EXECUTION VERSION

Barangaroo Stage 1

Fifth Deed of Amendment to Project Development Agreement

Barangaroo Delivery Authority
Authority

Lend Lease (Millers Point) Pty Limited
Developer

Lend Lease Corporation Limited
Guarantor

GIPA Version July 2015

Note: This document is a consolidated version of the Project Development Agreement incorporating amendments of the Barangaroo Temporary Cruise Terminal Project Management Agreement and the First, Second, Third, Fourth and Fifth Amending Deed.

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Our reference 170/15661/80104595

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Fifth Deed of Amendment to Project Development Agreement

Date 27 MAY 2015

Parties

Barangaroo Delivery Authority ABN 94 567 807 277, a NSW government agency constituted under the Barangaroo Delivery Authority Act 2009 (NSW) of Level 21, AON/Maritime Trade Towers, 201 Kent Street, Sydney NSW 2000 (**Authority**)

Lend Lease (Millers Point) Pty Limited ABN 15 127 727 502 (**Developer**) of Level 5, 30 The Bond, 30 Hickson Road, Millers Point NSW 2000 as trustee of the Lend Lease Millers Point Trust ABN 96 367 164 319

Lend Lease Corporation Limited ABN 32 000 226 228 (**Guarantor**) of Level 5, 30 The Bond, 30 Hickson Road, Millers Point NSW 2000

Background

A. The parties have entered into the Project Development Agreement.

B. The parties have agreed to amend the Project Development Agreement on the terms of this deed.

C. The parties acknowledge that the prior written consents of certain of the Developer's investors and the financiers of those investors, were obtained before the date of this deed.

Operative provisions

1. Interpretation

1.1 Definitions

In this deed:

Project Development Agreement means the "Barangaroo Stage 1 – Project Development Agreement" dated 5 March 2010 between the Authority, the Developer and the Guarantor, as varied by:

(a) the Project Management Agreement;

(b) the First Deed of Amendment dated 8 June 2010 between the Authority, the Developer and the Guarantor;

(c) the Second Deed of Amendment dated 30 July 2010 between the Authority, the Developer and the Guarantor;

(d) the Third Deed of Amendment dated 23 December 2010 between the Authority, the Developer and the Guarantor; and

(e) the Fourth Deed of Amendment dated 14 June 2012 between the Authority, the Developer and the Guarantor.

Project Management Agreement means the agreement so named and dated 1 April 2010 between the Authority, the Developer and the Guarantor, in respect of the Temporary Cruise Terminal Works.

Unless the contrary intention appears, words and phrases which are not defined in this deed have the meanings given them in the Project Development Agreement.

1.2 Interpretation

Clauses 1.2 to 1.6 (Interpretation) and 57 (General) of the Project Development Agreement apply to this deed as if they were contained in this deed.

2. Amendment

2.1 Copy Project Development Agreement annexed

On and from the date of this deed, the Project Development Agreement is amended as shown in mark-up in the document annexed to this deed with schedules and annexures to the Project Development Agreement updated as included in that document.

2.2 Previous Amendments

The parties acknowledge that the document annexed to this deed includes amendments previously made to the Project Development Agreement in its original form, as made by the documents referred to in paragraphs (a) to (e) (both inclusive) of the definition of 'Project Development Agreement' in this deed.

3. Confirmation

3.1 Project Development Agreement

The parties confirm that the terms of the Project Development Agreement, as amended by this deed, are and continue to be in full force and effect.

3.2 Ratification by Guarantor

The Guarantor separately confirms and ratifies each of its obligations under the guarantee and indemnity contained in clause 49 of the Project Development Agreement as amended by this deed.

Executed as a deed.

The seal of **Barangaroo Delivery Authority** is affixed by authority of the Chief Executive Officer in the presence of:

R. A. Finlay

Signature of witness

Signature of Chief Executive Officer

RONALD A FINLAY

Name of witness

CRAIG VAN DER LAAN

Full name of Chief Executive Officer

Signed, sealed and delivered for and on behalf of **Lend Lease (Millers Point) Pty Limited ABN 15 127 727 502** as trustee of the Lend Lease Millers Point Trust ABN 96 367 164 319 by its attorney under a power of attorney dated 27 February 2015 registered Book 4682 No 945 in the presence of:

Signature of witness

SONYA LOUISE HARRIS

Full name of witness

Signature of attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

David Andrew Wilson

Full name of attorney

Signed, sealed and delivered for and on behalf of **Lend Lease Corporation Limited ABN 32 000 226 228** by its attorneys under a power of attorney dated 27 February 2015 registered Book 4682 No 944 in the presence of:

Signature of witness

SONYA L HARRIS.

Full name of witness

Signature of attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

David Andrew Wilson

Full name of attorney

Signature of attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

THOMAS LACHLAN MACKELLAR

Full name of attorney

FIFTH DEED OF AMENDMENT: BASE VERSION OF PDA

Barangaroo Stage 1 Project Development Agreement

Barangaroo Delivery Authority
Authority

Lend Lease (Millers Point) Pty Limited
Developer

Lend Lease Corporation Limited
Guarantor

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Our reference 170/15661/80104595

Contents

1. Definitions and interpretation 1

1.1 Definitions 1
1.2 References to certain general terms 49
1.3 Numbers 50
1.4 Headings 50
1.5 Developer's Employees and Agents 50
1.6 Ambiguity and inconsistency 50

2. Objectives and risks 50

2.1 Barangaroo Project Objectives 50
2.2 Stage 1 Project Objectives 51
2.3 Project Risks 52
2.4 Risk of other developments 52
2.5 Central Barangaroo Sight Lines 52
2.6 No reliance on Disclosure Materials 53
2.7 Authority exercising statutory powers 53
2.8 Risk Allocation Table 54

3. Refined Proposal Condition 54

4. Developer payments 54

4.1A [redacted] 54
4.1 Total Payment Amount 54
4.2 Total Payment Amount Instalments 54
4.3 Not used 57
4.4 Not used 57
4.5 Not used 57
4.5A Authority Payments 57
4.6 Public Authority Levies 58
4.7 Outgoings and other liabilities 58
4.8 Payment of Outgoings despite termination 58
4.9 Authority's right to reimbursement 58
4.10 Indemnity for refund 59
4.11 Additional payment 59
4.12 [redacted] 59

5. Offer - Developer Contributions 59

5.1 Offer 59
5.2 Developer Contributions 59
5.3 Works Portion Development Cost Amount 60
5.4 Authority to consider 60
5.5 Authority's discretion 61
5.6 Failure to provide a Developer's Statement 62
5.7 Assist Authority 62
5.8 Developer subsequently provides a Developer's Statement 62
5.9 Inconsistency 64
5.10 Acknowledgements 64
5.11 Security 64

6. Public Art and Cultural Development Contribution 64

6.1 Public Art and Cultural Development Contribution 64
6.2 Works Portion Development Cost Amount 66
6.3 Delivery of Integrated Public Art 67
6.4 Reconciliation of Public Art and Cultural Development Contribution 68
6.5 Security for Integrated Public Art in external public spaces 69
6.6 Audit 69
6.7 Arts and Culture Panel 70
6.8 Arts and Culture Panel and Developer must co-operate 70
6.9 Developer not to remove Integrated Public Art 70

6.10 Security 70

7. Management Committee 71

7.1 Outline of Management Committee's responsibilities 71
7.1A Department of Premier and Cabinet attendee 71
7.2 Powers of Management Committee 71
7.3 Management Committee reports 72
7.4 Appointment of Authority members 72
7.5 Appointment of Developer members 73
7.6 Appointment of independent chairperson 73
7.7 Instrument of appointment, removal or replacement 73
7.8 Tenure of appointment 74
7.9 Vacation of membership 74
7.10 Management Committee's decisions 74
7.11 Meetings of Management Committee 74
7.12 Remediation and Vacation Works Program and Staging Plans 75

8. Preparation of Applications 77

8.1 Developer to prepare Applications 77
8.2 Design responsibility 77
8.3 Further development of Agreed Design Documents 77
8.4 Requirements for proposed Applications 77
8.5 Consistency 78
8.6 Authority's review of Applications 79
8.7 Developer relies on own skill and judgment 80
8.8 Design Excellence 80
8.9 Requirement to achieve Green Star rating 81

9. Climate Positive Work Plan and Social Sustainability 83

9.1 Commitments by the Developer 83
9.2 Preparation of Climate Positive Work Plan 83
9.3 Outline of Climate Positive Work Plan 83
9.4 Detail of Climate Positive Work Plan 84
9.5 Approval by the Authority 84
9.6 Updated Climate Positive Work Plan 85
9.7 Improvement of Climate Positive Benchmarks 86
9.8 Good faith negotiations 87
9.9 Certification of implementation of Climate Positive Work Plan 87
9.10 Additional CP Obligations 88
9.11 Acquisition and voluntary retirement of RECs 89
9.12 Failure to comply with Climate Positive Work Plan 90
9.13 Failure to achieve the Climate Positive Benchmarks 91
9.14 Failure to achieve specific Climate Positive initiatives 91
9.15 Partial Refund on Non-Compliance 94
9.16 William J Clinton Foundation MOU 94
9.17 Other Climate Positive Acknowledgements 94
9.18 Social sustainability 95
9.19 Expert Sustainability Certifiers 96
9.20 Key Worker Housing 96
9.21 Waste processing and disposal 97
9.22 75% reduction in carbon emissions 97

10. Consent to Applications 97

10.1 Authority's approval of Applications 97
10.2 Applications must be lodged with the Authority 98
10.3 Mod 8 Application 100
10.4 Timing for the Authority consent 100
10.5 Approval of Proposed Premises Plan 101
10.6 Capacity of the Authority 101
10.7 Authority not liable in connection with consents 102
10.8 Temporary Buildings 102

10.9 No Hotel within Sydney Harbour or Public Recreation Zone 102

11. Part 3A Approvals and other Approvals....102

11.1 Part 3A procedures....102
11.2 Obtaining other Approvals....102
11.3 Approvals from Roads and Maritime Services....103
11.4 Assistance by the Authority....103
11.5 Delays in obtaining Approvals....103
11.6 Not used....104
11.7 Authority to be informed of progress....104
11.8 Copies of Applications, Approvals and associated documents....104
11.9 Unacceptable Conditions....104
11.10 Third Party Appeals....106
11.11 Authority Unacceptable Conditions in Approvals to a Significant Application (other than Mod 8 Approval or the Approval to the Alternative Modification Application)....106
11.12 Developer must comply with all Approvals....107
11.13 Changes to Works Documents....107
11.14 Authority not liable....107
11.15 Copies of Final Plans and Specifications....107
11.16 POEO Requirements....107
11.17 POEO Act Licence....110

12. Contractors, Independent Certifier and Project Team....111

12.1 Appointment of Builder....111
12.2 Providing information about Building Contract....111
12.3 Provisions in third party contracts....112
12.4 Quality assurance systems....112
12.5 Developer liable for acts of contractors....112
12.6 Choice of Independent Certifier....113
12.7 Appointment of Independent Certifier....113
12.8 Project Team....113

13. Commencement of Works and Access....113

13.1 Access to Premises, Construction Zone Licence and Staging Licence....113
13.2 Terms of Developer access to the Site....115
13.3 Foreshore Access....116
13.4 Pre-conditions to commencement of Works Portion....117
13.5 Notice of Date for Commencement of Works....117
13.6 Notice Re VMP Remediation Works, VMP Investigation Works or Construction Staging....118
13.7 Restriction on entry after Works Portion Commencement Date....118

14. Progress of Works - reporting and meetings....118

14.1 Works Control Group....118
14.2 Reports....119
14.3 Keeping the Authority informed....119

15. Barangaroo Works....119

15.1 Commitment by the Developer....119
15.2 Unscoped Barangaroo Works....120
15.3 Unscoped Barangaroo Works - approval of estimate of anticipated costs....122
15.4 Developer Contributions....123
15.5 Preparation of other draft Scoped Barangaroo Works Detailed Design....123
15.6 Requirements of Barangaroo Works Detailed Design....124
15.7 Approval of Barangaroo Works Detailed Design....124
15.8 Applications for Scoped Barangaroo Works....125
15.9 Directing variations to Barangaroo Works....125
15.10 Proposed variations to or delivery of additional Barangaroo Works....125
15.11 Variations for convenience of Developer....126

15.12 Standard of care 126
15.13 Design to be suitable 127
15.14 Completed Barangaroo Works 127
15.15 Warranties unaffected 127
15.16 Construction Documents 127
15.17 Developer must not suspend the Barangaroo Works 128
15.18 Rights of the Authority 128
15.19 Cost savings and overruns 129
15.20 Third party warranties 129
15.21 Works Portion Provisions 129
15.22 Additional Barangaroo Works 129

16. Remediation Works 129

16.1 Consultation 129
16.2 Appointment of Developer 130
16.3 Cost of Remediation Works and Other Remaining Remediation Works 131
16.4 [redacted] 131
16.5 [redacted] 133
16.5AA [redacted] 133
16.5AB [redacted] 133
16.5A Payment of workers and subcontractors 134
16.6 Investigation Works 134
16.7 VMP Remediation Works 136
16.8 PDA Remediation Works 138
16.9 Methodology and Pilot Trials 139
16.10 Alternate Methodology for Hickson Road Declaration Area 139
16.11 Developer to consult with Authority in respect of Alternate Methodology 140
16.12 [redacted] 140
16.13 Appointment of Accredited Site Auditor 141
16.14 Communications with Accredited Site Auditor 141
16.15 Preparation of Plans 142
16.16 Requirements of Remedial Action Plans 142
16.17 Requirements of Remedial Works Plans 143
16.18 Authority's approval of Plans 143
16.19 Authority refuses approval 143
16.20 Confirmation of plans 144
16.21 Remediation Approvals 145
16.22 Voluntary Management Proposal 145
16.23 Consultation with the Developer 147
16.24 Notify Developer 147
16.25 Compliance by Developer 147
16.26 Remediation Works Portions 148
16.27 Requesting Site Audit Statement for investigation Works 148
16.28 Accredited Site Auditor to provide Section B Site Audit Statement 148
16.29 Developer to carry out work 148
16.30 Acceptable Section B Site Audit Statement 149
16.31 Requesting Site Audit Statements relating to Remediation Works 149
16.32 Accredited Site Auditor to provide Site Audit Statement 150
16.33 Requirement to carry out work 150
16.34 Acceptable Site Audit Statement 150
16.35 Indemnities 150
16.36 Limitation of liability 151
16.37 Pier acknowledgements 152
16.38 Not used 152
16.39 Payment [redacted] 152
16.40 Environmental Site Representative 152
16.41 Remediation QS 153
16.42 [redacted] 154

17. Other Remediation Works 155

17.1 Remediation of the Non-Declaration Area....155
17.2 Appointment of Accredited Site Auditor....156
17.3 Approval or Confirmation....157
17.4 Site Audit Report and Site Audit Statement....158
17.5 Other Remaining Remediation Works....159
17.6 Non-Declaration Area....159

18A [redacted]

18. Ferry Facility....162

18.1 No warranty by the Authority....162
18.2 Preparation of Barangaroo Works Detailed Design - Ferry Facility....162
18.3 Approval of design for Construction Certificate - Ferry Facility....162
18.4 Completion of Ferry Facility....162

19. Community Facility and Pier....162

19.1 Community Facility Proposal....162
19.2 Design of Community Facility....163
19.3 Construction of Community Facility....164
19.4 Timing of Community Facility....164
19.5 Lease of Community Facility....164
19.6 Sublease to the Authority (or its nominee)....165
19.7 Funding of the Community Facility....165
19.8 Agreement on Community Facility Proposal....166
19.9 Management and Operation of the Community Facility....166

20. Metro Line 1 (Stage 1)....166

20.1 NSW Government Metro Line 1 (Stage 1) proposal....166
20.2 Proposed location of Metro Line 1 (Stage 1) (in relation to Barangaroo)....167
20.3 Building and the Metro Line 1 (Stage 1) railway corridor....168
20.4 Authority to consult and inform....168

21. Cruise Terminal....168

21.1 Construction of Temporary Cruise Terminal....168
21.2 Relocation of Cruise Terminal....168
21.3 No warranty by the Authority....169

22. Wynyard Walk and other pedestrian connections....169

22.1 Status of Wynyard Walk and City Walk Bridge....169
22.2 Other Pedestrian Connections....169
22.3 Authority to consult and inform....169
22.4 Developer's Nominated Pedestrian Connection....170

22A. Hickson Road Upgrade Works....171

22A.1 Scope....171
22A.2 Approvals....171
22A.3 Design....172
22A.4 Developer Hickson Road Works....172
22A.5 Contract Sum....172
22A.6 Procurement and Delivery....173
22A.7 Payment terms....173
22A.8 Date for Commencement and Completion....174

23. Headland Park....174

23.1 Intention to deliver Headland Park....174
23.2 Authority to consult and inform....175

23.3 Relocation and storage of excavated material to other areas of Barangaroo 175

23A. Consequences of Termination of Crown Development Agreement 175

23A.1 Application of clause 175
23A.2 Alternative Development Proposal 176
23A.3 Alternative Development Proposal Scenarios 177
23A.4 Developer no longer wishes to pursue Alternative Development Proposal 177
23A.5 Approval of Alternative Development Proposal 177
23A.6 Developer to diligently pursue Alternative Development Proposal 178
23A.7 Further Modifications 178
23A.8 Significant Project Issue – GFA 179

24. Achieving Practical Completion 179

24.1 Developer must progress 179
24.2 Notice of anticipated Practical Completion 179
24.3 Requesting Certificate of Practical Completion 180
24.4 Independent Certifier to certify 180
24.5 Carrying out required work 180
24.6 Effect of Certificate 180
24.7 Prerequisites for issue of Certificate of Practical Completion 180
24.8 Requirements following issue of Certificate of Practical Completion 181
24.9 Providing documents to the Authority 181
24.10 Separable Works Portions 181

25. Extensions of time 183

25.1 Milestones 183
25.2 Claims for extension of time – Milestone Dates 184
25.3 Claims for Extensions of time –Vacation Dates 185
25.4 Conditions precedent to extensions of time 187
25.5 Concurrent delays 188
25.6 Matters for consideration 188
25.7 Determination of extensions of time 189
25.8 Dispute over extensions of time 190
25.9 Changes to the Development Program – extensions of time 190
25.10 Liquidated damages for GFA Milestones 190
25.11 Other GFA liquidated damages 191
25.12 Cap on GFA liquidated damages 191
25.13 Not used 192
25.14 Vacation Liquidated Damages 192
25.15 Amount is genuine pre-estimate 193
25.16 Occurrence of event for which Developer has Insurance 194
25.17 Additional termination right 194
25.18 Relevant Site Portion 195
25.19 Consequences of termination 196
25.20 Sunset Date 196

