the Developer and/or the Landlord and/or the Tenant as set out in Schedule 4 ("Unusual conditions").

Upfront Land Payment means the amount specified in item 5 of Schedule 1 subject to variation in accordance with clause 3.8.

Works means the works set out in the Plans and Specifications, as may be varied under clause 4.2 (but not including the Internal Site Works or the External Infrastructure Works).

WSPT Act means *Western Sydney Parklands Act 2006* (NSW).

1.2 Interpretation

- (a) Words which begin with a capital letter and are not defined in this agreement but are defined in the Ground Lease have the same meaning in this agreement as in the Ground Lease.
- (b) In this agreement unless the contrary intention appears:
 - (i) a reference to this agreement or another instrument includes any variation or replacement of any of them; and
 - (ii) 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;
and

- (iii) the singular includes the plural and vice versa; and
- (iv) the word "person" includes a firm, a body corporate, an unincorporated association or an Authority; and
- (v) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns; and
- (vi) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally; and
- (vii) any body (other than a party to this Agreement) which ceases to exist, is reconstituted, renamed or replaced or has its powers transferred, refers to the body established in its place or which serves substantially the same objects as or succeeds to its powers; and
- (viii) an agreement, representation or warranty on the part of two or more persons binds them jointly and severally; and
- (ix) a reference to any thing (including, without limitation, any amount) is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually.

1.3 Headings

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

2 Agreement to grant Ground Lease

2.1 Grant

The Landlord agrees to grant and the Tenant agrees to accept the grant of the Ground Lease from and including the Commencement Date.

2.2 Delivery of Form of Ground Lease to the Developer

The Landlord must deliver to the Developer with this agreement, the Form of Ground Lease in triplicate executed by the Landlord to be executed by the Tenant and then held in escrow by the Developer.

2.3 Delivery of Form of Ground Lease to the Tenant

Within 10 Business Days from the date of this agreement, the Developer must deliver to the Tenant the Form of Ground Lease received from the Landlord under clause 2.2.

2.4 Delivery of Form of Ground Lease

Within 10 Business Days of receipt of the Form of Ground Lease under clause 2.3, the Tenant must deliver to the Developer the Form of Ground Lease in triplicate executed by the Tenant and the Guarantor to be held in escrow by the Developer.

2.5 Not used

2.6 Completion of Form of Ground Lease

Within 14 Business Days after the Commencement Date, the Developer or its solicitors may:

- (a) complete the Form of Ground Lease by filling in its blank spaces including, without limitation, those for:
 - (i) the Commencement Date;
 - (ii) the Expiry Date;
 - (iii) the Ground Rent;
 - (iv) the current title particulars of the Land;
 - (v) the current title particulars of all land within the LHDH; and
 - (vi) the Tenant's guarantor (if any);
- (b) include the Tenant and/or the Guarantor's limitation of liability, provided that the Ground Lease includes warranties by the Tenant and/or Guarantor (as applicable) in their capacity as trustee, responsible entity or custodian of the Tenant and/or Guarantor (if applicable) that it is the holder of the assets of the relevant trust, that (in the case of the Tenant) its interest in the Land will be an asset of the relevant trust and that the Tenant and/or Guarantor (as applicable) is and will be entitled to be indemnified out of the assets of the relevant trust in relation to its obligations under the Ground Lease (but subject to the usual exclusions);
- (c) include the relevant plans in Schedule 2 of the Form of Ground Lease; and
- (d) do anything else to the Form of Ground Lease necessary to complete the Form of Ground Lease as the Ground Lease.

2.7 Stamping

- (a) The Tenant must stamp this agreement and the Ground Lease as soon as reasonably practicable after the date of this agreement.
- (b) The Tenant must register the Ground Lease.
- (c) The Landlord must do all things required by the Tenant to assist the Tenant to stamp and register the Ground Lease.

2.8 Parties bound

The Landlord and the Tenant are bound by the Ground Lease from and including the Commencement Date, even though a party may not have executed the Ground Lease.

2.9 Consents

The Landlord must obtain any necessary mortgagee's consents to this agreement and the Ground Lease promptly after the date of this agreement.

2.10 Caveats

The Tenant may lodge a caveat on title to the Land in respect of its interest under this agreement. The Tenant must, when requested to do so by the Landlord or the Developer, promptly provide written consent in the form required by New

South Wales Land Registry Services to the lodgement of any dealing or plan which will not materially adversely affect the Tenant's rights under this agreement or the Ground Lease.

2.11 Escalation of Ground Rent

If the Ground Lease commences on a date that falls after the Escalation Date, then:

- (a) the Ground Rent is to be the rent that should have been payable had the Ground Lease commenced and the Ground Rent become payable on the Escalation Date; and
- (b) the Developer must amend (and the Landlord and Tenant authorise the Developer to amend) the executed form of Ground Lease to insert the new Ground Rent.

2.12 Acquisition by Authority

If, at any time prior to the Commencement Date part or parts of the Land ("**Relevant Part**") is acquired, or reserved for acquisition, by an Authority with the effect that WSPT is not able to grant the Lease over the Relevant Part on the Commencement Date then, despite any other provision of this agreement or the Form of Lease, the parties agree:

- (a) the Land is varied to exclude the Relevant Part;
- (b) the Upfront Land Payment and Ground Rent must be recalculated in accordance with Schedule 4 of the Development Management Agreement to reflect that the area of the Land has been reduced by the area of the Relevant Part; and
- (c) if:
 - (i) the Tenant has paid the Upfront Land Payment to the Developer; and
 - (ii) the Developer has paid the Net Land Payment to the Owner,then:
 - (iii) the Owner must promptly pay to the Developer the difference between the original Upfront Land Payment and the adjusted Upfront Land Payment ("**Difference**"); and
 - (iv) upon receipt of the payment from the Owner under clause 2.12(c)(iii), the Developer must promptly pay to the Tenant the Difference.

3 Conditions subsequent

3.1 Agreement for lease is conditional

- (a) This agreement is subject to and conditional on the following:
 - (ii) the Developer obtaining the Development Consent (including environmental conditions) by the Approval Date on conditions acceptable to the Developer, Landlord and Tenant (all acting reasonably) in accordance with clause 3.3;
 - (iii) the Developer obtaining the Subdivision Approval by the Subdivision Date on conditions acceptable to the Developer,

Landlord and Tenant (all acting reasonably) in accordance with clause 3.3;

- (iv) the Landlord providing the Developer with interim access to the Premises sufficient for the purpose of the Developer undertaking the Works and the Site Works ("**Provision of Interim Access**") by the Access Date;
 - (v) the Developer providing the Landlord with evidence of the insurances in accordance with clause 10(b) by the CC Date;
 - (vi) the Developer obtaining the Construction Certificate to commence the Works by the CC Date; and
 - (vii) subject to clause 3.1(b), the Developer delivering the Construction Bank Guarantee to the Landlord by the CC Date.
- (b) The Developer and Landlord agree that if the Upfront Land Payment is greater than the Threshold Amount, then the condition subsequent in clause 3.1(a)(vii) and clause 8 does not apply.
- (c) Clauses 2.1, 2.6, 2.8, 4, 6, 8 and 10 will have no effect and the parties will have no obligations under such clauses until the conditions subsequent in clause 3.1(a) are satisfied.

3.2 Development Application and Subdivision Application

- (a) As soon as reasonably practicable after the date of this agreement, the Developer must at its cost prepare and submit the Development Application and Subdivision Application to the relevant Authority for approval.
- (c) The Development Application and Subdivision Application must be prepared in a manner generally consistent with the Plans and Specifications (including any concept plans).
- (d) The Developer is responsible for the cost of preparing the Development Application and Subdivision Application.
- (e) Before submitting the Development Application and Subdivision Application to the relevant Authority, the Developer must obtain the Landlord's consent. The Landlord, as landowner, must not unreasonably withhold or delay its consent to the Development Application and Subdivision Application if the Development Application or Subdivision Approval (as relevant) is consistent with the "Approved Development Proposal" and "Development Masterplan" (as those terms are defined in the Development Management Agreement) and does not contain elements which, in the Landlord's reasonable opinion, could result in an Unusual Condition.
- (f) The Developer must use reasonable endeavours to obtain:
 - (i) the Development Consent by the Approval Date; and
 - (ii) the Subdivision Approval by the Subdivision Date.