26. Subdivision and Building Management 196

26.1 Obligation to Subdivide 196
26.2 Fundamental Requirements 197
26.3 Notice by Developer 197
26.4 Preparation of Plan 198
26.5 Consent to Plans 199
26.6 Subdivision before completion of Works Portion 199
26.7 Registration of Plan 200
26.8 Boundary adjustments 200
26.9 Right to Grant Easements 201
26.10 Particular Easements 201
26.11 Registration of Easements 201
26.12 Binding Nature of Easements 201

26.13 Staged Subdivision 201
26.14 Ongoing Management - governance arrangement 201
26.15 Strata leasehold title 202

27. Call Offer 202

27.1 Call Offer granted 202
27.2 Accepting the Call Offer 202
27.3 Lease Binding if Call Offer accepted 203
27.4 Counterpart Lease 203

28. Put Offer 204

28.1 Put Offer granted 204
28.2 Accepting the Put Offer 204
28.3 Lease Binding if Put Offer accepted 205
28.4 Counterpart Lease 205

29. Offer acceptance – miscellaneous 205

29.1 Lease term 205
29.2 Ongoing obligations 205
29.3 Rights of the Authority to vary Lease 205
29.4 Registration of Lease 206
29.5 No agreement for lease 206
29.6 Nominee for Call Offer 206
29.7 Nominee rights to accept the Call Offer 206
29.8 Completion of the Lease 207
29.9 Authority to consider other requested leasing arrangements 208

29A. Retail Public Domain 208

29A.1 Acknowledgments 208
29A.2 Agreement to grant licences 209
29A.3 Marketing interests of Lend Lease 209
29A.4 Retail Public Domain categories and amendment of plans 210
29A.5 Offer to grant Head Licences 211
29A.6 Negotiation of licence terms 212
29A.7 Nomination of Guarantor 213
29A.8 Acceptance of Head Licence 214
29A.9 Completion of Head Licence 216
29A.10 Counterpart Head Licence 217

30. General requirements for carrying out Works 217

30.1 Works to comply 217
30.2 Developer's obligation for care of Works 218
30.3 Developer to rectify damage to Works 218
30.4 Securing of the Site 218
30.5 No noxious use 218
30.6 Works associated with Sydney Harbour 219

31. Condition of Site 219

31.1 No warranty as to purpose 219
31.2 Site Condition 219
31.3 Services 220
31.4 Other activities at Barangaroo 220
31.5 Site co-ordination - other developments 220
31.6 No claims by Developer 221

32. Environmental, native title and heritage obligations 221

32.1 Environmental Laws 221
32.2 Environmental matters 221
32.3 Environmental risk 222
32.4 Finding of Relics 222
32.5 Native Title Applications and Threatened Species Claims 222

32.6 No claim by Developer 222

33. Care of surrounding areas and safety 223

33.1 Developer bears risk 223
33.2 Surrounding areas 223
33.3 Safety of persons 224
33.4 Noise 224
33.5 Crane usage 224
33.6 Rights of the Authority to protect persons and property 224

34. Compliance with Laws 225

34.1 Obligations of the Developer 225
34.2 Effect of compliance 225
34.3 Copies of notices 225
34.4 Acceptance of risk 225
34.5 Discriminatory Laws 226

35. Insurances 226

35.1 Contract works insurance 226
35.2 Amount of insurance 226
35.3 Public liability insurance 226
35.4 Amount for public liability insurance 227
35.5 Employees 227
35.6 Workers compensation indemnity 227
35.7 Professional indemnity insurance 227
35.8 Other Insurance 228
35.9 Insurance requirements generally 228
35.10 Cross liability 229
35.11 Periods of Insurance 229
35.12 Premiums 229
35.13 Payment of proceeds 230
35.14 Providing information to the Authority 230
35.15 Failure to produce proof of insurance 230
35.16 Notices of potential claims 230
35.17 Additional obligations of Developer 231
35.18 Liabilities of Developer not affected 231
35.19 Application of insurance proceeds 231
35.20 Damage and destruction from uninsurable risk 232
35.21 Withdrawing money from joint account 232
35.22 Change in Insured Risk 232

36. Workplace health and safety 233

36.1 Appointment of principal contractor 233
36.2 WH&S Plan 233
36.3 Discharge of obligations 233
36.4 Workcover NSW WH&S audit 233
36.5 Compliance 233
36.6 Authority may carry out obligations 234

37. Authority's rights to enter, inspect and carry out work 234

37.1 Authority's right to enter and inspect 234
37.2 Authority's notice to remedy 234
37.3 Authority may take action 235
37.4 Notice of exercise of rights 235
37.5 Emergencies 235
37.6 Costs of taking action 235
37.7 Authority may carry out Service works 235
37.8 Authority not liable 236
37.9 Authority may carry out WH&S obligations 236

38. Defects Liability and Final Certificate for a Works Portion 236

38.1 Developer to rectify defects 236
38.2 Inspections by the Authority 237
38.3 Defects Notice given by the Authority 237
38.4 Obligations of Developer 237
38.5 Authority may rectify defects 237
38.6 Not used 237
38.7 Final Certificate 238
38.8 Access to remedy defects 238

39. Bank Guarantees 238

39.1 Developer to give Total Payment Amount Bank Guarantee 238
39.2 Developer to give additional Bank Guarantees 238
39.3 Developer to give Works Portion Bank Guarantee 240
39.4 Developer to give Public Domain Works and Infrastructure Works Bank Guarantees 240
39.5 Calling on a Bank Guarantee 241
39.6 Replacement of the Bank Guarantees after call 241
39.7 Replacement of expiring Bank Guarantee 241
39.8 Returning the Bank Guarantees 242

40. Easements 242

40.1 Easements required by Developer 242
40.2 Non-granting of easement 243
40.3 Authority's entitlement to grant easements over the Site 243
40.4 Authority's entitlement for easements to benefit the Public Domain 244
40.5 Compliance with easements and restrictions 244

41. Naming and marketing the Premises and retail strategy 245

41.1 Naming the Premises 245
41.2 Marketing of Barangaroo 245
41.3 Developer's obligations 245
41.4 Authority's rights 246
41.5 Signage, advertising and marketing materials 246
41.6 Naming rights, signage and use of external parts of Premises 246
41.7 Retail Leasing Strategy 246

42. Intellectual property 246

42.1 Ownership of intellectual property 246
42.2 Licence to use intellectual property 246
42.3 Moral Rights warranty 247

43. Developer - restrictions on alienation 247

43.1 Developer must not alienate 247
43.2 Stock exchange listing and assignment to a Related Entity 248
43.3 Encumbering the Developer's interest in the Site 248
43.4 Leasing and charging Developer's Property 248
43.5 Financing documents 248
43.6 Negotiating terms of financing documents 249

44. Authority's right to assign 249

44.1 Authority may assign 249
44.2 Change of landlord 249

45. Dispute resolution 250

45.1 Notice of dispute 250
45.2 Continuing to perform obligations 250
45.3 Parties to consult 251
45.4 Pathway for determining disputes 251
45.5 Choice of expert 251
45.6 Expert 251
45.7 Agreement with expert 251

45.8 Directions to expert....252
45.9 Role of expert....252
45.10 Complying with directions of expert....252
45.11 Expert may commission reports....252
45.12 Expert may convene meetings....252
45.13 Meeting not a hearing....253
45.14 Confidentiality of information....253
45.15 Confidentiality in proceedings....253
45.16 Final determination of expert....253
45.17 Expert's Costs....253
45.18 Expert generally not liable....253

46. Default....254

46.1 Trigger Notice....254
46.2 Trigger Event not remedied....254
46.3 Authority may rectify....254
46.4 Authority may terminate....254
46.5 Where a Works Portion has been Substantially Commenced....255
46.6 No windfall gain....255
46.7 Rights not affected....255
46.8 Waiver....256
46.9 Consequences of the Authority breach....256

47. Developer's obligations on termination....256

48. Releases and indemnities....257

48.1 Release of the Authority from liability....257
48.2 General indemnities....258
48.3 Environmental Liabilities....258
48.4 Continuation of liability....258
48.5 Conduct of proceedings....258
48.6 Authority's ability to enforce the indemnity....259

49. Guarantee and indemnity....259

49.1 Consideration....259
49.2 Guarantee....259
49.3 Indemnity....259
49.4 Additional indemnities....259
49.5 Guarantor as principal debtor....260
49.6 Guarantor Sunset Date....260
49.7 Limitation of Liability....261
49.8 Extent of guarantee and indemnity....261
49.9 Preservation of the Authority's rights....261
49.10 Liabilities not affected....263
49.11 Suspension of Guarantor's rights....263
49.12 Other securities and obligations of Guarantor....264
49.13 Reinstatement of the Authority's rights....264
49.14 Application of money....264
49.15 Foreign currency indemnity....265
49.16 Avoidance of payments....265
49.17 Continuing obligation....265
49.18 Principal and independent obligation....266
49.19 Stapled Entity....266

50. Representations and warranties....266

50.1 Head lease and other interests....266
50.2 Warranties by Developer....267
50.3 Trustee warranties....267
50.4 Warranties by the Guarantor....268
50.5 Warranties by the Authority....269
50.6 Developer's privacy warranty....270

50.7 Obligations not affected 270

51. Undertakings by Developer 270

51.1 Undertakings by Developer 270
51.2 Developer's privacy obligations 270
51.3 Consent to use and disclose Personal Information 270
51.4 Anti-terrorism 271

52. Representatives 271

52.1 Authority's representative 271
52.2 Notification by the Authority and knowledge of representative attributed to Authority 271
52.3 Developer's representative 271
52.4 Notification by Developer 271
52.5 Knowledge of representative attributed to Developer 272
52.6 Objection by the Authority 272

53. Barangaroo Developers' Forum 272

53.1 Barangaroo Developers' Forum 272
53.2 Barangaroo Developers' Forum functions 272
53.3 Decisions of Barangaroo Developers' Forum 273
53.4 Barangaroo Developers' Forum meetings 273

54. Costs 273

54.1 Obligations of the Developer 273
54.2 Limitations of legal costs 274
54.3 Limitations 274
54.4 Costs of negotiating this deed 274
54.5 Developer to pay its Costs 274
54.6 Third party consents 274
54.7 Stamp duty indemnity 275

55. General requirements for payments 276

55.1 Method of payment 276
55.2 No demand necessary 276
55.3 Incorrect amount paid 276
55.4 Ongoing obligation 276
55.5 When to make payments 276
55.6 If due date not a Business Day 276
55.7 Currency of payment 276
55.8 Interest on overdue money 276
55.9 Compounding 277
55.10 Interest on liability merged in judgment or order 277
55.11 Tender after termination 277

56. GST 277

56.1 Interpretation 277
56.2 Reimbursements 277
56.3 Additional amount of GST payable 277
56.4 Variation 278
56.5 Exchange of non-monetary consideration 278
56.6 Indemnities 278

57. Notices 278

57.1 Form 278
57.2 Delivery 279
57.3 When effective 279
57.4 Receipt - postal 279
57.5 Receipt - fax 279
57.6 Receipt - general 279
57.7 Waiver of notice period 279

58. General **280**

58.1 Certificate 280
58.2 Exercise of rights 280
58.3 Exercise of proprietary rights 280
58.4 Partial exercise of rights 280
58.5 Delay in exercising rights 280
58.6 Authority not liable 280
58.7 Waiver and variation 280
58.8 Supervening legislation 280
58.9 Approvals and consent 280
58.10 Remedies cumulative 281
58.11 Set-off 281
58.12 Indemnities 281
58.13 Further assurances 281
58.14 Continuing breaches 281
58.15 Antecedent obligations 281
58.16 Confidentiality 281
58.17 Severability 282
58.18 Entire agreement 282
58.19 Construction 282
58.20 Effect of moratorium 282
58.21 Governing Law, jurisdiction and service of process 282
58.22 Jurisdiction 282
58.23 Waiver 282
58.24 Counterparts 283
58.25 Survival of provisions – no merger 283

Schedule 1 – Unacceptable Conditions (clause 11.9) **284**

Schedule 2 – Construction Zone Licence terms (clause 13.1(a)(i)) **287**

Schedule 2A – Staging Licence terms for BDA Development Block 5 (clause 13.1(aa)) **289**

Schedule 2B – Staging Licence terms for BDA Development Block 5 Foreshore (clause 13.1(aa)) **302**

Schedule 2C – Staging Licence terms for BDA Development Block 6 (clause 13.1(aa)) **315**

Schedule 2D – Staging Licence terms for BDA Development Block 6 Foreshore (clause 13.1(aa)) **328**

Schedule 2E – Staging Licence terms for BDA Development Block 7 (clause 13.1(aa)) **341**

Schedule 2F – Staging Licence terms for BDA Development Block 7 Foreshore (clause 13.1(aa)) **354**

Schedule 3 – Climate Positive Benchmarks **367**

Schedule 4 – Environmental Initiatives **371**

Schedule 5 – NABERS assumptions **374**

Schedule 6 – Barangaroo Works Costs **375**

Schedule 7 – Other Remaining Remediation Works **414**

Schedule 8 – PDA Remediation Works **417**

Schedule 9 – [redacted] **419**

Schedule 9A – [redacted] **424**

Schedule 9B – [redacted] **426**

Schedule 9C – [redacted] **428**

Schedule 10 – Relevant Contracts **432**

Schedule 11 – Block Plan and Stage Diagram **442**

Schedule 12 – Not used **445**

Schedule 13 – Submitted Works Detailed Designs for Scoped Barangaroo Works 446
Schedule 14 – Hickson Road Upgrade Works 447
Annexure A – Plan 453
Annexure B – Pro Forma Lease 455
Annexure C – Builder's Side Deed 566
Annexure D – Financier's Side Deed 588
Annexure E – Independent Certifier's Deed 616
Annexure F – Development Program 645
Annexure G – Agreed Design Documents 646
Annexure H – Moral Rights Consent 743
Annexure I – Notice of Acceptance of Call Offer 744
Annexure J – Notice of Acceptance of Put Offer 745
Annexure K – Developer Secured Area 746
Annexure L – Management Committee Reports 748
Annexure M – Current Climate Positive Work Plan 749
Annexure N – NSW Waste Classification Guidelines 856
Annexure O – Commencement of Works Document Checklist 884
Annexure P – Statement of principles (Ongoing management – governance arrangement) 887
Annexure P2 – Term Sheet BMS and Green Utilities 891
Annexure Q – Draft Barangaroo Management Plan 1133
Annexure R – Risk Allocation Table 1156
Annexure R1 – Plan showing City Bridge Walk 1168
Annexure R2 – Plan showing Wynyard Walk 1170
Annexure S – Future Remediation Plan 1172
Annexure T – Draft Voluntary Management Proposal 1174
Annexure U – Retail Public Domain Plan 1184
Annexure V – Retail Public Domain (Early Access) Plan 1194
Annexure W – Retail Leasing Strategy 1197
Annexure X – Pro Forma Public Domain Licences 1201
Annexure X1 – Public Domain Licence (Category 1) 1202
Annexure X2 – Public Domain Licence (Category 2) 1238
Annexure Y – Disclosure Materials 1279
Annexure Z – POEO Licence 1297

Deed made at **on**

Parties

Barangaroo Delivery Authority ABN 94 567 807 277, a NSW government agency constituted under the Barangaroo Delivery Authority Act 2009 (NSW) (**Authority**) of Level 21, AON/Maritime Trade Towers, 201 Kent Street, Sydney NSW 2000

Lend Lease (Millers Point) Pty Limited ABN 15 127 727 502 (**Developer**) of Level 5, 30 The Bond, 30 Hickson Road, Millers Point NSW 2000 as trustee of the Lend Lease Millers Point Trust ABN 96 367 164 319

Lend Lease Corporation Limited ABN 32 000 226 228 (**Guarantor**) of Level 5, 30 The Bond, 30 Hickson Road, Millers Point NSW 2000

Background

A. The Authority owns, or will own, Barangaroo and accepts responsibility for title.

B. Under this deed (and for the consideration provided in this deed):

(a) the Developer agrees to carry out the Works;

(b) the Authority agrees to make the Developer an offer for the Developer's Nominee to lease the Premises;

(c) the Developer agrees to make the Authority an offer to require the Developer to lease the Premises; and

(d) the Guarantor agrees to guarantee to the Authority the Developer's obligations.

The parties agree

1. Definitions and interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears:

Acceptable Hickson Road Remediation Works Section A Site Audit Statement means a Section A Site Audit Statement and Site Audit Report issued by the Accredited Site Auditor in respect of the Hickson Road VMP Remediation Works which satisfies the requirements of clause 16.31(a) neither of which contains any conditions, provisions or requirements which would adversely affect the use of the Hickson Road Declaration Area as a road.

Acceptable Investigation Works (VMP) Section B Site Audit Statement means a Section B Site Audit Statement and Site Audit Report issued by the Accredited Site Auditor in respect of the VMP Investigation Works, which satisfies the requirements of clause 16.27 which certifies that the VMP Remedial Action Plan is appropriate for intended purposes, and/or that the Declaration Area can be made suitable for particular uses, namely addressing the Significant Contamination on the Declaration Area if the Declaration Area is Remediated in accordance with the VMP Remedial Action Plan.

Acceptable Modification means a Modification of the Concept Plan Approval, issued pursuant to the Approval to the Alternative Modification Application:

(a) in respect of which the Appeal Period has expired and Third Party Appeals (if any) have been fully determined; and

(b) which does not contain or is deemed not to contain any Unacceptable Conditions, as agreed by the parties or determined in accordance with this deed.

Acceptable Other Investigation Works Section B Site Audit Statement means a Section B Site Audit Statement and Site Audit Report issued by the Accredited Site Auditor in respect of the Other Investigation Works, which satisfies the requirements of clause 17.4(a) which certifies that the Other Remedial Action Plan is appropriate for the intended uses (as contemplated in this deed), and/or that the Non-Declaration Area can be made suitable for the intended uses (as contemplated in this deed) if Remediated in accordance with the Other Remedial Action Plan.

Acceptable Other Remediation Works Section A Site Audit Statement means a Section A Site Audit Statement and Site Audit Report issued by the Accredited Site Auditor in respect of the Other Remediation Works that certify that the Non-Declaration Area is suitable for development and intended uses (as contemplated in this deed) and neither of the Section A Site Audit Statement and Site Audit Report issued by the Accredited Site Auditor contains any conditions, provisions or requirements, which would adversely affect the development and intended uses (as contemplated in this deed) of the Non-Declaration Area.

Acceptable Other Remaining Remediation Works Section A Site Audit Statement means a Section A Site Audit Statement and Site Audit Report issued by the Accredited Site Auditor in respect of the Other Remaining Remediation Works that certify that the Non-Declaration Area Remaining is suitable for development and intended uses (as contemplated in this deed) and neither of the Section A Site Audit Statement and Site Audit Report issued by the Accredited Site Auditor contains any conditions, provisions or requirements, which would adversely affect the development and intended uses (as contemplated in this deed) of the Non-Declaration Area Remaining.