3.3 Development Consent and Subdivision Approval

- (a) Within 10 Business Days after receiving a Development Consent or Subdivision Approval from the relevant Authority the Developer must provide a copy of that consent or approval to the Landlord and Tenant.
- (b) Within 10 Business Days after receiving a copy of the Development Consent or Subdivision Approval under clause 3.3(a), the Landlord must notify the Developer and Tenant whether or not that consent or approval is on conditions acceptable to the Landlord.
- (c) Within 10 Business Days after receiving a copy of the Development Consent or Subdivision Approval under clause 3.3(a), the Tenant must notify the Developer and Landlord whether or not that consent or approval is on conditions acceptable to the Tenant.
- (d) Within 20 Business Days after the date the Developer receives a Development Consent or Subdivision Approval from the relevant Authority, the Developer must notify the Landlord and Tenant whether or not the relevant consent or approval is on conditions acceptable to the Developer.
- (e) The Developer, Landlord and Tenant must not reject the Development Consent or Subdivision Approval unless the Development Consent or Subdivision Approval are on conditions that are the relevant party's Unusual Conditions.
- (f) Despite clause 3.3(e) and despite anything else in this agreement, the parties agree that the Developer is entitled to reject a Development Consent or Subdivision Approval if the Tenant has notified the Developer in accordance with clause 3.3(e) that the Development Consent or Subdivision Approval is not on conditions acceptable to the Tenant.

3.4 Construction Certificate

- (a) The Developer must use reasonable endeavours to obtain the Construction Certificate by the CC Date.
- (b) Within 5 Business Days after receiving the Construction Certificate from the relevant Authority or relevant accredited private certifier, the Developer must provide a copy of that certificate to the Landlord and the Tenant.

3.5 Landlord's works

The Landlord must ensure Provision of Interim Access by the Access Date.

3.6 Extensions of dates

- (a) Prior to Substantial Commencement of Construction, but subject to clause 3.6(d), the Approval Date, Subdivision Date, CC Date and Payment Sunset Date will, if requested by the Developer, be extended by one day for each day of delay caused by:
 - (i) an Authority including in respect of necessary consents and approvals to enable registration of plans;
 - (ii) a Force Majeure Event;
 - (iii) legal proceedings other than proceedings brought against the Developer as a result of any default or omission by the Developer or the failure of the Developer to comply with its

obligations in this agreement or the requirements of any Authority; and

- (iv) a breach of this agreement by the Landlord;
- (b) If prior to the Payment Sunset Date (as extended under this agreement) the program for the carrying out of the Works is delayed by a COVID-19 Event, the Payment Sunset Date, subject to clause 3.6(d), will if requested by the Developer be extended by one day for each day of such delay.
- (c) On and from the commencement date of the Construction Licence, but subject to clause 3.6(d), the Date for Practical Completion will, if requested by the Developer, be extended by one day for each day of delay affecting the program for the carrying out of the Works caused by:
- (i) a COVID-19 Event;
 - (ii) delays caused by an Authority including in respect of necessary consents and approvals to enable registration of plans;
 - (iii) legal proceedings which necessitate a cessation of the Works;
 - (iv) inclement weather;
 - (v) state-wide civil commotion, strikes and overtime bans;
 - (vi) bushfire, flooding, earthquake, hail and acts of God;
 - (vii) latent conditions not reasonably discoverable under due diligence;
 - (viii) discovery of relics;
 - (ix) Contamination remediation not arising out of the activities of the Developer;
 - (x) alteration to an agreed program for the Works required by the Landlord;
 - (xi) a Force Majeure Event; and
 - (xii) a breach of this agreement by the Landlord.
- (d) Despite clauses 3.6(a), (b) and (c):
- (i) extension of time will not apply if the Developer was responsible for or contributed to the delay arising;
 - (ii) extensions of time will only be granted where the Developer has provided the Landlord with details of the delay as soon as practicable after the delay arising;
 - (iii) except as otherwise provided in clause 3.6(b), the events for which an extension of time may be claimed prior to Substantial Commencement of Construction are limited to the events referred to in clause 3.6(a);
 - (iv) the events for which an extension of time may be claimed on and from Substantial Commencement of Construction are limited to the events referred to in clause 3.6(c);

- (v) no extension of time will apply for delays arising out of events which have arisen as a result of the breach of the Developer;
 - (vi) no extension of time will apply if the Developer has failed to use reasonable endeavours to minimise to cause or duration of the delay;
 - (vii) no extension of time will apply to matters that do not result in an actual delay to the program for the carrying out of the Works; and
 - (viii) no extension of time will apply to events the consequences of which could have reasonably been avoided by the Developer taking reasonable commercial steps.
- (e) If the Approval Date, the Subdivision Date, the CC Date the Payment Sunset Date or the Date for Practical Completion is extended under paragraph (a) or (b), the Developer must notify each other party to this agreement in writing of the relevant delay as soon as practicable after commencement of the relevant delay, and must notify each other party to this agreement in writing as soon as reasonably practicable after the expiry of the relevant period of delay of such expiry and of the total number of days by which the relevant date has been extended.

3.7 Termination

- (a) Subject to clause 3.7(b), if a condition in clause 3.1(a) is not satisfied by the relevant date (as extended under this agreement), the Developer or Landlord or Tenant may terminate this agreement by notice to each other party to this agreement, after the relevant date but before that relevant condition is satisfied.
- (b) If:
- (i) the Landlord or Tenant reject the Development Consent or Subdivision Approval in accordance with clause 3.3(e); and
 - (ii) the Developer does not procure the relevant Authority to amend the Development Consent or Subdivision Approval to address the reason for the Landlord or Tenant's rejection of the Development Consent or Subdivision Approval within 90 days of the giving of the Landlord's or Tenant's notice of rejection of Development Consent or Subdivision Approval in accordance with clause 3.3,
- then the Developer, the Landlord or Tenant may terminate this agreement by notice to each other party to this agreement.
- (c) If this agreement is terminated under this clause 3.7, then each party releases each other party from liability or loss arising in connection with the termination of this agreement.

3.8 Calculation of Ground Rent and Upfront Land Payment

- (a) When the conditions in clause 3.1(a) have been satisfied, and if an anniversary of the Effective Date has occurred between the date of this agreement and the date on which the conditions were satisfied, the Developer must give written notice to the Landlord and Tenant specifying the amount of the Upfront Land Payment and the amount of the Ground Rent. The amounts will be the amounts specified in item 5 of Schedule 1 increased to reflect any increase in the Lease Value Rate in accordance

with clause 1.2 of Part 1 of Schedule 4 of the Development Management Agreement.

3.9 Upfront Land Payment

- (a) The Developer must give written notice to the Landlord and Tenant:
 - (i) promptly after the date on which the conditions in clause 3.1(a) are satisfied, together with a tax invoice for the Upfront Land Payment addressed to the Tenant; and
 - (ii) of the estimated date that the Developer (or a relevant appointed subcontractor) will commence physical development works on the Land.
- (b) The Tenant must pay the Upfront Land Payment to the Developer on the earlier of:
 - (i) the date that is 15 Business Days prior to the date for commencement of physical development works specified in the Developer's notice under clause 3.9(a); and
 - (ii) 15 Business Days prior to the date that is three months after the giving of the Developer's notice and tax invoice under clause 3.9(a).
- (c) The parties acknowledge and agree that:
 - (i) nothing in this clause limits the Developer's obligations to pay the Net Land Payment to the Landlord (as Owner) in accordance with the timeframes required by the Development Management Agreement; and
 - (ii) the Developer may not commence the Works until the Developer has paid the Net Land Payment to the Landlord pursuant to the Development Management Agreement.

3.10 Construction Licence

- (a) The parties acknowledge that the Landlord and Developer have entered into the Construction Licence on or about the date of this agreement.