Acceptable PDA Remediation Works Section A Site Audit Statement means a Section A Site Audit Statement and Site Audit Report issued by the Accredited Site Auditor in respect of the PDA Remediation Works, which satisfies the requirements of clause 16.31(b) neither of which contains any conditions, provisions or requirements, which would adversely affect the development and use of the Declaration Area as contemplated by this deed, including the development and intended uses to a depth of not less than the depth of the excavation necessary for the basements contemplated by the Agreed Design Documents and the creation of Southern Cove to the extent they are within the Declaration Area.

Acceptable Tenant means:

(a) a party who in the reasonable opinion of the Authority is a respectable, responsible and solvent person capable of duly and punctually observing and performing the obligations of the Tenant under the relevant Lease; and

(b) in the case of a Strata Lease for Residential Purposes, a Related Entity of the Developer or of the Guarantor or a party referred to in paragraph (a) of this definition.

Acceptable VMP Remediation Works Section B Site Audit Statement means a Section B Site Audit Statement and Site Audit Report issued by the Accredited Site Auditor in respect of the VMP Remediation Works, which satisfies the requirements of clause 16.31(a) and which certifies that the Significant Contamination on the Declaration Area has been addressed and the terms of the Approved Voluntary Management Proposal have been complied with and the Declaration Area is not subject to a Long-term Environmental Management Plan to address the Significant Contamination other than, for the Hickson Road Declaration Area, a plan of the kind referred to in paragraph (a) of the definition of Long-term Environmental Management Plan.

Accredited Site Auditor means the person or persons (as the case may be) accredited under Part 4 of the CLM Act who is or are appointed as the 'Accredited Site Auditor' pursuant to, or as contemplated by, clauses 16 or 17.

[redacted]

Additional CP Obligations has the meaning given to that term in clause 9.10.

Additional CP Relevant Date means 31 December next occurring after the date which is 18 months after the Date of Practical Completion of the first Works Portion comprising GFA to achieve Practical Completion and each 31 December thereafter until the Date of Practical Completion of the last Works Portion comprising GFA.

Agreed Design Documents means the preliminary design for the Works, including plans, elevations and sections, comprising:

(a) Annexure G; and

(b) where the Project proceeds in accordance with an Alternative Modification Application prepared in accordance with *paragraph 3.2* of Schedule 1, or another Approval which reflects an Alternative Development Proposal approved in accordance with clause 23A.5, the plans, elevations and sections developed in accordance with those Approvals or that proposal as varied in consultation with, and as agreed by, the Authority,

and such other documents, including plans, as the Authority and the Developer may agree in writing from time to time, but for the avoidance of doubt not including:

(i) outline specifications;

(ii) schedule of finishes; or

(iii) pictorial or 3-dimensional representations such as photomontages, artist's perspectives, scale models or computer generated images.

[redacted] means an amount of $[redacted], subject to adjustment in accordance with clause 4.2(d)(iii).

Alternate Lease Arrangement has the meaning given to that term in clause 29.9(a).

Alternate Methodology means an alternate methodology for Remediation of the Hickson Road Declaration Area which is not Methodology A or Methodology B, the detail of which is proposed by the Developer under clauses 16.10 and 16.11 and approved by the Authority under clause 16.11.

Alternate Party has the meaning given to that term in clause 25.19(a).

Alternative Development Proposal means a proposal which the Developer may submit to the Authority pursuant to clause 23A.2(a).

Alternative Modification Application means a proposed Application to modify the Concept Plan Approval developed in accordance with a Part 3A Approval under clause 23A.7 or a proposed Application to modify the Concept Plan Approval as developed in accordance with paragraph 3.2 of Schedule 1.

Annual Return has the meaning given to that term in clause 11.16(d)(ii)A.

Anticipated Costs Statement has the meaning given to that term in clause 15.3.

Anticipated Date of Practical Completion means in relation to a Works Portion, the date which the Independent Certifier certifies in writing to the Authority and the Developer pursuant to clause 24.2(a), as being the date that is likely to be the date on which Practical Completion of that Works Portion will be achieved.

Appeal Period means the 3 month period commencing on the date of public notice pursuant to section 75X(4) of the EP&A Act (as saved by clause 3 of Schedule 6A of the EP&A Act) of the granting of the Approval to the Alternative Modification Application.

Application means an application for any Approval, including (as required) the plans, specifications, environmental assessment requirements, technical reports and any other documents forming part of or to be submitted in respect of that application.

Application Approval Timeframes has the meaning given in clause 10.4(b).

Approval means any approval, consent, Part 4A Certificate, approval under Part 3A of the EP&A Act (including a Part 3A Approval), approval under Part 4 of the EP&A Act, certificate, Construction Certificate, Occupation Certificate, Complying Development Certificate, permit, endorsement, licence (including licence under the Liquor Act 2007 (NSW)), conditions or requirements (and any modifications or variations to them) which may be:

(a) required by Law or by adjoining owners for the commencement and carrying out of the Works; or

(b) which may imposed in relation to the Project by any Public Authority or the Authority.

Approved Operator means:

(a) [redacted];

(b) such other operator, approved by the Authority, acting reasonably, which has the ability to comply with the Climate Positive Waste Principles; or

(c) where there is no reputable, reasonable and solvent operator that has the ability to comply with the Climate Positive Waste Principles, an operator who is most closely able to satisfy the Climate Positive Waste Principles.

Approved Voluntary Management Proposal means a Voluntary Management Proposal approved by OEH.

Approved Valuer means a registered valuer:

(a) under the Valuers Act 2003 (NSW);

(b) employed by one of the generally recognised pre-eminent valuation firms practising with respect to Sydney CBD property;

(c) who is also at least an Associated Member and a Certified Practising Valuer of the Australian Property Institute (Inc) NSW Division; and

(d) who has not less than 10 years' experience valuing land comparable to the Premises.

Artist's Brief means the brief provided by the Developer to the Authority in accordance with clause 6.3.

Arts and Culture Panel means, at any time, any committee constituted by the Authority under clause 6.7, or, if not constituted at that time, the Authority.

Authorised Officer means:

(a) in the case of the Authority, the Chief Executive Officer of the Authority or a person performing the functions of that position or any other person appointed by the Authority and notified in writing to the parties to act as an Authorised Officer for the purposes of this deed; and

(b) in the case of each other party, a person appointed by that party to act as an Authorised Officer for the purposes of this deed.

Authority Payment means the two Authority Payments from the Authority to Lend Lease in amounts of $[redacted] each.

Authority Unacceptable Condition means those conditions of an Approval taken to constitute an 'Authority Unacceptable Condition' for the purposes of *paragraph 2* of Schedule 1.

Authority's Employees means each of the Authority's employees, officers, agents, contractors, service suppliers, licensees and invitees (other than the Developer and the Developer's Employees).

Authority's Solicitor means Clayton Utz or any other firm of solicitors as advised by the Authority to the Developer from time to time.

Bank Bill Rate means the 90 day Bank Bill Swap Reference Rate (Average Bid) last published on or before the relevant day in The Australian Financial Review or if that rate or publication is not published, another market-equivalent rate or publication (as the case requires).

Bank Guarantee means an irrevocable and unconditional undertaking by an Australian bank on terms acceptable to the Authority to pay the relevant sum to the Authority on demand.

Barangaroo has the meaning given to it under the BDA Act.

Barangaroo Approval Documents means:

(a) the Concept Plan Approval; and

(b) State Environmental Planning Policy (Major Development) 2005,

as modified and amended from time to time.

Barangaroo Contributions Plan has the meaning given to that term in section 31 of the BDA Act 2009.

Barangaroo Developers' Forum means the forum established under clause 53.

Barangaroo Management Committee means the 'Barangaroo Management Committee' contemplated under the Barangaroo Management Plan.

Barangaroo Management Plan means the plan for the management of the Land which is developed by the Developer and the Authority as contemplated by clause 26.14 based on the Draft Barangaroo Management Plan, Annexure P and the principles agreed in the Green Utilities Term Sheet.

Barangaroo Project means the urban renewal of Barangaroo to a mixed use development with Public Domain (including the Headland Park) as contemplated by the Concept Plan Approval.

Barangaroo Public Art and Culture Plan means the plan of that name dated on or about the date of the Fifth Deed of Amendment, as updated and amended as the Developer and the Authority may agree from time to time.

Barangaroo Works means any parts of the Works, any Works Portions or any parts of Works Portions, which are:

(a) Infrastructure Works;

(b) Public Domain Works;

(c) the Community Facility;

(d) the Ferry Facility;

(e) the Southern Cove; or

(f) agreed by the Authority and the Developer to be Barangaroo Works, or are otherwise taken to be Barangaroo Works for the purposes of this deed,

and any Works ancillary to those Works.

Barangaroo Works Allocated Costs means the amounts specified for the individual components of Scoped Barangaroo Works:

(a) as detailed in the 'Preferred Scheme Cost Plan' in Schedule 6; or

(b) included pursuant to clause 15.2(e).

Barangaroo Works Detailed Design means for each item of the Scoped Barangaroo Works, the detailed design approved by the Authority under clause 15.7.

Barangaroo Works Performance Specification means for each item of the Scoped Barangaroo Works the requirements and the specifications for each item of Scoped Barangaroo Works approved by the Authority pursuant to clause 15.2 or clause 15.7 (as the case may be).

Barangaroo Works Program means:

(a) in respect of the Community Facility, achieving Practical Completion of those works by 31 December 2018;

(b) in respect of the Ferry Facility, achieving Practical Completion of those works by 16 August 2016;

(c) in respect of the works comprising the construction of the Southern Cove, achieving Practical Completion of that Works Portion by the later of:

(i) the Date of Practical Completion of Works Portions comprising 140,000m^2 GFA in aggregate; and

(ii) 24 months after receipt of the initial determination of the Approval for Mod 8;

(d) in respect of the Works Portion comprising the construction of the Public Domain applicable to that part of the Site extending 50 metres east from the water's edge (south of the Southern Cove), achieving Practical Completion of that Works Portion by the Date of Practical Completion of Works Portions comprising 140,000m^2 GFA in aggregate; and

(e) subject to paragraphs (a) to (d) above, in respect of all other Barangaroo Works comprising Unscoped Barangaroo Works (as at the Commencement Date) which become Scoped Barangaroo Works under this deed, achieving Practical Completion of those Works by the Date of Practical Completion of that Works Portions which has a GFA, when added to the GFA of all other Works Portions for which Practical Completion has been achieved, of 430,275m^2.

BDA Act means the Barangaroo Delivery Authority Act 2009 (NSW).

[redacted]

BDA Development Block means any of:

(a) BDA Development Block 5;

(b) BDA Development Block 5 Foreshore;

(c) BDA Development Block 6;

(d) BDA Development Block 6 Foreshore;

(e) BDA Development Block 7;

(f) BDA Development Block 7 Foreshore; and

(g) the Hickson Road Declaration Area,

as so designated on the Staging Plans (excepting the Hickson Road Declaration Area) and a reference to a "BDA Development Block" is a reference to any one of those blocks.

Block 4 Declaration Area means the whole of the area shaded orange on the Future Remediation Plan.

Blocks 4, 5, 6 and 7 (or any one or more of them) are the blocks so designated on the block plan entitled "Land Application - Map" contained in Schedule 11 and a reference to a "Block" is a reference to any one of those blocks.

Builder means the contractor under a Building Contract.

Builder's Side Deed means a deed to be entered into in respect of a Works Portion by the Developer, the Authority and the Builder of that Works Portion generally in the form of Annexure C and otherwise in a form acceptable to the Authority (acting reasonably).

Building means each and any building to be erected or which is erected on the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6) in accordance with this deed and the Final Plans and Specifications.

Building Contract means in respect of each Works Portion, any head contract between the Developer and a Builder:

(a) in connection with the design and construction (or construction only) of that Works Portion (or any part of it); or

(b) any construction management or project management of that Works Portion (or any part of it).

Building Management Statement means a building management statement which complies with the requirements of Division 3B of the Conveyancing Act 1919 (NSW).

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

By Law Instrument means an instrument which creates by laws under Part 5 of the Strata Schemes Management Act 1996 (NSW).

C4 Investor Side Deed means the document titled "Barangaroo Building C4 Investor's Side Deed" between the Authority, the Developer, the Guarantor, Lend Lease IMT (LLWTST ST) Pty Limited (as trustee for LLWTST Stage I Sub Trust), Lend Lease IMT (LLWTST) Limited (as trustee for Lend Lease Wharf Towers Sydney Trust) and Lend Lease (Barangaroo South Co-owner) Pty Limited dated 7 July 2012.

C5 Investor Side Deed means the document titled "Barangaroo Building C5 Investor's Side Deed" between the Authority, the Developer, the Guarantor, Lend Lease IMT (LLITST ST) Pty Limited (formerly known as Lend Lease IMT (LLWTST ST) Pty Limited) (as trustee for LLITST Stage 2 Sub Trust), Lend Lease IMT (LLITST) Limited (formerly known as Lend Lease IMT (LLWTST) Limited) (as trustee for Lend Lease International Towers Sydney Trust (formerly known as the Lend Lease Wharf Towers Sydney Trust)) and Lend Lease (Barangaroo South Co-owner) Pty Limited dated 9 November 2012.

Call Offer means the offer (or offers) made by the Authority to lease the Premises (or any part of the Premises) under clause 27.1.

Call Offer Period means, in respect of the Premises the subject of a Works Portion (or any part of it), the period commencing on the Date of Substantial Commencement of that Works Portion and ending on the date being 60 Business Days after the Date of Practical Completion of that Works Portion.

Cash Deposit has the meaning given in clause 39.7(b).

Cash Deposit Account has the meaning given in clause 39.7(b).

Category 1 RPD has the meaning given in clause 29A.4(a)(i).

Category 2 RPD has the meaning given in clause 29A.4(a)(ii).

CCF MOU means the Memorandum of Understanding between the William J Clinton Foundation and the Authority dated 7 October 2009.

Central Barangaroo means that part of the Barangaroo Project generally known as such, being 'stage 2' as indicated on the Stage Diagram.

Certificate of Practical Completion means in respect of a Works Portion a certificate issued by the Independent Certifier under clause 24.4 in relation to that Works Portion.

Changed Market Conditions has the meaning ascribed to it in clause 25.2(b).

Changed Market Conditions Caps has the meaning given to that term in clause 25.7(d).

Changed Market Conditions Report means a report prepared by the Approved Valuer which certifies that Changed Market Conditions have occurred, giving reasonable detail and justifications for its conclusion, taking into account appropriate macroeconomic indicators and property indicators that may be relevant to an expert consideration of altered market conditions relevant to development on the Site.

Change in Insured Risk has the meaning ascribed to that expression in clause 35.22(c)

City Walk Bridge means that connection shown as the 'City Walk Bridge' on the plan comprising **Annexure R1**.

Claim Notice has the meaning given in clause 40.3(b).

Cleanup means the taking of all necessary action to Remediate any Contamination.

Climate Positive Benchmarks means the benchmarks set out in Schedule 3, as revised and improved from time to time pursuant to clause 9.7 with the approval of the Authority.

Climate Positive Certification means a report prepared by the Developer (accompanied and supported by reports from relevant Expert Sustainability Certifiers) which certifies that proper implementation of, and compliance by the Developer with, the relevant draft Climate Positive Work Plan will ensure that in undertaking the Project:

(a) the Climate Positive Benchmarks and the social sustainability requirements of clause 9.18 are met or exceeded;

(b) the Climate Positive Contributions are provided; and

(c) the Additional CP Obligations are satisfied,

no later than the relevant Climate Positive Relevant Date, the relevant Additional CP Relevant Date or any other date required by this deed (as the case may be).

Climate Positive Contributions means the physical elements, required to achieve the Climate Positive Benchmarks, which form part of the Scoped Barangaroo Works as contemplated by clause 15, as developed or amended, with the approval of the Authority, from time to time.

Climate Positive Relevant Date means each date for achieving the Climate Positive Benchmarks set out in Schedule 3.

Climate Positive Supporting Documentation means such reasonable information, reports and additional material which is either provided by the Developer at its discretion or requested by the Authority, acting reasonably, to enable the Authority to assess whether the proper implementation of and compliance by the Developer with, the Climate Positive Work Plan would ensure that in undertaking the Project, the Climate Positive Benchmarks and the social sustainability requirements of clause 9.18 are met or exceeded no later than the relevant Climate Positive Relevant Date.

Climate Positive Waste Principles means:

(a) a process which is capable of dealing with recyclable materials and mixed waste streams from Stage 1 in a manner which maximises the recovery of recyclable material, minimises the diversion of non-recyclables to landfill and minimises the net carbon emissions from the disposal of waste, such as methane capture and conversion in to energy so as to achieve a minimum 80% reduction in disposal of operational waste to landfill; and

(b) a willingness to work with the Authority to establish and implement a commercially feasible strategy with the objective of establishing Barangaroo as a zero waste community.

Climate Positive Work Plan means the work plan to be prepared (in relation to Stage 1) by the Developer and approved by the Authority as updated from time to time in accordance with this deed, to deal with the achievement of the Climate Positive Benchmarks and the satisfaction of the Developer's social sustainability obligations under clause 9.18.

Climate Positive Work Plan Requirements means those requirements and matters referred to in clauses 9.3 and 9.4.

CLM Act means the Contaminated Land Management Act 1997 (NSW).

Code means:

(a) the NSW Government Code of Practice for Procurement (2005); and

(b) the Implementation Guidelines to the NSW Code of Practice for Procurement: Building and Construction (July 2013).

Commencement Date means 5 March 2010.

Commencement Date CPI means the CPI number for the calendar quarter ending immediately before the Commencement Date.

Community Facility means the community facility to be constructed for public and cultural purposes if the Authority and the Developer agree on a Community Facility Proposal in accordance with clause 19 and which was formerly described as the 'Barangaroo Information Centre'.

Community Facility Proposal has the meaning given to that term in clause 19.1(a).

Compliance Certificate means a certificate referred to in section 109C(1)(a) of the EP&A Act.

Complying Development Certificate means a complying development certificate referred to in section 85 of the EP&A Act.

Concept Plan Approval means the instrument of approval entitled "Determination of the Barangaroo Concept Plan (MPA No. 06_0162)", approved by the Minister on 9 February 2007, as modified from time to time.

Consent Authority means, in relation to an Application, the Public Authority having the function to determine the Application.

Contaminant means any substance which exceeds the concentration derived by the HHERA or which otherwise presents an unacceptable risk of harm to human health or any other aspect of the environment.

Contamination means material which, when excavated, and prior to Remediation meets the classification under NSW Waste Classification Guidelines as anything other than General Solid Waste. Contamination also means Significant Contamination (where the context requires).

Contribution Payment Date means in respect of a Works Portion, a Separable Portion or a stratum lot the subject of Long Term Lease, the date being 20 Business Days after the earlier to occur of:

(a) date of issue of the Occupation Certificate for that Works Portion or where a Works Portion comprises Separable Portions or Stratum Lots the subject of a Long Term

Lease, the first date of issue of an Occupation Certificate in relation to the Works Portion of which it forms part; or

(b) the Date of Practical Completion of that Works Portion.

Contribution Service Works means all works required to ensure that electricity is continuously is available to meet the electricity load demands of Barangaroo excluding Stage 1 and the Temporary Cruise Terminal Site, provided such electricity load demands are not any greater than the electricity load demands of Barangaroo excluding Stage 1 and the Temporary Cruise Terminal Site in existence as at the Commencement Date, from Stage 1 or some other area within Barangaroo or the immediate vicinity of Barangaroo.

Construction Certificate means a certificate issued under section 109C (1)(b) of the EP&A Act.

Construction Staging means construction staging activities detailed in the Remediation and Vacation Program.

Construction Zone Licence means a licence granted by the Authority under clause 13.1, on the terms and conditions set out in Schedule 2.

Control of a corporation includes the direct or indirect power to directly or indirectly:

(a) direct the management or policies of the corporation; or

(b) control the membership of the board of directors,

whether or not the power has statutory, legal or equitable force or is based on statutory, legal or equitable rights and whether or not it arises by means of trusts, agreements, arrangements, understandings, practices, the ownership of any interest in shares or stock of the corporation or otherwise.

Controller has the meaning it has in the Corporations Act.

Corporations Act means the Corporations Act 2001 (Cwlth).

CoS Policy means the City of Sydney's Child Care Centres Development Control Plan 2005.

Cost Estimate has the meaning given to that term in clause 15.2(a)(ii).

Cost of Development of Land means the total design and construction costs which have been incurred by the Developer with respect to any (or all as the context requires) Works Portion to achieve Practical Completion of that Works Portion including the costs of demolition works, excavation and site preparation, construction costs, professional fees as part of the design (including design competitions) documentation and implementation process, fixed building machinery, car parking, air conditioning plant and equipment, services (fire, mechanical ventilation, electrical, hydraulic), ceilings, fire protection devices, installation of services (power, water, sewer, telephone), lifts and other essential machinery, replacement of existing materials, fixtures and fittings, construction related insurance, assessment and construction related fees, charges and GST [redacted] BUT EXCLUDING:

(a) the cost of the Site (including the Development Rights Fee), marketing expenses (other than the cost of construction of display suites), all finance costs and interest, building insurance after Practical Completion, fit out, equipment and appliances, kitchens and bar areas, drapery, floor coverings, commercial stock inventory, loose furniture, loose equipment, loose electrical appliances, minor maintenance of existing retained fixtures (patching, repainting), Building Code of Australia compliance works (to the extent relating to Tenants' fit-out) and stamp duty; and

(b) costs incurred which are funded by the Public Art and Cultural Development Contribution.

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

Costs and Works Statement has the meaning given to that term in clause 6.4(a).

CPI means the Consumer Price Index All Groups Sydney, or the index officially substituted for it.

Crown means Crown Sydney Property Pty Limited ACN 166 326 861.

Crown Related Entity means Crown Resorts Limited and any Associate (as defined in section 10-17 of the Corporations Act 2001) of Crown Resorts Limited.

Crown Development Agreement means the "Crown Development Agreement" to be entered into between the Authority, the Developer, the Guarantor, Crown Sydney Property Pty Limited and Crown Resorts Limited with respect to the Hotel Resort.

Cruise Terminal means the cruise terminal operating from Barangaroo (Wharf 8) at the Commencement Date.

Current Climate Positive Work Plan means the climate positive work plan submitted to the Authority on 3 October 2012 as amended by:

(a) an addendum headed "District Cooling Thermal Network";

(b) an addendum headed "Low Voltage Co- Generation Plan - Microturbines";

(c) an addendum headed "On Site Renewable Energy"; and

(d) an addendum headed "Black Water Treatment Plant"

a copy of all of which is Annexure M.

Current CPI means the CPI number for the calendar quarter ending immediately before the relevant Lease Commencement Date.

Date for Commencement means, in respect of a Works Portion, the date specified in the Developer's notice relating to that Works Portion under clause 13.5(a) as varied under clause 13.5(c).

Date for Practical Completion of the VMP Remediation Works and the VMP Investigation Works for BDA Development Block 5 means the date specified as the date by which the Remediation Works to be carried out on BDA Development Block 5 are required to be completed in the Relevant Contract for those works entered into in accordance with clauses 16, 17 and Schedule 10.

Date for Practical Completion of the VMP Remediation Works and the VMP Investigation Works for BDA Development Block 5 Foreshore means the date specified as the date by which the Remediation Works to be carried out on BDA Development Block 5 Foreshore are required to be completed in the Relevant Contract for those works entered into in accordance with clauses 16, 17 and Schedule 10.

Date for Practical Completion of the VMP Remediation Works and the VMP Investigation Works for BDA Development Block 6 means the date specified as the date by which the Remediation Works (if any) to be carried out on BDA Development Block 6 are required to be completed in the Relevant Contract for those works entered into in accordance with clauses 16, 17 and Schedule 10.

Date for Practical Completion of the VMP Remediation Works and the VMP Investigation Works for BDA Development Block 6 Foreshore means the date specified as the date by which the Remediation Works (if any) to be carried out on BDA Development Block 6 Foreshore are required to be completed in the Relevant Contract for those works entered into in accordance with clauses 16, 17 and Schedule 10.

Date for Practical Completion of the VMP Remediation Works and the VMP Investigation Works for BDA Development Block 7 means the date specified as the date by which the Remediation Works (if any) to be carried out on BDA Development Block 7 are required to be completed in the Relevant Contract for those works entered into in accordance with clauses 16, 17 and Schedule 10.

Date for Practical Completion of the VMP Remediation Works and the VMP Investigation Works for BDA Development Block 7 Foreshore means the date specified as the date by which the Remediation Works (if any) to be carried out on BDA Development Block 7 Foreshore are required to be completed in the Relevant Contract for those works entered into in accordance with clauses 16, 17 and Schedule 10.

Date for Practical Completion of the VMP Remediation Works and the VMP Investigation Works for Hickson Road means the date specified as the date by which the Remediation Works to be carried out on the Hickson Road Declaration Area are required to be completed in the Relevant Contract for those works entered into in accordance with clauses 16, 17 and Schedule 10.

Date for Vacation of BDA Development Block 5 means [redacted] as extended pursuant to clause 25.3.

Date for Vacation of BDA Development Block 5 Foreshore means the later of [redacted] and [redacted] after the anticipated date for practical completion of the Hotel Resort as shown in the Remediation and Vacation Program agreed under clause 7.12 , as extended pursuant to clause 25.3.

Date for Vacation of BDA Development Block 6 means the later of [redacted] and [redacted] prior to the anticipated date of practical completion of the Hotel Resort as shown in the Remediation and Vacation Program agreed under clause 7.12, as extended pursuant to clause 25.3.

Date for Vacation of BDA Development Block 6 Foreshore means [redacted], as extended pursuant to clause 25.3.

Date for Vacation of BDA Development Block 7 means [redacted], as extended pursuant to clause 25.3.

Date for Vacation of BDA Development Block 7 Foreshore means [redacted], as extended pursuant to clause 25.3.

Date for Vacation of the Hickson Road Declaration Area means that date which is [redacted] after the date for practical completion (as defined in the Relevant Contract with the Relevant Person) of the Hickson Road VMP Remediation Works, as extended pursuant to clause 25.3.

Date of Practical Completion means, in respect of a Works Portion and subject to clause 24.7, the date being the date specified in the Certificate of Practical Completion issued by the Independent Certifier under clause 24.4 for that Works Portion.

Date of Substantial Commencement means, in respect of a Works Portion, the date that Substantial Commencement of that Works Portion is achieved.

Dealing has the meaning given in clause 43.1.

Declaration means the declaration of significantly contaminated land issued by the NSW Environment Protection Authority under Declaration Number 21122 gazetted on 15 May 2009.

Declaration Area means the land declared to be significantly contaminated land under the CLM Act in the Declaration as indicated as the red hatched area on the Future Remediation Plan.

Deed Poll means the deed poll to be signed and delivered by each Owners Corporation or Tenant, as contemplated by the Barangaroo Management Plan.

Defects Liability Period means, in respect of a Works Portion, a period of 12 months commencing on:

(a) the Date of Practical Completion for that Works Portion; or

(b) (if applicable) the date of completion of rectification works as contemplated in clause 37.3(c) relating to that Works Portion.

Defects Notice has the meaning given in clause 38.3.

Delay Event has the meaning given in clause 14.2(b).

Design Excellence Competition means any design excellence competition required to be undertaken pursuant to the revised statement of commitments forming part of the Concept Plan Approval, the requirement for which has not been waived by the Director-General.

Detailed Plans and Specifications means plans and specifications suitable for inclusion in an Application to undertake a relevant Works Portion and to a level of detail required by the relevant Consent Authority.

Detailed Response means the detailed proposal (including plans, specifications, models and financial feasibilities contained in that detailed proposal) submitted by Lend Lease Development Pty Limited to the Authority in response to the Barangaroo Stage 1 Request for Detailed Proposals issued to short-listed proponents on 25 September 2008, as varied, enhanced or improved by the following clarifications:

(a) Clarification 1 - Lend Lease, 15 April 2009;

(b) Clarification 2 - Lend Lease, 28 April 2009;

(c) Clarification 3 - Lend Lease, 30 April 2009;

(d) Clarification 4 - Lend Lease, 14 May 2009;

(e) Letter Clarification 4 - 18 May 2009;

(f) Clarification 5 - Lend Lease, 19 May 2009;

(g) Proponent Presentation - Lend Lease Clarification Proponent Presentation, 18 May 2009;

(h) Letter for Clarification Proponent Presentation, 25 May 2009;

(i) Letter for Clarification - 5, 25 May 2009;

(j) Clarification - 23, 5 May 2009;

(k) Letter G Biles re meeting 170609, 17 June 2009;

(l) Clarification 1 - Lend Lease reply, 21 April 2009;

(m) Barangaroo Clarification 5 response, 25 May 2009;

(n) 18052009 Letter Clarification 4, 18 May 2009;

(o) Proponent Meeting 240609 Full Final Document; and

(p) Clarification Proponent Presentation Answers, 25 May 2009.

Developable GFA means the GFA which may be developed in Stage 1 (subject to obtaining all necessary Approvals) in accordance with the terms of the Concept Plan Approval , but excluding GFA comprised in the Barangaroo Works (if any).

Developer Contribution means the contributions payable by the Developer pursuant to clause 5.2, 5.6 or 15.4 (as the case may be).

Developer Contribution Estimate has the meaning given to that term in clause 15.4(c).

Developer Hickson Road Works means the works referred to in clause 22A.4.

Developer Secured Area means each part of the Site, which is the subject of a Construction Zone Licence or Staging Licence or sub-licence as contemplated by clauses 13.1 or 11.3(a)(iii) from time to time.

Developer Unacceptable Condition means a condition of the Approval to the Alternative Modification Application which is agreed or determined to be a Developer Unacceptable Condition pursuant to clause 11.9 or Schedule 1.

Developer's Cost Plan means the Cost Plan within Returnable Schedule 7 to the Final Proposal.

Developer's Draft RWP means the remediation works plan within Returnable Schedule 7 to the Final Proposal.

Developer's Employees and Agents means each of the Developer's employees, officers, agents, contractors, service suppliers, licensees, invitees and those persons who are on the Developer Secured Area (other than the Authority and the Authority's Employees).

Developer's Property means all plant and equipment, fixtures, fittings, furniture, furnishings, decorations and other property not owned by the Authority which the Developer brings on to the Site or fixes to the Site.

Developer's Statement has the meaning given to that term in clause 5.3(a).

Development Period means, in respect of any part of the Developer Secured Area, the period commencing on the date that the Construction Zone Licence is granted in respect of that part of the Developer Secured Area and ending on the date that the Construction Zone Licence terminates in respect of that part of that area (but excludes any Construction Zone Licence granted for the purposes of the Developer undertaking the VMP Remediation Works, PDA Remediation Works and any of the Barangaroo Works).

Development Program means the program for the achievement of the Milestones being Annexure F showing the dates by which those Milestones are to be achieved, as updated, varied or replaced in accordance with this deed.

Development Rights Fee means the aggregate of

(a) the Total Payment Amount; and

(b) the [redacted]

Director-General means the Director-General or Secretary of the New South Wales Department of Planning and Environment.

Disclosure Materials means the materials contained in the on-line data room made available by the Authority to the Developer before the Commencement Date, being the material referred to in Annexure Y.

Discriminatory Law means:

(a) either (or both)

(i) New South Wales Law (including any amendment or replacement); or

(ii) the exercise of the Minister administering the BDA Act, pursuant to which additional imposts, levies or charges are imposed on (beyond those specified in the BDA Act as at the Commencement Date),

which specifically and only affects all or part of the Land (including the Site), the Building or the execution of the Works (or any part of the Works) in a manner which is not comparable to the manner in which any other land in and around Sydney Harbour may be affected and which materially adversely impacts (including by increasing the costs of developing or leasing) the Site, the Building or the execution of the Works (or any part of the Works); or

(b) any legislation which has the effect of repealing section 35 of the BDA Act.

Draft Barangaroo Management Plan means Annexure Q.

Draft Voluntary Management Proposal means the draft Voluntary Management Proposal comprising Annexure T.

Early Access Area means, in relation to a Building, the area shaded yellow and green relevant to that Building in the Retail Public Domain (Early Access) Plan.

Encumbrance means an interest or power:

(a) reserved in or over an interest in any asset including, but not limited to, any retention of title; or

(b) created or otherwise arising in or over any interest in any asset under a bill of sale, mortgage, charge, lien, pledge, trust or power,

by way of security for the payment of a debt, any other monetary obligation or the performance of any other obligation, and includes, but is not limited to, any agreement to grant or create any of the above.

Environment includes all aspects of the surroundings of human beings.

Environment Protection Authority means the Environment Protection Authority of New South Wales.

Environmental Law means any Law concerning the Environment and includes Laws concerning:

(a) the carrying out of uses, works or development, the erection of a building or the subdivision of land (including the EP&A Act);

(b) emissions of substances into the atmosphere, waters and land;

(c) pollution and contamination of the atmosphere, waters and land ; and

(d) production, use, handling, storage, transportation and disposal of:

(i) waste;

(ii) hazardous substances;

(iii) dangerous goods;

(e) threatened, endangered and other flora and fauna species; and

(f) conservation, heritage and natural resources; and

(g) the health and safety of people,

whether made or in force before or after the Commencement Date.

Environmental Liability means any of the following liabilities which arise, directly or indirectly, from the Developer's occupation or use of the Site:

(a) all Costs associated with undertaking any Cleanup ordered or required by any Public Authority of any land, building or waters;

(b) any compensation or other monies that a Public Authority requires to be paid to any person under an Environmental Law for any reason;

(c) any fines or penalties incurred under an Environmental Law;

(d) all Costs incurred in complying with an Environmental Law; and

(e) all other claims, demands, suits, proceedings, causes of action, losses (including consequential losses) damages, Costs and interest, payable under an Environmental Law.

Environmental Limit has the meaning given to that term in clause 16.36(a)(i).

Environmental Site Representative means the environmental site representative appointed by the Authority pursuant to clause 16.40.

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

EPA Levies means statutory levies payable for disposal of material Off-Site as part of the Remediation Works and Other Remaining Remediation Works to a scheduled waste facility licensed under the POEO Act. For clarity, it excludes Remediation Levies.

ESD means ecologically sustainable development.

Estate Levy means the estate levy to be completed in each relevant Lease (of Premises comprising GFA):

(a) being $18.00 per m^2 of GFA at the Commencement Date; and

(b) if, on any Lease Commencement Date, the Current CPI exceeds the Commencement Date CPI, then the amount of the Estate Levy from and including that Lease Commencement Date is $18.00 per m^2 multiplied by the Current CPI and divided by the Commencement Date CPI.

An **Event of Default** occurs if the Authority gives notice to the Developer under clause 46.2.

Existing Cruise Terminal Site means the site of the Cruise Terminal as at the Commencement Date.

Expert Sustainability Certifiers means suitably qualified independent expert or experts, reasonably acceptable to the Authority (after taking into account the matters referred to in clause 9.19) who have the necessary expertise in connection with matters relating to the Climate Positive Work Plan, including the social sustainability matters contemplated by clause 9.18.

Ferry Facility means that portion of the Unscoped Barangaroo Works described in Schedule 6.

Fifth Deed of Amendment means the Fifth Deed of Amendment to this deed which is dated 2015.

Final Certificate means in respect of a Works Portion, a certificate under which the Independent Certifier certifies that:

(a) all defects and omissions in the Works have been rectified;

(b) if a final Occupation Certificate was not issued on or before Practical Completion, a final Occupation Certificate has issued; and

(c) (if relevant) a building certificate under Part 8 of the EP&A Act has issued.

Final Completion means in respect of a Works Portion, the point in time when the Works the subject of that Works Portion have been carried out such that a Final Certificate for that Works Portion must issue.

Final Plans and Specifications means, in respect of a Works Portion the Detailed Plans and Specifications for the Works the subject of that Works Portion, consented to by the Consent Authority and by the Authority which have been approved for the Construction Certificate for those Works.

Final Proposal means the Detailed Response as varied, enhanced or improved by:

(a) the further offer submitted by the Developer to the Authority in response to the document entitled 'Barangaroo Stage 1 Final Phase RFDP' issued to nominated proponents on or around 14 August 2009, as varied, enhanced or improved by the following clarifications:

(i) Clarification Responses: 17-19 November 2009;

(ii) Clarification Drawings and Documentation sent to the Authority under cover of letter dated 27 November 2009; and

(iii) Clarification Responses (dated 7 December 2009) to letter from the Authority dated 24 November 2009,

provided that any plans, designs and drawings comprising any part of clarifications referred to in paragraphs (i) to (iii) above are excluded from, and do not form part of, the Final Proposal for the purposes of this definition; and

(b) Refined Proposal.

Financier means each financier (if any) which enters into a Financier's Side Deed.

Financier's Side Deed means a deed generally in the form of Annexure D and otherwise in a form acceptable to the Authority (acting reasonably).

FIRB Act means the Foreign Acquisitions and Takeovers Act 1975 (Cwlth).

Force Majeure means any one of the following events:

(a) war (undeclared or declared), civil war, civil commotion, demonstrations, insurrections, riots, floods, explosions, acts of terrorism, earthquakes, substantial fires (not caused by the Developer or the Developer's Employees and Agents), acts of God or the public enemy or sabotage; or

(b) state-wide or nationwide industrial disputes, stoppages or strikes; or

(c) any strike, lockout or other industrial action or dispute, which was caused or contributed to by the acts or omissions of the Authority or any other Public Authority.

Future Remediation Plan means the plan being Annexure S**.**

GBCA means the Green Building Council of Australia or any successor.

General Solid Waste means material that meets the classification of General solid waste (non-putrescible) under the NSW Waste Classification Guidelines (and for the avoidance of doubt, not as amended from time to time). For clarity, it includes material that is virgin excavated natural material and excavated natural material.

GFA or **Gross Floor Area** 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, and

(b) habitable rooms in a basement or an attic, and

(c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes:

(i) any area for common vertical circulation, such as lifts and stairs;

(ii) any basement;

(iii) storage;

(iv) vehicular access, loading areas, garbage and services;

(v) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting;

(vi) car parking to meet any requirements of the Consent Authority (including access to that car parking);

(vii) any space used for the loading or unloading of goods (including access to it);

(viii) terraces and balconies with outer walls less than 1.4 metres high and wintergardens in high rise residential buildings; and

(ix) voids above a floor at the level of a storey or storey above.

GFA Milestones means the Substantial Commencement Milestones, the Practical Completion Milestones and the Public Domain Milestones set out in clause 25.1(a).

Green Star As Built Rating or Green Star Design Rating means as the case requires, one or more of the following relevant Green Star Ratings:

(a) Green Star 6 Star Office As Built Rating;

(b) Green Star 6 Star Office Design Rating;

(c) Green Star 5 Star Retail As Built Rating;

(d) Green Star 5 Star Retail Design Rating;

(e) Green Star 5 Star Multi Unit Residential As Built Rating; or

(f) Green Star 5 Star Multi Unit Residential Design Rating.

Green Star 6 Star Office As Built Rating means the rating of 6 stars under the Green Star - Office As Built (Relevant Version) rating system as certified by the GBCA as varied from time to time to be consistent with the Climate Positive Benchmarks as varied pursuant to clause 9.7.

Green Star 6 Star Office Design Rating means the rating of 6 stars under the Green Star - Office Design (Relevant Version) rating system as certified by the GBCA. as varied from time to time to be consistent with the Climate Positive Benchmarks as varied pursuant to clause 9.7.

Green Star 5 Star Retail As Built Rating means the rating of 5 stars under the Green Star - Retail As Built (Relevant Version) rating system as certified by the GBCA as varied from time to time to be consistent with the Climate Positive Benchmarks as varied pursuant to clause 9.7.

Green Star 5 Star Retail Design Rating means the rating of 5 stars under the Green Star - Retail Design (Relevant Version) rating system as certified by the GBCA as varied from time to time to be consistent with the Climate Positive Benchmarks as varied pursuant to clause 9.7.

Green Star 5 Star Multi Unit Residential As Built Rating means the rating of 5 stars under the Green Star – Multi Unit Residential As Built (Relevant Version) rating system as certified by the GBCA as varied from time to time to be consistent with the Climate Positive Benchmarks as varied pursuant to clause 9.7.

Green Star 5 Star Multi Unit Residential Design Rating means the rating of 5 stars under the Green Star – Multi Unit Residential Design (Relevant Version) rating system as certified by the GBCA as varied from time to time to be consistent with the Climate Positive Benchmarks as varied pursuant to clause 9.7.

Green Utilities Term Sheet means the term sheet in Annexure P2.

GST has the meaning it has in the GST Act.

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

GST Amount has the meaning given to that term in clause 56.3(b).

Guarantee and Indemnity means the guarantee and indemnity contemplated by clause 49.

Guaranteed Obligations means all the Developer's obligations under each of the Project Documents referred to in paragraphs (a), (d), (e), (f), (g) and (i) of the definition of 'Project Documents' in this clause 1.1 to which the Authority and the Developer are party. This definition applies:

(a) irrespective of the capacity in which the Developer or the Authority enter into this deed;

(b) whether the Developer is liable alone, or jointly, or jointly and severally with another person;

(c) whether the person entitled to the benefit of a Guaranteed Obligation is the Authority or an assignee of the Guaranteed Obligations (provided any such assignment is made in accordance with the terms of the Project Documents) and whether or not:

(i) the assignment took place before or after the delivery of this deed; or

(ii) the Developer or the Guarantor consented to or was aware of the assignment; or

(iii) the assigned obligation was secured.

Guarantor means Lend Lease Corporation Limited ABN 32 000 226 228.

Guarantor Sunset Date means 2 years after the earlier of:

(a) the Date of Practical Completion of the Building comprising the last of the Works Portions capable of being developed on the Site; and

(b) the termination of this deed.

Head Licence means a non-exclusive licence of the Retail Public Domain to an Owner of a Building (or retail stratum lot (or lots) within a Building as applicable) as referred to in clause 29A.2(a).

Headland Park means the "Barangaroo Headland Park" as defined in the BDA Act.

HHERA or Human Health Environmental Risk Assessment means an ecological risk assessment and health risk assessment as defined in and completed in accordance with the National Environment Protection (Assessment of Site Contamination) Amendment Measure 2013.

Hickson Road means the road known as Hickson Road which adjoins Barangaroo.

Hickson Road Declaration Area means the area of Hickson Road that forms part of the Declaration Area.

Hickson Road Relocation Costs means the costs of re-locating any businesses which front Hickson Road [redacted]

Hickson Road VMP Remediation Works means the VMP Remediation Works on any part of the Hickson Road Declaration Area including the Pilot Trials.

Hotel Approval Date means the date of an Approval for the Early Works (as defined in the Crown Development Agreement) or an Approval to the Hotel Resort DA (as defined in the Crown Development Agreement) (whichever is granted first).

Hotel Resort means the Crown Sydney integrated hotel resort contemplated in the Mod 8 Application and the Agreed Design Documents as being developed on the Site (subject to obtaining all necessary Approvals).

Hotel Purposes means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes hotel or motel accommodation, serviced apartments, bed and breakfast accommodation and backpackers' accommodation (whether or not licensed premises under the Liquor Act 2007):

(a) comprising rooms or self-contained suites, and

(b) that may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

Improvements means all improvements erected at any time on the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6).

Incident Report has the meaning given to that term in clause 11.16(d)(ii)B.

Indemnified Persons means the Authority and the Authority's Employees.

Independent Certifier means the person appointed by the Developer to be the Independent Certifier for the purposes of this deed pursuant to clauses 12.6 and 12.7, and any replacement appointed under clause 12.7.

Independent Certifier's Deed means a deed generally in the form of Annexure E and otherwise in a form acceptable to the Authority (acting reasonably).

Infrastructure Works means the relevant works described under the heading 'Infrastructure Works' in the 'Preferred Scheme Cost Plan' in Schedule 6.

Insolvency Event means the happening of any of these events:

(a) a body corporate is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);

(b) a body corporate has a Controller appointed, is under administration or wound up or has had a Receiver appointed to any part of its property;

(c) a body corporate is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the Authority);

(d) an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 40 Business Days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that body corporate, which:

  (i) is preparatory to or could result in any of (a), (b) or (c) above; or

  (ii) which results in the appointment of a liquidator or provisional liquidator in respect of a body corporate;

(e) as a result of the operation of section 459(F)(1) of the Corporations Act a body corporate is taken to have failed to comply with a statutory demand;

(f) a body corporate is, or it makes a statement from which the Authority reasonably deduces that the body corporate is, the subject of an event described in section 459(C)(2)(b) or section 585 of the Corporations Act;

(g) a body corporate is otherwise unable to pay its debts when they fall due;

(h) a body corporate takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to a body corporate; or

(i) something having a substantially similar effect to (a) to (h) happens in connection with that person under the Law of any jurisdiction.

Instruction Brief (RW) means a brief or briefs to instruct the appointment of the Accredited Site Auditor, to be prepared by the Developer and approved by the Authority, and which must instruct the Accredited Site Auditor to (amongst other things):

(a) address its Site Audit Statement and Site Audit Report to both the Developer and the Authority (on the basis that both the Developer and the Authority may rely upon the Site Audit Statement and Site Audit Report); and

(b) confirm in its Site Audit Report whether the Remediation Works have been carried out and completed in accordance with the relevant Remediation Approvals, the VMP Remedial Action Plan and the VMP Remedial Works Plan or the PDA Remedial Action Plan and the PDA Remedial Works Plan (as the case may be) to the satisfaction of the Accredited Site Auditor.

Instruction Brief (ORW) means a brief to instruct the appointment of the Accredited Site Auditor, to be prepared by the Developer and approved by the Authority, and which must instruct the Accredited Site Auditor to (amongst other things):

(a) address its Site Audit Statement and Site Audit Report to both the Developer and the Authority (on the basis that both the Developer and the Authority may rely upon the Site Audit Statement and Site Audit Report); and

(b) confirm in its Site Audit Report whether the Other Remediation Works have been carried out and completed in accordance with the Remediation Approvals and the relevant parts of the Other Remedial Action Plan and Other Remedial Works Plan (if the Developer's compliance with such plan is required by clause 17), to the satisfaction of the Accredited Site Auditor.

Insurances means the insurances required to be effected and maintained in connection with the Project under any Project Document.

Integrated Public Art means works of art produced by an artist or artists which is of a high standard and complementary to or integrated with the Project, and which is designed, created or commissioned in accordance with *Returnable Schedule 15* of the Detailed Response, as reflected in the Barangaroo Public Art and Culture Plan.

Intellectual Property Rights means all intellectual property rights including current and future registered and unregistered rights in respect of copyright, designs, circuit layouts, trademarks, know-how, confidential information, patents, inventions and discoveries and all other intellectual property as defined in article 2 of the convention establishing the World Intellectual Property Organisation 1967.

Interest Rate in relation to interest payable on any payment due under this deed means, for each daily balance, the rate that is 3% per annum above the Bank Bill Rate.

Investigation Works (PDA) Section B Site Audit Statement means a Site Audit Statement in the form published by OEH (as amended or substituted from time to time) which

contemplates that the purpose of the Site Audit is to determine whether the remedial action plan is appropriate for the stated purposes, and/or that the Declaration Area can be made suitable for particular uses, namely addressing the Contamination on the Declaration Area if the Declaration Area is Remediated in accordance with the PDA Remedial Action Plan (and where Section B of that Site Audit Statement has been completed by the Accredited Site Auditor).

Investigation Works (VMP) Section B Site Audit Statement means a Site Audit Statement in the form published by OEH (as amended or substituted from time to time) which contemplates that the purpose of the Site Audit is to determine whether the remedial action plan is appropriate for the stated purposes, and/or that the Declaration Area can be made suitable for particular uses, namely addressing the Significant Contamination on the Declaration Area if the Declaration Area is Remediated in accordance with the VMP Remedial Action Plan (and where Section B of that Site Audit Statement has been completed by the Accredited Site Auditor).

Invitation to Tender has the meaning given to that term in Schedule 10.

IRR means the discount rate at which the net present value of the projected cash flows is equal to zero. It is to be determined by using monthly cash flows and applying the XIRR function in Microsoft Excel.

Jemena means Jemena Limited (and any Associate (as defined in section 10-17 of the Corporations Act 2001) of Jemena Limited).

[redacted]

Key Personnel means the people or entities referred to in paragraphs (a), (b), (c), (d), (e), (f), (g) and (i) of the definition of 'Project Team' in this clause 1.1.

Key Worker Housing means housing for any nurse, teacher, child-care worker, ambulance officer, member of the police force, member of the fire brigade or retirees with an income of +/- 50% of median household income for the Sydney (Statistical Division) (as that division is defined for the purposes of the Australian Bureau of Statistics).

Land means the land in certificate of title folio identifiers 1/876514, 3/876514, 5/876514 and 6/876514.

Last Date for Practical Completion means, in respect of a Works Portion, the date being the date for practical completion for that Works Portion in the relevant Building Contract, extended by 25% of the period from the commencement of works under that Building Contract until that date for practical completion (subject to the extensions of time for delays referred to in clause 25.2).

Law includes all statutes, regulations, by-laws, ordinance and other delegated legislation and any rule of common law or equity and any statutory guidelines, and environmental planning instruments from time to time.

LEADR means Lawyers Engaged in Alternative Dispute Resolution or, if no such organisation exists, then the President of the Law Society of New South Wales.

Lease means, in respect of each Premises (or any part of that Premises) each and every (or any):

(a) Long Term Lease; and

(b) Strata Lease,

to be granted following acceptance of the relevant Call Offer or Put Offer.

Lease Commencement Date means in respect of each Lease:

(a) if the relevant Call Offer is accepted, the date the Notice of Acceptance of Call Offer relevant to that Call Offer is delivered to the Authority by the Developer (or a Nominee) pursuant to clause 27.2; or

(b) if the relevant Put Offer is accepted, the date the Notice of Acceptance of Put Offer relevant to that Put Offer is delivered to the Developer by the Authority pursuant to clause 28.2.

Leased Premises means the Premises the subject of a Lease or the subject of an arrangement whereby the Authority is obliged on certain conditions to grant a Lease to a Nominee.

[redacted] means the amounts as described in paragraph 3(a)(i) of Schedule 9.

[redacted] mean the costs referred to in clause 18A.2(a)(v) and clause 18A.3(a)(ii).

LLB means Lend Lease Building Pty Ltd (ABN 97 000 098 162).

Long-term Environmental Management Plan means a plan which addresses the integration of environmental mitigation and monitoring measures for soil and groundwater throughout an existing or proposed land use, and:

(a) which describes things such as:

(i) the nature and location of contamination remaining on-site;

(ii) how contaminants will be managed;

(iii) who will be responsible for the plan's implementation; and

(iv) the time frame actions specified in the plan will take place; or

(b) deals with any of the following:

(i) environmental monitoring measures for any part of the Site for the purpose of measuring the effectiveness of any Remediation Works, Other Remediation Works or Other Remaining Remediation Works that have been undertaken and which may make provision for any necessary management measures that respond to monitoring results; or

(ii) contingency management methods which may need to be applied by future users if they wish to re-develop their Premises beyond the area affected by Works undertaken for the relevant Works Portion.

Long Term Lease means, in respect of Premises (or any part of that Premises), a long term lease or licence (where relevant) which is substantially similar to the Pro Forma Lease (which in the case of a licence, such licence will incorporate provisions substantially the same as the Pro Forma Lease).

LPI means Land and Property Information New South Wales.

Management Committee means the management committee formed as contemplated in clause 7.1.

Managing Services Agreement means the managing services agreement between the Developer and LLB in relation to the Upgrade Works.

Methodology means either of Methodology A, Methodology B or an Alternate Methodology (as relevant) selected in accordance with clause 16.

Methodology A means the use of an in situ remediation technology in the Hickson Road Declaration Area.

Methodology B means the use of an ex situ remediation technology in the Hickson Road Declaration Area.

Metro Line 1 (Stage 1) means the metro railway system once proposed by the NSW Government running through the Sydney Central Business District from Rozelle through Pyrmont and on to Central Station, Sydney via Barangaroo, Wynyard, Martin Place and Town Hall Square.

Milestone Date means in respect of Substantial Commencement Milestones, Practical Completion Milestones and Public Domain Milestones, the date set out opposite that Milestone in the first column in the Development Program as extended pursuant to clause 25.2.

Milestones means each of:

(a) the Substantial Commencement Milestones referred to in the third column of the Development Program;

(b) the Practical Completion Milestones referred to in the fifth column of the Development Program; and

(c) the Public Domain Milestones referred to in the sixth column of the relevant part of the Development Program.

Minister means the New South Wales Minister for Planning.

Mod 8 Application means the Application to be made by the Developer to the Minister for a Modification of the Concept Plan Approval known as 'Modification 8'.

Mod 8 Approval means the approval to be issued by the Minister pursuant to the Mod 8 Application.

Modification means a "modification" of:

(a) a Part 3A Approval, within the meaning of section 75W or section 96 of the EP& A Act; or

(b) any other Approval to a Significant Application.

Moral Rights means any of the rights described in Article 6*bis* of the Berne Convention for the Protection of Literary and Artistic Works 1886 (as amended and revised from time to time), being "droit moral" or other analogous rights arising under any Law (including the Copyright

Act 1968 (Cwlth) or any Law outside Australia), that exist now or in the future anywhere in the world.

NABERS means the National Australian Built Environment Rating System for office buildings published by OEH.

NABERS Average Target has the meaning given to it clause 9.14(a)(ii).

Naming and Signage Policy means the Authority's signage policy (which must be materially consistent with the signage policy comprised in SEPP64 as varied from time to time).

Native Title Application means any application made pursuant to the Native Title Act 1993 (Cwlth) or the Native Title (New South Wales) Act 1994 (NSW).

New Landlord has the meaning given in clause 44.2.

Nominated Clause 46.6 Payment Amount, in respect of the date of termination of this deed, (including a termination of this deed that only relates to some, but not all Works Portions) means an amount equivalent to the Payment Rate multiplied by the total GFA of:

(a) the Works Portions in respect of all Leased Premises; and

(b) the Work Portions in respect of which this deed has not been terminated (including by virtue of clause 46.5).

[redacted]

Nominated Pedestrian Connection means each of:

(a) the City Walk Bridge;

(b) the 189 Kent Connection; and

(c) the staircase at the junction of Napoleon Street and Hickson Road connecting to the Maritime Centre,

each being as described in the Unscoped Barangaroo Works and each as generally shown in the plan comprising Annexure R1.

Nominated QS means each of:

(a) WT Partnership;

(b) Ryder Levitt Bucknall;

(c) Page Kirkland Partnership; and

(d) such other person as the Developer and the Authority agree in writing.

Nominee means, subject to clause 29.6(b), a person (not being the Developer) who:

(a) is or the Authority has confirmed is, an Acceptable Tenant; and

(b) is nominated by the Developer under clause 29.6 as being entitled to accept the relevant Call Offer.

Non-Declaration Area means that area shaded pink on the Future Remediation Plan.

Non-Declaration Area Remaining means the whole of the areas shaded green on the Future Remediation Plan.

Notice of Acceptance of Call Offer means a notice to accept the Call Offer in the form of the notice comprising Annexure I.

Notice of Acceptance of Put Offer means a notice to accept the Put Offer in the form of the notice comprising Annexure J.

NSW Government means the government of New South Wales.

NSW Waste Classification Guidelines means the Waste Classification Guidelines being Annexure N.

Occupation Certificate means an interim or final occupation certificate to be issued under Part 4A of the EP&A Act to enable the occupation or use of a Works Portion in accordance with the EP&A Act.

OEH means the Office of Environment and Heritage and includes the Environment Protection Authority or any successor entity, in either case, from time to time any predecessor (including the Department of Environment Climate Change and Water and the Department of Environment and Climate Change) as the context requires.

Off-Site means any location other than a location within Barangaroo.

[redacted]

Other Investigation Works means:

(a) all relevant investigation Works required to determine; and

(b) the preparation of plans detailing,

the Works needed to Remediate Contamination from the Non-Declaration Area in accordance with this deed.

Other Investigation Works Section B Site Audit Statement means a Site Audit Statement in the form published by OEH (as amended or substituted from time to time) which contemplates that the purpose of the Site Audit is to determine whether the remedial action plan is appropriate for the stated purposes, and/or that the Non-Declaration Area, can be made suitable for intended uses as contemplated in this deed if the Non-Declaration Area is Remediated in accordance with the Other Remedial Action Plan (and where Section B of that Site Audit Statement has been completed by the Accredited Site Auditor).

Other POEO Works means any work, activity or other thing undertaken or to be undertaken affecting any part of Barangaroo which requires authorisation under the POEO Act but which is not included as Relevant POEO Works.

Other Remaining Remediation Works means the Works in the Non-Declaration Area Remaining described in paragraph 1.1.1(a) of Schedule 7 and the works described in paragraph 1.1.1(b) of Schedule 7.

Other Remedial Action Plan means a remedial action plan that will be prepared as part of the Other Investigation Works for the Non-Declaration Area.

Other Remedial Works Plan means a remediation works plan, as revised from time to time in accordance with clause 17.1 approved by the Authority, endorsed by the Accredited Site Auditor which:

(a) is consistent with the Other Remedial Action Plan;

(b) details the work that must be carried out and the methodology, procedures and timing that must be complied with in order to carry out Other Remediation Works;

(c) provides details of plans to be implemented during the carrying out of the Other Remediation Works to ensure:

(i) the protection of health and safety and the amenity of workers involved in those Other Remediation Works and members of the public in land adjoining and in proximity to the land on which those Other Remediation Works are carried out; and

(ii) the protection of the Environment.

[redacted]

Other Remediation Works means any Works required to Remediate Contamination on any part of the Non-Declaration Area.

Other Remediation Works Section A Site Audit Statement means a Section A Site Audit Statement and Site Audit Report issued by the Accredited Site Auditor in respect of the Other Remediation Works which contains no conditions, provisions or requirements, which would adversely affect the development and intended uses (as contemplated in this deed) of the Non-Declaration Area.

Outgoings means all amounts and Costs of any kind whatsoever assessed, incurred or levied on the Developer Secured Area, including:

(a) Rates, Taxes and other charges imposed by any Public Authority;

(b) Costs for installing, connecting, supplying, renting, operating, maintaining, servicing, repairing and replacing Services used by the Developer or the Developer's Employees and Agents and upgrading those Services to comply with any Law; and

(c) any other Costs necessarily incurred by the Authority because of its ownership of the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6), which are not otherwise recoverable from a Tenant,

but Outgoings do not include the Authority's internal administrative Costs or Costs of any valuation of the Site obtained by the Authority from time to time for its own purposes unrelated to the Developer's use and occupation of the Site.

Owner means a Tenant under a Long Term Lease of:

(a) a Building; or

(b) a retail stratum lot within a Building.

Owners Corporation means each owners corporation constituted upon registration of the relevant strata leasehold plan.

Parent of a person means the person directly or indirectly exercising the decision making power of the first mentioned person including:

(a) if the first mentioned person is a corporation, a person who:

(i) controls the composition of at least half of the board of directors of the first mentioned person; or

(ii) is in a position to cast, or control the casting of, at least one half of the maximum number of votes that might be cast at a general meeting of the first mentioned person; or

(iii) holds or has a beneficial interest in at least one-half of the issued share capital of the first mentioned person (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital); or

(b) if the first mentioned person is a trustee of a unit trust and, in the case of the Developer, its interest in this deed is property subject to that trust, a person who:

(i) controls the right to appoint the trustee;

(ii) is in a position to cast, or control the casting of, at least one half of the maximum number of votes that might be cast at a meeting of holders of units; or

(iii) holds or has a beneficial interest in at least one half of the issued units of that trust (excluding any of the issued units that carries no right to participate beyond a specified amount in a distribution of either profits or capital); or

(c) if the first mentioned person is a trustee of a trust and, in the case of the Developer, its interest in this deed is property subject to that trust, a person who:

(i) is a beneficiary of that trust entitled directly or indirectly to at least one half of the corpus or profits of the trust; or

(ii) whose consent is required to:

A. appoint or change the trustee; or

B. give directions to the trustee; or

C. vary the constituent document of the trust; or

D. appoint or remove beneficiaries; or

E. decide to whom any distribution is made or the amount of any distribution.

A person is also a Parent of another person if a part of this definition is satisfied in respect of each trust and company in any chain of trusts or companies connecting that person and the other person.

Part 3A Application means:

(a) each Application made by the Developer to the Minister for approval of a concept plan for any part of the Project pursuant to section 75M of the EP&A Act;

(b) each Application made by the Developer to the Minister for approval to carry out any part of the Project pursuant to section 75E of the EP&A Act;

(c) each Application under Part 4 of the EP&A Act for a development consent where that Application would have been a Part 3A Application for the purposes of this deed to which paragraph (b) refers, but for a change which requires the subject matter of that Application to be dealt with under Part 4 of the EP&A Act rather than Part 3A of the EP&A Act; and

(d) each Developer's environmental assessment and any other document required to be submitted to the Director-General pursuant to section 75H of the EP&A Act; and

(e) each Application made by the Developer to the Minister for a Modification.

Part 3A Approval means any consent or approval to a Part 3A Application from a Consent Authority.

Part 4A Certificate means a certificate referred to in section 109C(1)(a), (b), (c) or (d) of the EP&A Act.

Partial Termination Event has the meaning given to that term in clause 25.18(a).

Paying Party has the meaning given to that term in clause 55.8.

Payment Currency means the currency in which a payment is made.

Payment Rate means the Payment Rate (Phase 1) or Payment Rate (Phase 2), as the case may be.

Payment Rate (Phase 1) means, per m^2, the rate of $[redacted], which is to be applied to the Developable GFA of Works Portions until this rate has been applied to [redacted]% of the total Developable GFA (less [redacted] m^2).

Payment Rate (Phase 2) means, per m^2, the rate determined as follows:

[redacted]

which is to be applied to the Developable GFA of Works Portions after the Payment Rate (Phase 1) ceases to be applied.

PC Dates means each of:

(a) Date for Practical Completion of the VMP Remediation Works and the VMP Investigation Works of BDA Development Block 5;

(b) Date for Practical Completion of the VMP Remediation Works and the VMP Investigation Works of BDA Development Block 5 Foreshore;

(c) Date for Practical Completion of the VMP Remediation Works and the VMP Investigation Works of BDA Development Block 6;

(d) Date for Practical Completion of the VMP Remediation Works and the VMP Investigation Works of BDA Development Block 6 Foreshore;

(e) Date for Practical Completion of the VMP Remediation Works and the VMP Investigation Works of BDA Development Block 7;

(f) Date for Practical Completion of the VMP Remediation Works and the VMP Investigation Works of BDA Development Block 7 Foreshore; and

(g) Date for Practical Completion of the Remediation Works of Hickson Road.

PDA Remedial Action Plan means a remedial action plan that will be prepared for the Declaration Area, but not in relation to the Remediation of Significant Contamination.

PDA Remedial Works Plan means a remediation works plan, as revised from time to time in accordance with clause 16 approved by the Authority, endorsed by the Accredited Site Auditor or to which the Accredited Site Auditor confirms they have no objections.

PDA Remediation Works means all Works, other than VMP Remediation Works, required to be carried out on the Block 4 Declaration Area as described in Schedule 8.

PDA Remediation Works Section A Site Audit Statement means a Section A Site Audit Statement and Site Audit Report issued by the Accredited Site Auditor in respect of the PDA Remediation Works, which satisfies the requirements of clause 16.13(b) neither of which contains any conditions, provisions or requirements, which would adversely affect the development and intended uses of the Declaration Area after the VMP Remediation Works have been undertaken by the Developer or the Non-Declaration Area or Non-Declaration Area Remaining, including the development and intended uses to a depth of not less than the depth of the excavation required for the basements contemplated by the Agreed Design Documents and the creation of Southern Cove.

Personal Information means information or an opinion (including information or an opinion forming part of a database) collected, held, used or disclosed in connection with this deed or the Project whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Phase 1 VMP means the Voluntary Management Proposal agreed between the Authority and OEH in respect of the Declaration Area dated 14 July 2010.

Phase 2 VMP means any Voluntary Management Proposal (other than Phase 1 VMP) agreed with OEH in respect of the Remediation of the Significant Contamination in respect of the Declaration Area.

Pier means the pier structure to be built on the Site in Sydney Harbour on the southern end of Southern Cove in accordance with plans approved by the Authority in accordance with this deed.

Pilot Trials means the trial(s) of an in situ technology for use in the Hickson Road Declaration Area.

Plan means the plan, generally showing the location of the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6), attached as Annexure A.

Plan of Subdivision includes a plan of subdivision (including a plan of subdivision which creates a stratum parcel), a strata plan of subdivision (including a strata leasehold plan) or any other form of subdivision and where applicable, a Subdivision Certificate.

POEO Act means the Protection of the Environment Operations Act 1997 (NSW).

POEO Act Licence means licence number 13336 granted under Chapter 3 of the POEO Act, a copy of which (as at 25 October 2010) appears in **Annexure Z**, and includes:

(a) all conditions to such licence; and

(b) all documents incorporated by reference,

as the licence may be varied or replaced from time to time as a result of the application of clause 11.17, to the extent that that the licence relates to the Relevant POEO Works.

Practical Completion means, in respect of a Works Portion or a Separable Portion, the point of time at which, in relation to that Works Portion or Separable Portion of a Works Portion:

(a) the Independent Certifier is satisfied that every item shown or called for in the Final Plans and Specifications relevant to that Works Portion or Separable Portion (except for minor omissions or defects which the Independent Certifier determines do not adversely impact on the use and enjoyment of the relevant Works Portion or Separable Portion) has been completed or installed in accordance with the Works Documents and the Developer's obligations under this deed;

(b) all compliance reports relevant to that Works Portion or Separable Portion have been delivered to the relevant Consent Authority;

(c) the Works the subject of the Works Portion or Separable Portion are fit for use and occupation and capable of being lawfully used and occupied for their intended purpose (other than in connection with any fit-out of any part of the Works Portion or Separable Portion) with the consent of all relevant Public Authorities, excluding any further or additional requirement which may be imposed in connection with any further development within a Works Portion or Separable Portion after an Occupation Certificate has been issued in relation to a Works Portion or Separable Portion;

(d) (if relevant) a Compliance Certificate for that Works Portion or Separable Portion has issued;

(e) (if relevant) an interim Occupation Certificate for that Works Portion or Separable Portion has issued;

(f) (if relevant) a Complying Development Certificate for that Works Portion or Separable Portion has issued;

(g) the Plans of Subdivision have been registered which are relevant for those parts of the Land on which that Works Portions or Separable Portion have been constructed;

(h) the Independent Certifier is satisfied that the Developer has carried out and completed any reinstatement and rectification of those parts of the Developer Secured Area which are not proposed to be the Premises relating to the Works Portion or are otherwise areas on which ongoing Works are to be carried out, any Public Domain damaged and any infrastructure required as a result of carrying out the construction of that Works Portion or Separable Portion;

(i) where in relation to a Works Portion or Separable Portion, the Climate Positive Work Plan requires something to be done on or before Practical Completion, the Authority is satisfied (acting reasonably) that that thing has been done in accordance with and as contemplated by the Climate Positive Work Plan;

(j) where the whole or any part of a Works Portion or Separable Portion comprises Remediation Works, to the extent they are:

(i) VMP Remediation Works (including Hickson Road VMP Remediation Works): provision of one or more Acceptable VMP Remediation Works Section B Site Audit Statements to the Authority and, if the Authority has requested a Section A Site Audit Statement in respect of the Hickson Road VMP Remediation Works, the Accredited Site Auditor has issued in respect of the Hickson Road VMP Remediation Works, a Site Audit Report as well as a Section A Site Audit Statement which certifies that the Hickson Road Declaration Area is suitable for its intended uses as a road (and which may be subject to an ongoing Long Term Environmental Management Plan of the kind referred to in paragraph (a) of the definition of Long-term Environmental Management Plan as to its

suitability for use as a road) and the Authority has notified the Developer in writing that it considers that Section A Site Audit Statement to be an Acceptable Hickson Road Remediation Works Section A Site Audit Statement;

(i) PDA Remediation Works: the Accredited Site Auditor has issued in respect of the PDA Remediation Works, a Site Audit Report as well as one or more PDA Remediation Works Section A Site Audit Statement(s) which certify that:

A. Block 4 Declaration Area is suitable for its intended uses (as contemplated by this deed) and is not subject to an on-going Long-term Environmental Management Plan; and

B. the Authority has notified the Developer in writing that it considers that the Section A Site Audit Statement(s) contemplated by paragraph A. above to be Acceptable PDA Remediation Works Section A Site Audit Statement(s); and

(k) where the whole or any part of a Works Portion or Separable Portion comprises any Other Remediation Works:

(i) the Accredited Site Auditor has issued, in respect of those Other Remediation Works, one or more Site Audit Report(s) and Section A Site Audit Statement(s) which certify that the land on which those Other Remediation Works are carried out is suitable for its intended uses (as contemplated by this deed) and is not subject to an on-going Long-term Environmental Management Plan; and

(ii) the Authority has in accordance with clause 17.4(c) notified the Developer in writing that it considers that Section A Site Audit Statement(s) to be Acceptable Other Remediation Works Section A Site Audit Statement(s);

(l) where the whole or any part of a Works Portion or Separable Portion comprises VMP Investigation Works, the completion by the Developer of all of the reporting requirements in the Phase 1 VMP; and

(m) where the whole or any part of a Works Portion or Separable Portion comprises any Other Remaining Remediation Works:

(i) the Accredited Site Auditor has issued, in respect of those Other Remaining Remediation Works, one or more Site Audit Report(s) and Section A Site Audit Statement(s) which certify that the land on which those Other Remaining Remediation Works are carried out is suitable for its intended uses (as contemplated by this deed) and is not subject to an on-going Long-term Environmental Management Plan; and

(ii) the Authority has, in accordance with clauses 17.4(c) and 17.5, notified the Developer in writing that it considers that Section A Site Audit Statement(s) in respect of the Other Remaining Remediation Works to be Acceptable Other Remaining Remediation Works Section A Site Audit Statement(s).

Practical Completion Milestone means achieving Practical Completion of Works Portions comprising not less than the cumulative GFA shown opposite the relevant Milestone Date in the fifth column of the Development Program.

Practical Completion Milestone Date means the relevant Milestone Date for a Practical Completion Milestone.

Preferred Procurement Approach has the meaning given in clause 22A.5(e).

Premises means, in respect of a Works Portion, that part of the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6) which will comprise the land and Improvements to be leased or licensed (where relevant) to the Tenant pursuant to clauses 27 or 28, together with any Improvements on that land and as varied in accordance with this deed.

Privacy Laws means:

(a) the Privacy Act 1988 (Cwlth); and

(b) any other Law, industry code or policy relating to the handling of Personal Information.

Privacy Statement means a statement containing matters about the Developer's information-handling practices as required by the National Privacy Principle 1 in the Privacy Act 1988 (Cwlth).

Pro Forma Lease means the form of lease comprising Annexure B.

Pro Forma Public Domain Licence means any of the pro forma licences comprising Annexure X, being:

(a) the Public Domain Licence (Category 1) being Annexure X1; or

(b) the Public Domain Licence (Category 2) being Annexure X2.

Prohibited Entity means any person or entity which:

(a) is a "terrorist organisation" as defined in Part 5.3 of the Criminal Code Act 1995 (Cwlth); or

(b) is listed by the Minister for Foreign Affairs in the Government Gazette pursuant to Part 4 of the Charter of the United Nations Act 1945 (Cwlth) which list as at the Commencement Date is available from the website of the Australian Department of Foreign Affairs and Trade; or

(c) is listed on any other list of terrorist or terrorist organisations maintained pursuant to the rules and regulations of the Australian Department of Foreign Affairs and Trade or pursuant to any other Australian legislation.

Project means the undertaking by the Developer of the following:

(a) the design, funding, marketing and delivery of land and Buildings on the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6);

(b) the design, funding and delivery of the Barangaroo Works;

(c) subject to clauses 16 and 17, the [redacted] Remediation Works;

(d) subject to clauses 16 and 17, [redacted]

(e) the funding and delivery of infrastructure to support the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6).

Project Director means the individual appointed by Developer and approved by the Authority to take overall responsibility for delivery of the Project and compliance by Developer of its obligations under the Project Documents.

Project Documents means:

(a) this deed;

(b) the Final Plans and Specifications;

(c) the Detailed Plans and Specifications;

(d) any Building Contract;

(e) any Builder's Side Deed;

(f) any Financier's Side Deed;

(g) any Independent Certifier's Deed;

(h) the Final Proposal; and

(i) any document which the Authority and the Developer acknowledge in writing to be a Project Document,

but for the removal of doubt excludes any Lease.

Project Team means:

(a) Lend Lease Development Pty Limited (as the development manager);

(b) LLB (as the project manager/builder);

(c) [redacted] (as the Project Director);

(d) Rogers Stirk Harbour and Partners (urban design);

(e) Rogers Stirk Harbour and Partners (architecture);

(f) Peddle Thorpe Walker (architecture);

(g) Lend Lease Design, a business unit of LLB (architecture);

(h) Oculus and Aspect Studios (landscape design); and

(i) Arup (utility, civil and structural engineering),

as varied from time to time in accordance with this deed.

Proposed Premises has the meaning given to that term in clause 8.4(a)(iii)B.

Proposed Premises Plan has the meaning given to that term in clause 8.4(a)(iii)B.

Proposed Building means any Building proposed as part of the Project as identified (and labelled) in the Agreed Design Documents.

Public Art and Cultural Development Contribution means a contribution equivalent to 1% of the Cost of Development of Land towards Integrated Public Art, provided in the manner described in clauses 6.1(c) to 6.10.

Public Art Long Stop Date means 30 June 2025.

Public Authority means a government, semi government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body or other authority or body and, where applicable, an accredited certifier accredited under section 109T of the EP&A Act.

Public Authority Levies means all Costs, levies, contributions and fees of whatever description in cash or kind lawfully imposed by any Public Authority in connection with the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6) or the Project excluding all Remediation Levies.

Public Domain means the areas of public domain within Barangaroo including the Southern Cove, the Headland Park and other parks, playing fields, streets and pedestrian connections.

Public Domain Works means the works generally described in the 'Preferred Scheme Cost Plan' in Schedule 6.

Public Domain Works Design Brief means the design brief for the Public Domain Works to be agreed by the Authority and the Developer under clause 15.1(b).

Public Domain Milestone means having spent in respect of Unscoped Barangaroo Works which have become Scoped Barangaroo Works pursuant to the terms of this deed, not less than the cumulative amounts shown opposite the relevant Milestone Date in the sixth column of the Development Program.

Public Domain Milestone Date means the relevant Milestone Date for a Public Domain Completion Milestone.

Public Recreation Zone means RE1 Public Recreation Zone shown in State Environmental Planning Policy (Major Development) 2005 Amendment No. 18 - "Barangaroo Zoning Map" or any replacement State Environment Planning Policy applicable from time to time, as may be amended from time to time.

Put Offer means the offer (or offers) to the Authority to require the Developer to lease the Premises (or any part of the Premises) pursuant to clause 28.1.

Put Offer Period means in respect of the Premises the subject of a Works Portion (or any part of it), the period commencing on the day after the expiry of the Call Offer Period relevant to that Works Portion and ending on the date being 60 Business Days after the day after the expiry of the Call Offer Period.

QS Certificate means the certificate issued by the Remediation QS pursuant to either clause 16.4(c) or 16.42.

Quantity Surveyor means an independent quantity surveyor having no less than 10 years' experience appointed by the Developer and approved by the Authority acting reasonably.

Rates means rates, land taxes, assessments and other charges (including charges for consumption and garbage and waste removal) imposed by a Public Authority, in respect of the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6) together with any interest, fines and penalties in connection with them.

Ratings means the ratings referred to in clause 8.3(a) of the Pro Forma Lease.

Receiver includes a receiver or receiver and manager.

Recipient has the meaning given to that term in clause 56.3(b).

Recipient Supply has the meaning given to that term in clause 56.5(a).

Recipient Party has the meaning given to that term in clause 55.8(b).

RECs means renewable energy certificates under the Renewable Energy (Electricity) Act 2000 (Cwlth) generated from assets which become operational after the Commencement Date and:

(a) have not been created from electricity produced from the burning of wood waste; and

(b) have been originally sourced from an Accredited Generator (as defined in the Renewal Energy (Electricity) Act 2000 (Cwlth)) operating in the National Electricity Market.

Refined Design Proposal means the plans (excluding pictorial or 3-dimensional representations such as photomontages, artist's perspectives, scale models or computer generated images) submitted as part of the Refined Proposal and approved by the Authority (as notified by the Authority to the Developer).

Refined Proposal means a report prepared by the Developer and addressed to the Authority, which:

(a) includes the Refined Design Proposal (which took into account Part A of the Authority Requirements (Principles) as that term was defined in this deed prior to the date of the Fifth Deed of Amendment);

(b) details the way in which the Developer's Final Proposal is varied, enhanced or improved to take into account Part B of the Authority Requirements (Principles) (as that term was defined in this deed prior to the date of the Fifth Deed of Amendment); and

(c) describes the parameters for satisfying Authority Requirements (Principles) (as that term was defined in this deed prior to the date of the Fifth Deed of Amendment) to the extent those requirements cannot be fully satisfied as part of the Refined Design Proposal at the date the Refined Proposal is proposed to be approved by the Authority,

and includes any Revised Refined Proposal.

Refined Proposal Condition means the Authority approving the Refined Proposal.

Related Entity of a corporation means:

(a) a related body corporate of that corporation within the meaning of section 50 of the Corporations Act; and

(b) a unit trust in relation to which that corporation directly or indirectly:

(i) controls the right to appoint the trustee;

(ii) is in a position to control the casting of, more than one half of the maximum number of votes that might be cast at a meeting of holders of units in the trust; or

(iii) holds or is in a position to control the disposal of more than one half of the issued units of the trust (excluding any of the issued units that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

Relevant Contract has the meaning given to it in Schedule 10.

[redacted]

Relevant Currency means Australian dollars.

Relevant Law Change means any change to any Law or the normal practice of either the Council of the City of Sydney or the NSW Office of State Revenue the result of which is that the imposition of rates or land tax on the Developer in respect of any part or parts of the Site changes so that following that Relevant Law Change the whole or any part of such Council rates or land tax otherwise payable by the Developer is no longer legally due and payable by or on behalf of the Developer but that a similar concession is not allowed to rate or tax payers who have no direct connection with the Project.

Relevant Monies means any monies payable by the Authority:

(a) to the Environment Protection Authority;

(b) as a result of orders made by a court of competent jurisdiction; or

(c) in relation to directions by the Environment Protection Authority and/or a court to carry out remedial or other works,

with respect to the POEO Act Licence.

Relevant POEO Works means any work, activity or other thing undertaken or to be undertaken, with respect to the Works or any other works within Barangaroo, by the Developer or any of the Developer's Employees and Agents and which constitutes work or an activity requiring authorisation under the POEO Act.

Relevant Site Portion, in respect of a Partial Termination Event, is that part of the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6):

(a) nominated in the Authority's notice issued pursuant to clause 25.18(a)(ii)A, if the Developer does not notify the Authority that it disagrees with such nomination in accordance with clause 25.18(a)(ii)B;

(b) agreed between the Developer and the Authority pursuant to clause 25.18(a)(ii)B, if the Developer notifies the Authority that it disagrees with its nomination in accordance with that clause and the Developer and the Authority are able to reach agreement on the matter; or

(c) determined by an independent expert pursuant to the dispute resolution provisions of clause 45, if the matter is referred to in clause 25.18(a)(ii)C is resolved pursuant to the dispute resolution provisions of clause 45.

Relevant Version means for a Works Portion, the version of the relevant rating which is applicable at the date of the Approval for that Works Portion.

Reliance Letters means each of:

(a) the letter from Environmental Resources Management Australia Pty Limited to the Developer dated on or about the Commencement Date;

(b) the letter from Cundall Johnston & Partners (trading as Cundall) to the Developer dated on or about the Commencement Date; and

(c) the letter from CTI Consultants Pty Ltd to the Developer dated on or about the Commencement Date,

which entitles the Developer to rely on the reports stated in those letters providing (in respect of each Reliance Letter) that the conditions specified in that letter entitling such reliance are satisfied (including the payment of any reliance fee to the relevant consultant).

Relic means:

(a) minerals of commercial value;

(b) fossils;

(c) relics, articles or objects of antiquity or of anthropological or archaeological interest;

(d) coins and other articles of value;

(e) historical archaeological sites; and

(f) Aboriginal archaeological relics.

Remediation and Remediate includes investigation, removal, abatement, disposal Off Site, containment, encapsulation or other treatment and includes monitoring and risk management.

Remediation and Vacation Program means a Works Program for the Remediation Works to be completed by the Developer under this deed after the date of the Fifth Deed of Amendment and the Vacation of Central Barangaroo which is to be provided in accordance with clause 7.12.

Remediation Approvals means all Approvals required in order to carry out and complete the Remediation Works, Other Remediation Works and Other Remaining Remediation Works.

Remediation Disclosure Reports means any reports in relation to the Remediation of the Site, including the Declaration Area, disclosed to the Developer by the Authority prior to 9 November 2009.

Remediation Levies means all fees, charges and levies payable to Public Authorities having jurisdiction in connection with the carrying out of the Remediation Work, excluding EPA Levies.

Remediation QS means one of the Nominated QSs nominated by the Developer and appointed by the Authority in accordance with clause 16.1.

Remediation Works means the VMP Remediation Works and the PDA Remediation Works.

Reserve means the aggregate of all costs included in the reserve by virtue of clause 15.2(f)(ii) less any costs taken from the reserve by virtue of clause 15.2(f)(i) from time to time.

Residential Purposes includes without limitation use by any person as a residence, but does not include use as a Serviced Apartment.

Responsible Persons means the persons identified in sections 6(1) and 6(2) of the CLM Act.

Retail Leasing Strategy means the retail leasing strategy comprising Annexure W.

Retail Public Domain means those Public Domain areas adjoining Premises used for retail purposes.

Retail Public Domain Plan means the plan attached as Annexure U and as amended from time to time in accordance with clause 29A.4(b).

Retail Public Domain (Early Access) Plan means the plan attached as Annexure V and as amended from time to time in accordance with clause 29A.4(e).

Retail Tenant means a tenant under a sublease from an Owner of a retail space in a Building in accordance with a Long Term Lease.

Revised Refined Proposal means a Refined Proposal revised by the Developer to accommodate the Authority's reasons for withholding its approval to a Refined Proposal.

Risk Allocation Table means the risk allocation table attached to this deed comprising Annexure R.

Roads Act means Roads Act 1993 (NSW).

Saving has the meaning given to it in Schedule 10.

Scenario has the meaning given to it in Schedule 9C.

Scoped Barangaroo Works means those Barangaroo Works:

(a) which are identified as Scoped Barangaroo Works in the 'Preferred Scheme Cost Plan' in Schedule 6; and

(b) those Unscoped Barangaroo Works approved as Scoped Barangaroo Works pursuant to clause 15 from time to time.

Section A Site Audit Statement means a Site Audit Statement in the form published by OEH (as amended or substituted from time to time) which contemplates that the purpose of the Site Audit is to certify land use suitability (and where Section A of that Site Audit Statement has been completed by the Accredited Site Auditor).

Section B Site Audit Statement means a Site Audit Statement in the form published by OEH (as amended or substituted from time to time) which contemplates that the purpose of the Site Audit is to determine if a remedial action plan is appropriate for the purpose stated in the Site Audit and/or if land can be made suitable for a particular use or uses by implementation of a specified remedial action plan (and where Section B of that Site Audit Statement has been completed by the Accredited Site Auditor).

Security Interest means any bill of sale (as defined in any statute), mortgage, charge, lien, pledge, hypothecation, title retention arrangement, trust or power as or in effect as security for the payment of a monetary obligation or the observance of any other obligation.

Separable Portion means a component of a Works Portion which complies with the requirements of clause 24.10 and which has been approved as a separable portion by the Independent Certifier and the Authority.

Services means the services servicing the Site (excluding that part of the Site comprising any part of Hickson Road or Block 5) including power, electricity, gas, water, sewerage and telecommunications, including all pipes, wires, cables, ducts and other conduits in connection with them.

[redacted]

Significant Applications means each:

(a) Application to Modify the Concept Plan Approval;

(b) Part 3A Application for Works Portions which are intended to become Premises the subject of a Lease;

(c) Application under Part 4 of the EP&A Act for a development consent where that Application would have been a Part 3A Application for the purposes of this deed to which paragraph (b) refers, but for a change which requires the subject matter of

that Application to be dealt with under Part 4 of the EP&A Act rather than Part 3A of the EP&A Act; and

(d) Application for (or including) the Community Facility or the Southern Cove.

Significant Contamination means the contamination referred to in section 2 of the Declaration as may be amended by OEH from time to time.

Significant Project Issue means:

(a) any issue that would or is likely to materially affect the attainment of the objectives detailed in clauses 2.1 and 2.2;

(b) any issue that is materially inconsistent with the Agreed Design Documents, except to the extent of any change already the subject of an Approval;

(c) any material non-compliance with a term of this deed by any party; or

(d) any development of Stage 1C pursuant to an Alternative Development Proposal as specified in clause 23A.3(a)(i).

Site means, subject to *paragraph 4,* Schedule 1:

(a) that part of the Land, together with other areas owned by Roads and Maritime Services, being in aggregate the area outlined in red on the Plan (which for clarity is intended to include part of Block 5 required for the intended road to be constructed on the boundary of Blocks 4 and 5 but excludes land owned by any person other than the Authority or Roads and Maritime Services), together with any improvements on that land but excluding each Premises (or part of a Premises) on and from the date of the grant of the Lease of that Premises (or part of that Premises);

(b) that part of Barangaroo reasonably required by the Developer (and agreed in writing by the Authority acting reasonably) for the purposes of delivering the Temporary Cruise Terminal (if the Developer is appointed to project manage the design and construction of the Temporary Cruise Terminal) until those Works are completed; and

(c) until such time as the Developer Practically Completes the VMP Remediation Works or the PDA Remediation Works (whichever is the later) in accordance with the requirements of clause 16:

(i) that part of Block 5 shown as "Block 5 Remediation Zone - DECCW Area" on the plan comprising Annexure K for the purposes of carrying out the VMP Remediation Works and the PDA Remediation Works;

(ii) that part of Block 5 described as "Block 5 Remediation Zone Staging" on the plan comprising Annexure K for the purposes in connection with the carrying out of VMP Remediation Works and the PDA Remediation Works; and

(iii) the Hickson Road Declaration Area for the purposes of carrying out the VMP Remediation Works and the PDA Remediation Works.

Site Audit has the meaning given to that term in the CLM Act.

Site Audit Report means a site audit report prepared by the Accredited Site Auditor in accordance with Part 4 of the CLM Act and any guidelines endorsed by OEH under section 105 of the CLM Act.

Site Audit Statement means a site audit statement prepared by the Accredited Site Auditor in accordance with Part 4 of the CLM Act and any guidelines endorsed by OEH under section 105 of the CLM Act, and in the form published by OEH (as amended or substituted from time to time), and which comprises (where the context permits) both the Section A Site Audit Statement and the Section B Site Audit Statement.

Site Encumbrances has the meaning given in clause 40.3(a).

Site Establishment means site establishment including installation of site amenities, connection of temporary services and erection of hoardings.

Southern Cove means the area shown as the 'Southern Cove' on the Plan.

Stage 1 means that part of the Barangaroo Project, generally known as 'Barangaroo South', which comprises the Project as indicated on the Stage Diagram.

Stage 1A means that part of the Barangaroo Project which comprises ‘stage 1A’ as indicated on the Stage Diagram.

Stage 1B means that part of the Barangaroo Project which comprises ‘stage 1B’ as indicated on the Stage Diagram.

Stage 1C means that part of the Barangaroo Project which comprises ‘stage 1C’ as indicated on the Stage Diagram.

Stage Diagram means the stage diagram contained in Schedule 11.

Staging Licence means a licence granted by the Authority under clause 13.1 in relation to the Staging Areas, on the terms and conditions set out in Schedules 2A, 2B, 2C, 2D, 2E and 2F.

Staging Areas means at any time, those BDA Development Blocks the subject of a Staging Licence.

Staging Plans means the plans attached to the Staging Licences (and contained in Schedules 2A, 2B, 2C, 2D, 2E and 2F).

Strata Car Park Lot Lease means, in respect of Premises (or any part of those Premises) to be a car parking lot in a strata leasehold scheme, a lease which is substantially similar to the Pro Forma Lease but takes into account the nature of the premises and requirements of the Strata Leasehold Act.

Strata Commercial Lot Lease means, in respect of Premises (or any part of those Premises) to be a commercial lot in a strata leasehold scheme, a lease which is substantially similar to the Pro Forma Lease but takes into account the nature of the premises and requirements of the Strata Leasehold Act.

Strata Common Property Lot Lease means, in respect of Premises (or any part of those Premises) to be common property in a strata leasehold scheme, a lease which is substantially similar to the Pro Forma Lease but takes into account nature of the premises and the requirements of the Strata Leasehold Act.

Strata Documents means each or any (as the context may require):

(a) Strata Lease;

(b) Strata Management Statement, if any; and

(c) By Law Instrument.

Strata Lease means each or any (as the context may require):

(a) Strata Commercial Lot Lease;

(b) Strata Car Park Lot Lease;

(c) Strata Residential Lot Lease;

(d) Strata Retail Lot Lease; and

(e) Strata Common Property Lot Lease.

Strata Leasehold Act means the Strata Schemes (Leasehold Development) Act 1986 (NSW).

Strata Management Statement means a statement under section 57A of the Strata Leasehold Act.

Strata Residential Lot Lease means, in respect of Premises (or any part of those Premises), to be a residential lot in a strata leasehold scheme, a lease which is substantially similar to the Pro Forma Lease but takes into account the nature of the premises and the requirements of the Strata Leasehold Act.

Strata Retail Lot Lease means, in respect of Premises (or any part of those Premises), to be a retail lot in a strata leasehold scheme, a lease which is substantially similar to the Pro Forma Lease but takes into account the requirements of the Strata Leasehold Act.

Stratum Documents means each and any (as the context may require) Building Management Statement.

Subdivision Certificate means a certificate referred to in section 109J of the EP&A Act.

Substantial Commencement Milestone means achieving Substantial Commencement of Works Portions comprising not less than the cumulative GFA shown opposite the relevant Milestone Date in the third column of the Development Program.

Substantial Commencement Milestone Date means the relevant Milestone Date for a Substantial Commencement Milestone.

Substantially Commenced means:

(a) in relation to a Works Portion (other than a Works Portion relating to Remediation Works, Other Remediation Works or Other Remaining Remediation Works), that:

(i) the Developer has entered into a Building Contract which is unconditional in relation to any major conditions precedent or subsequent but otherwise may contain usual building contract terms (which has not been terminated or suspended) for the whole of that Works Portion with the Builder; and

(ii) the following Works items the subject of that Works Portion have been completed:

A. Site Establishment; and

B. bulk excavation; and

C. detailed excavation; and

D. concrete foundations and slab on ground,

provided that the Authority agrees that the Works will be deemed to be Substantially Commenced for the purposes of this definition where the Developer has paid the Builder a minimum of $10,000,000 for works conducted on a particular Works Portion; and

(b) in relation to a Works Portion relating to Remediation Works, Other Remediation Works or Other Remaining Remediation Works, the physical commencement and the diligent and continuous carrying out of those Works.

Sunset Date means the date determined in accordance with has clause 25.20.

Supplier has the meaning given to that term in clause 56.3.

Surveyor means a surveyor who is a member of the Association of Consulting Surveyors NSW Inc having at least 5 years' experience in surveying premises of the same type as the Site approved by the Authority (such approval not to be unreasonably refused).

Sydney Metro means the NSW Government agency constituted by the Transport Administration Act 1988 with the corporate name of 'Sydney Metro'.

Taxes means taxes, levies, imposts, deductions, charges and duties (including stamp and transaction duties) together with any related interest, penalties, fines and expenses in connection with them, except if imposed on, or calculated having regard to, the net income of the Authority or other relevant Public Authority.

Temporary Building means a building which is intended to be constructed by the Developer on the Site (excluding Block 5, Block 6 or Hickson Road) and used for a limited period of not more than 20 years with the intention that that building would then be demolished and replaced by premises intended to have a useful life of more than 20 years.

Temporary Cruise Terminal means the cruise terminal which replaced the Cruise Terminal as contemplated under clause 21.

Temporary Cruise Terminal Project Management Agreement means the "Barangaroo Temporary Cruise Terminal Project Management Agreement" dated 1 April 2010 between the Authority, the Developer and the Guarantor in respect of the Temporary Cruise Terminal Works.

Temporary Cruise Terminal Site means the site on which the Temporary Cruise Terminal was located as contemplated by clause 21.

Temporary Cruise Terminal Works has the meaning given in the Temporary Cruise Terminal Project Management Agreement.

Tenant means a Nominee who enters into a Lease.

Third Party Appeal means legal proceedings which have been commenced in the Appeal Period by a person other than the Authority or the Developer.

Threatened Species Claim means a claim made or legal proceedings commenced in connection with the existence of a threatened species, population or ecological community or the habitat of a threatened species, population or ecological community as regulated by the Threatened Species Conservation Act 1995 (NSW), the National Parks and Wildlife Act 1974 (NSW) or the Environment Protection and Biodiversity Conservation Act 1999 (Cwlth).

Total Payment Amount has the meaning given to that term in clause 4.2.

Total Payment Amount Instalments means each and any one of the instalments of the Total Payment Amount referred to in clause 4.2.

Treasurer means the Treasurer of the Commonwealth of Australia.

A **Trigger Event** occurs if:

(a) subject to clause 25.17, the Developer fails to achieve a Milestone by a relevant Milestone Date by more than 6 months;

(b) the Developer or the Guarantor does not pay any amount in excess of $250,000 payable to the Authority within 20 Business Days of the date on which payment is required under this deed;

(c) a person becomes or ceases to be a Parent of the Developer contemplated by clause 43.1 or otherwise a Dealing contemplated by clause 43.1 occurs without the Authority's prior written consent;

(d) an Insolvency Event occurs in relation to the Developer, the Guarantor or a Parent of the Guarantor; or

(e) the Developer fails to provide evidence to the Authority's reasonable satisfaction that it has procured each of the Insurances required under this deed within 20 Business Days of the date of any relevant notice to the Developer from the Authority.

Trigger Notice means a notice given by the Authority under clause 46.1.

Trust means the Lend Lease (Millers Point) Trust established under the Trust Deed.

Trust Deed means the deed dated 5 November 2009 made by the Developer.

Trust Fund means the property held on trust by the Developer under the Trust Deed.

Unacceptable Condition means an Authority Unacceptable Condition or a Developer Unacceptable Condition.

Unscoped Barangaroo Works means those Barangaroo Works which are not Scoped Barangaroo Works from time to time.

Unscoped Barangaroo Works Allocated Costs means the amounts specified for the individual components of Barangaroo Works which at 9 November 2009 are Unscoped Barangaroo Works as detailed in the 'Preferred Scheme Cost Plan' in Schedule 6.

Upgrade Works means the works to Hickson Road referred to in clause 22A.1(a) and as developed in accordance with clause 22A.1(c).

Upgrade Works Contract has the meaning given to that term in clause 22A.6(a).

Vacation means:

(a) restore the areas of Central Barangaroo used in connection with the Works (**Vacated Areas**) and any Services affected by any Works to the condition (and in the case of Services, the location) they were in prior to the commencement of those works (subject to any permanent relocation or other permanent works agreed between the Developer and the Authority acting reasonably);

(b) vacate the Vacated Areas;

(c) leave the Vacated Areas in a safe and secure condition;

(d) in relation to Block 5, if requested by the Authority, give the Authority a structural engineer's certificate certifying that the backfilling of Block 5 contemplated as part of

the VMP Remediation Works have been undertaken in accordance with the approved specifications;

(e) remove from the Vacated Areas furniture, loose equipment, materials, goods and other items; and

(f) leave the Vacated Areas clean and tidy and free from rubbish.

Vacation Dates means each of:

(a) the Date for Vacation of BDA Development Block 5;

(b) the Date for Vacation of BDA Development Block 5 Foreshore;

(c) the Date for Vacation of BDA Development Block 6;

(d) the Date for Vacation of BDA Development Block 6 Foreshore;

(e) the Date for Vacation of BDA Development Block 7;

(f) the Date for Vacation of BDA Development Block 7 Foreshore; and

(g) the Date for Vacation of the Hickson Road Declaration Area.

Variation Applications has the meaning given to that term in clause 11.17(a).

VMP Investigation Works means all relevant investigation Works required to determine, and the preparation of plans detailing, the Works needed to Remediate Significant Contamination in the Declaration Area as required by the Approved Voluntary Management Proposal.

VMP Remedial Action Plan means a remedial action plan that will be prepared for the Declaration Area in relation to the Remediation of Significant Contamination.

VMP Remedial Works Plan means a remediation works plan, as revised from time to time in accordance with clause 16 approved by the Authority, endorsed by the Accredited Site Auditor or to which the Accredited Site Auditor confirms he has no objections and confirmed by OEH that it has no objection.

VMP Remediation Works means all Works required to be undertaken to carry out the requirements of any Approved Voluntary Management Proposal to Remediate Significant Contamination to lift the Declaration and includes, without limitation, any Pilot Trials and the Hickson Road VMP Remediation Works all to the satisfaction of the Accredited Site Auditor but otherwise excludes the VMP Investigation Works.

VMP Remediation Works Section B Site Audit Statement means a Section B Site Audit Statement and Site Audit Report issued by the Accredited Site Auditor in respect of the VMP Remediation Works, which satisfies the requirements of clause 16.31(a) which certifies that the Significant Contamination on the Declaration Area has been addressed, and the terms of the Approved Voluntary Management Proposal have been complied with.

Voluntary Management Proposal means a proposal within the meaning of section 17 of the CLM Act relating to the whole or any part of the Declaration Area.

WCG Report has the meaning given to that term in clause 14.2(a).

WH&S Act means the Work Health and Safety Act 2011 (NSW).

WH&S Plan means a written 'WH&S management plan' (as defined in the WH&S Regulation) to be prepared in relation to the Works as required by Part 6.4 of Chapter 6 of the WH&S Regulation.

WH&S Regulation means the Work Health and Safety Regulation 2011 (NSW).

Works means each of the Works Portions and all other work required to be performed or carried out to complete the Project:

(a) in accordance with the Works Documents; and

(b) as required by this deed;

and for the purposes only of the definition in this clause 1.1 of 'Vacation' and paragraph 4.3 of each of the Staging Licences includes the 'Crown Works' as defined in the Crown Development Agreement.

Works Control Group is the group established in accordance with clause 14.1(a).

Works Documents means:

(a) the Approvals; and

(b) the Final Plans and Specifications.

Works Portion means each and any (as the context may require) of the Works as described in an Approval obtained by the Developer as contemplated by clause 11, to be undertaken by the Developer as a separate components of the Works (excluding any Tenant fit-out).

Works Portion Commencement Date means in respect of a Works Portion the date the Developer actually commences the carrying out that part of the Works the subject of that Works Portion.

Works Portion Development Cost Amount means, in respect of a Works Portion, an amount equivalent to the Cost of Development of Land for that Works Portion.

Works Portion Instalment means, in respect of a Works Portion, an amount equivalent to 1% of the Works Portion Development Cost Amount, payable to the Authority pursuant to clause 5.2(b).

Works Program means a networked activity program using an event oriented critical path technique showing major activities and other milestones in the Works, the dates by which or the times within which key decisions are to be made and the various stages or parts of the Works are to be executed or completed including:

(a) all principal activities relating to the design, construction and commissioning of the Works;

(b) any Approvals which must be obtained prior to the commencement of construction of the Works;

(c) all principal activities relating to the design, construction and commissioning of the Works;

(d) activities in Business Days time scales, their order, duration and interrelationship including each Milestone, each applicable Milestone Date and the relevant PC Dates and Vacation Dates as applicable;

(e) if known, the impact and the estimated potential impact of any delaying events or circumstances;

(f) any allowances for delay; and

(g) any other matters which may have a material effect on the time required to complete the Works in accordance with this deed.

Wynyard Walk means the grade separated linkage between Barangaroo and Wynyard Station, Sydney shown as the 'Pedestrian Linkage' on the plan comprising Annexure R2.

1.2 References to certain general terms

Unless the contrary intention appears, a reference in this deed to:

(a) a group of persons is a reference to any 2 or more of them jointly and to each of them individually;

(b) an agreement, representation or warranty in favour of 2 or more persons is for the benefit of them jointly and each of them individually;

(c) an agreement, representation or warranty by 2 or more persons binds them jointly and each of them individually;

(d) anything (including an amount) is a reference to the whole and each part of it;

(e) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to it;

(f) a document (including this deed) includes any variation or replacement of it;

(g) **law** means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them) and includes any notice issued by, and any requirements of, a Public Authority;

(h) references to any particular law shall be read as though the words 'or any existing or future statutory amendment, modification or re-enactment or any statutory provision substituted therefor' were added to that reference;

(i) an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;

(j) dollars or $ is a reference to Australian currency;

(k) a time of day is a reference to Sydney time;

(l) the word "person" includes an individual, a firm, a body corporate, an unincorporated association and an authority;

(m) a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;

(n) the words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;

(o) unless the context otherwise requires, defined terms will extend to all parts of speech which are derivative from that term; and

(p) when a word or phrase is defined its other grammatical forms have a corresponding meaning.

1.3 Numbers

The singular includes the plural and vice versa.

1.4 Headings

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

1.5 Developer's Employees and Agents

If this deed prohibits the Developer from doing a thing, then:

(a) the Developer must do everything necessary to ensure that the Developer's Employees and Agents do not do that thing; and

(b) the Developer may not authorise or cause any person to do that thing.

1.6 Ambiguity and inconsistency

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

2. Objectives and risks

2.1 Barangaroo Project Objectives

The Authority's objective for the Barangaroo Project is to position Barangaroo as the next global reference point in urban waterfront renewal and provide an important example of leadership in balancing economic, environmental and community responsibilities.

The Authority's objective includes the following elements:

(a) Economic

(i) strengthen Sydney's position as a globally competitive city – attracting inward investment and exporting financial services;

(ii) create awareness of Sydney as a location for new regional and global headquarters, with long term benefits to the economy;

(iii) provide new opportunities for companies to locate to a city that is consistently "top ten" for liveability;

(iv) create a source of funds to assist with the creation and ongoing maintenance of a significant new harbour headland and foreshore Public Domain;

(v) achieve best value for money consistent with the economic, environmental and social objectives through providing opportunities for participation by the private sector;

(b) Environment

(i) realise the opportunity to create a harbour headland park that responds to the natural attributes of Sydney Harbour with an archipelago of green headlands on the western harbour;

(ii) create a new environmentally and ecologically sustainable city precinct bringing together world leading design and innovation in environmental building design;

(iii) create the opportunity for world class architectural and urban design outcomes that enhance Barangaroo, respect the built surrounds, engage the Sydney CBD with the harbour's edge and provide a new façade expressing design excellence to the western edge of the city;

(iv) provide the opportunity for world leading precinct scaled sustainability innovations in the fields of water cycle management, reduction in green house gas emissions and improved technology in waste management;

(v) address the Contamination and the Significant Contamination in the Declaration Area, and the Contamination in the other parts of the Site;

(vi) adopt world leading public transport targets that reduce car travel into the CBD, limit on site car parking and provide safe and efficient connections to a range of transport modes;

(c) Community

(i) maintain and reinforce Sydney as the major point of commercial and cultural exchange within Australia and the Asia-Pacific Region, supporting the diversity of people, culture and ideas that has enriched and now defines the character of Sydney;

(ii) return and reconnect Barangaroo to the people of Sydney by re-establishing physical and social connections severed in recent history, opening the foreshore to the community and providing places for gathering and interaction;

(iii) provide new community and cultural facilities programmed to allow for engagement, activation and interaction with both local, metropolitan and regional users; and

(iv) allow for the creation of innovative facilities for the benefit of the Sydney metropolitan population and its visitors.

2.2 Stage 1 Project Objectives

The Authority's objectives for the design and delivery of the Project are to:

(a) create an outstanding new southern development precinct that establishes a world benchmark in urban waterfront design integrating new harbour foreshore Public Domain with buildings exhibiting design excellence of the highest order;

(b) respond to the increasing demand for commercial workspace that provides significant floor plates for workers of the knowledge economy along with access to significant social and cultural amenities and quality lifestyle opportunities;

(c) provide a development offering of a scale that allows for innovative precinct-wide environmentally sustainable infrastructure to support the twin challenges of reduced potable water demand and reduction in green house gas emissions;

(d) provide a mix of land uses within Stage 1 that support vibrant and accessible ground floor and street edge activation that is coordinated with adjoining Public Domain areas and other development blocks within Barangaroo;

(e) address the Contamination and the Significant Contamination in the Declaration Area, and the Contamination in the other parts of the Site;

(f) work with the Authority and Government agencies to provide timely and co-ordinated delivery of social and community infrastructure leveraging benefits from renewal for local communities;

(g) co-ordinate transport and access outcomes to ensure reduced dependency on car travel to the city supported by new and safe pedestrian links to a range of transport modes;

(h) provide for the timely delivery of above ground Buildings on Stage 1; and

(i) allow for the early delivery of and access to a new public foreshore promenade.

2.3 Project Risks

Unless otherwise provided in this deed, the Developer accepts all risks in connection with the Project, including as to:

(a) carrying out all elements of the Project;

(b) the condition of the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6) as at the Commencement Date;

(c) whether or not the Site is suitable for the Project and the Works;

(d) Environmental Liabilities;

(e) whether the actual Cost of the Project is greater than the Cost of the Project as estimated by the Developer;

(f) whether the actual revenue and profit derived by the Developer from the Project is less than the revenue and profit from the Project estimated by the Developer;

(g) obtaining all necessary Part 3A Approvals and Modifications; and

(h) obtaining all necessary additional consents or approvals from Public Authorities.

2.4 Risk of other developments

The Developer acknowledges that the Authority:

(a) will continue to consider its development options for other potential development sites within Barangaroo and the release of any additional development sites within Barangaroo will be at the Authority's sole discretion in terms of timing and process; and

(b) subject to this deed, is entitled to pursue any other developments within or outside Barangaroo excluding the Site (other than Block 5 and Block 6), during the construction phase.

2.5 Central Barangaroo Sight Lines

(a) The Developer acknowledges that the optimisation of development at Central Barangaroo is of critical importance to the Authority.

(b) The Authority acknowledges that retention of sight lines across Central Barangaroo from the Harbour Bridge to the Sydney Opera House (and including the Harbour Bridge and the Sydney Opera House):

(i) in the case of the Developer, from the residential towers to be constructed on Stage 1B; and

(ii) in the case of Crown, from the Hotel Resort to be constructed on Stage 1C,

is of critical importance to the Developer and Crown.

(c) Prior to considering or approving any application which provides for development different to that provided for in the Concept Plan Approval (as at the date of this deed) as it relates (in part or in whole) to Central Barangaroo, the Authority will discuss and negotiate in good faith with the Developer and Crown equally to agree any changes to that application so as to retain the sight lines referred to in clause 2.5(b), while at the same time optimising the development opportunities for Central Barangaroo.

(d) The Authority confirms that any agreement between the NSW Government, the Authority or any other Public Authority and Crown on height restrictions and/or sight lines across Central Barangaroo must be offered to the Developer on an equivalent basis.

2.6 No reliance on Disclosure Materials

(a) The Disclosure Materials are provided for the information of the Developer. The Authority does not warrant the accuracy or completeness of the Disclosure Materials. The Developer acknowledges that it has reviewed the Disclosure Materials and warrants that it has:

(i) made its own assessment of the Disclosure Materials and their accuracy; and

(ii) not relied on the Disclosure Materials (except for the materials referred to in the Reliance Letters) in entering into this deed.

The Developer may not make any claim against the Authority in connection with the Disclosure Materials including in connection with their accuracy or completeness.

(b) The Developer discloses that it intends to rely (as against the relevant authors, but not as against the Authority) on the material referred to in the Reliance Letters and nothing in clause 2.6(a) prevents that reliance.

(c) The Developer is not entitled to make any claim against the Authority in connection with the Developer's reliance on the material referred to in the Reliance Letters nor in connection with the Reliance Letters generally.

2.7 Authority exercising statutory powers

Nothing in any Project Document operates to restrict or otherwise affect the Authority's statutory discretion in exercising its powers as a statutory authority. If there is any conflict between the unfettered discretion of the Authority in the exercise of such powers, and the performance of the Authority's obligations in a Project Document, the former prevails. The Developer agrees that the Authority is not liable for, and releases the Authority from, liability or loss arising from, and Costs incurred in connection with, the Authority's exercise of its powers as a statutory authority.

2.8 Risk Allocation Table

The Developer and the Authority agree that:

(a) the Risk Allocation Table generally reflects the risks allocated to each of the Developer and the Authority pursuant to this deed;

(b) to the extent that the Risk Allocation Table refers to risks not otherwise expressly allocated under this deed excluding the Risk Allocation Table, each of the Developer and the Authority agree that such risks are to be accepted as between them in accordance with the Risk Allocation Table; and

(c) except for the utilisation of the Risk Allocation Table contemplated in clause 2.8(b), the Risk Allocation Table has been attached for information purposes only.

3. Refined Proposal Condition

The Authority and the Developer agree that the Refined Proposal (including the Revised Refined Proposal) was approved and the Refined Proposal Condition was satisfied on or about 22 June 2010.

4. Developer payments

4.1A [redacted]

The Developer and the Authority acknowledge that on or about the date of the Fifth Deed of Amendment they also entered into a settlement deed by which they resolved certain disputes between them. [redacted]

4.1 Total Payment Amount

The Developer must pay to the Authority the Total Payment Amount in accordance with clause 4.2, and the Total Payment Amount and any amounts payable under clause 4.11(a) as consideration for the right granted to the Developer to undertake the Project in accordance with this deed, including by the leasing, licensing or sale (by way of assignment of lease) of Buildings on the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6).

4.2 Total Payment Amount Instalments

(a) Subject to clauses 4.2(b), 4.2(c), 4.2(d) and 4.2(e), the Developer must pay each of the Total Payment Amount Instalments as set out below on the relevant date for payment set out below (which, in aggregate, comprise the "**Total Payment Amount**"):

Total Payment Amount Instalment	
Date for payment	**Amount**
Commencement Date	$13,000,000.00
31 March 2011	$90,000,000.00
31 March 2012	$71,805,155.78**

Total Payment Amount Instalment	
Date for payment	**Amount**
31 March 2013	$71,805,155.78**
31 March 2014	$71,805,155.78
31 March 2015	[redacted]
31 March 2016	
31 March 2017	
31 March 2018	
31 March 2019	
31 March 2020	
1 July 2021	$[redacted]

** These payments show the amount of the Total Payment Amount Instalment before the deduction of the two Authority Payments of $[redacted] each pursuant to clause 4.5A.

(b) [redacted]

(c) [redacted]

[redacted]

(d) [redacted]

(e) If:

(i) the Crown Development Agreement is terminated;

(ii) the Authority approves an Alternative Development Proposal in accordance with clause 23A.5; and

(iii) Developable GFA is approved in a Modification to the Concept Plan Approval that gives effect to that Alternative Development Proposal,

then:

(iv) the Total Payment Amount Instalment payable on [redacted] under clause 4.2(b) will be adjusted in accordance with the following formula:

A. if Mod 8 has been approved and the reduction required by clause 4.2(d)(iv) has been made:

[redacted] or

B. if Mod 8 has not been approved:

[redacted] and

(v) the [redacted] will be increased by the following amounts:

[redacted]

where:

[redacted]; and

(f) Subject to clauses 4.2(d) and 4.2(e), the [redacted] is not adjusted and remains $[redacted] irrespective of any movements in the Developable GFA or Approvals granted.

(g) The Authority and the Developer agree that calculations under clause 4.2(b), (c) and (d) in relation to the Mod 8 Approval have been made on the agreed basis that GFA of [redacted] m^2 attributable to the