4 Works

4.1 Manner of works

- (a) The Developer must procure that the Works:
 - (i) are done in a proper and workmanlike manner;
 - (ii) are executed using new materials unless otherwise specified in the Works; and
 - (iii) are constructed generally in accordance with the Plans and Specifications and Project Consents.
- (b) In carrying out the Works, the Developer must:
 - (i) use reasonable endeavours to obtain all Project Consents; and
 - (ii) comply with all Project Consents and all Laws including all laws relating to work health and safety.

4.1A Principal Contractor

- (a) The Landlord agrees that the Developer is the principal contractor and authorises the Developer to:
 - (i) have management or control of the Land; and
 - (ii) discharge the duties imposed on the principal contractor for the Works under the Work, Health and Safety Regulations 2011 (NSW).
- (b) The Developer:
 - (i) accepts that it is the principal contractor under clause 4.1A(a); and
 - (ii) shall discharge the duties imposed on the principal contractor for the Works under the Work, Health and Safety Regulations 2011 (NSW) (regardless of whether that engagement is effective).

4.2 Changes to Plans and Specifications and Works

- (a) The Developer may make any changes to the Plans and Specifications or the Works that:
 - (i) it considers necessary or desirable; or
 - (ii) are required by the Council or any other Authority.
- (b) Despite clause 4.2(a), the Developer must obtain the prior written consent of the Landlord (not to be unreasonably withheld) before making any changes that materially affects the Plans and Specifications or the Works.

4.3 Inspection of Works

- (a) Upon giving reasonable notice to the Developer, the Landlord may at reasonable times inspect the Works.
- (b) In exercising its rights under this clause 4.3, the Landlord:
 - (i) must not (and must ensure its Employees and Agents do not) hinder or delay the Works; and
 - (ii) must (and must ensure its Employees and Agents) comply with the Developer's reasonable directions.

4.4 Practical Completion

- (a) The Developer must use reasonable endeavours to achieve Practical Completion as soon as reasonably practicable following satisfaction of all of the conditions subsequent in clause 3.1 ("**Date for Practical Completion**").
- (b) The Developer must notify the Landlord and the Tenant of the Developer's estimated date of Practical Completion at least 7 days before that estimated date.

- (c) Practical Completion is achieved when:
 - (i) the Subdivision Plan is registered at the New South Wales Land Registry Services, and a separate Certificate of Title for the Land is issued; and
 - (ii) the Project Manager (acting as an independent certifier and fairly and reasonably to both parties) certifies that the Works are substantially complete except for minor omissions and defects which do not prevent the Premises from being reasonably capable of being used for their intended purpose without reasonable interruption or interference by the Developer; and
 - (iii) the Landlord and Tenant are provided with a copy of the Occupancy Permit (as it applies to all Works other than the Services).
- (d) The Developer must cause the Project Manager to make his or her determination under clause 4.4(c) as an independent certifier, acting fairly and reasonably to both parties.
- (e) The Developer must keep the Landlord informed in writing of progress with the Works and must promptly notify the Landlord in writing when Practical Completion has been achieved and the date of Practical Completion.

4.5 Appointment of Project Manager

The Developer must appoint or engage the Project Manager as soon as reasonably practicable after the date of this agreement.

4.6 Ownership of fixtures

- (a) The Landlord acknowledges that:
 - (i) the Developer will undertake and complete the Works in accordance with this agreement; and
 - (ii) the Tenant will pay certain amounts to the Developer for the construction and completion of the Works.
- (b) Other than as required by Law, and subject to clause 6.3, the parties acknowledge that all improvements forming part of the Works that are constructed on the Land will be owned by the Tenant until expiry or earlier determination of the Ground Lease.

4.7 Defects rectification

Without limiting any provision in the Ground Lease, the Developer must rectify any defects or omissions in the Works which become apparent during the Defect Liability Period.

5 Encumbrance and assignment

5.1 Developer may alienate

- (a) The Developer must not assign or dispose of any right, interest, duty or obligation under this agreement to any person, firm or corporation.

- (b) An assignment of the Developer's interest under this agreement shall be deemed not to be a breach of clause 5.1(a) if:
- (i) the Developer has given the Landlord and Tenant at least one month's notice in writing of the proposed assignment together with details of the parties and a copy of all proposed documentation and all other relevant information; and
 - (ii) the Developer is not in default (of which it has notice) under this agreement, unless the default is waived by the Landlord or Tenant; and
 - (iii) the Developer establishes to the Landlord's satisfaction that any proposed assignee has demonstrable experience in successfully delivering and marketing comparable developments to the Development and is able to fulfil the Tenant's obligations under the AFGL; and
 - (iv) the Developer establishes to the Landlord's satisfaction that any proposed assignee meets each of the Assignment Tests; and
 - (v) the Developer, Tenant, assignee, any guarantor of the proposed assignee (if applicable) and Guarantor enter into a deed in the form reasonably required by the Landlord, Tenant and Developer under which (amongst other things):
 - (A) the assignee agrees to perform all of the Developer's express and implied obligations under this agreement, and (if applicable) the proposed guarantor agrees to guarantee the proposed assignee's obligations under this agreement;
 - (B) the Developer releases the Landlord, Tenant and Guarantor from all obligations under this agreement from the date of assignment except in respect of any claim(s) that have arisen before the date of assignment;
 - (C) the Landlord, Tenant and Guarantor release the Developer from all obligations under this agreement from the date of assignment;
 - (D) despite paragraph (C), if there is an assignment of the Developer's rights or obligations under this agreement to a Related Body Corporate of the Developer and the Developer does not satisfy the condition in clause 5.1(b)(iii), the Developer acknowledges that it is not released from its obligations under this agreement from the date of the assignment;
 - (E) the Tenant acknowledges that its obligations under this agreement continue to apply;
 - (F) the Guarantor acknowledges that the guarantee previously given by it of the obligations of the Tenant under this agreement continues to apply; and
 - (G) the assignee's and its guarantor's (if applicable) limitation of liability is included, provided that the limitation of liability includes warranties by the assignee and guarantor (if applicable) in their capacity as trustee, responsible entity or custodian of the assignee and

guarantor (if applicable) that it is the holder of the assets of the relevant trust, that (in the case of the assignee) its interest in this agreement and in the Premises will be assets of the relevant trust and that the assignee and guarantor (if applicable) is and will be entitled to be indemnified out of the assets of the relevant trust in relation to its obligations under or in relation to this agreement and the Construction Licence (but subject to the usual exclusions).

- (c) Despite the provisions of clause 5.1(b):
- (i) the Developer need not satisfy the conditions in clause 5.1(b)(iii) and 5.1(b)(iv) in relation to an assignment of the Developer's rights or obligations under this agreement to a Related Body Corporate of the Developer (including in relation to a solvent reconstruction); and
 - (ii) if the conditions in clause 5.1(b)(iii) and 5.1(b)(iv) are not satisfied, such assignment shall not release or diminish the obligations of the Developer under this agreement.

- (d) The parties agree that if the Developer:
- (i) elects to satisfy clauses 5.1(b)(iii) and 5.1(b)(iv) in relation to a proposed assignment to a Related Body Corporate of the Developer (including in relation to a solvent reconstruction); and
 - (ii) satisfies clauses 5.1(b)(iii) and 5.1(b)(iv) in respect of such assignment,

then clause 5.1(c) does not apply in respect of such assignment.

The Landlord, Tenant and Guarantor must execute the deed referred to in clause 5.1(b)(v) in a timely manner.

- (e) The Developer will pay to the Landlord all reasonable costs of and incidental to enquiries concerning the proposed dealing or persons concerned in such dealing and of the perusal, negotiation and preparation of all documents and obtaining mortgagee's consent to such documents reasonably required by the Landlord and all mortgagee consent fees.
- (f) If the Developer assigns its interest under this agreement to an assignee in accordance with clause 5.1, the Developer is deemed to have also assigned its interest under the Construction Licence to the relevant assignee.

5.2 Change in Control – Developer

If there is a proposed change in Control of the Developer and the Developer is not:

- (a) a company; or
- (b) a trustee, responsible entity or custodian of a unit trust,

that is listed on the Australian Stock Exchange or any other recognised stock exchange, then: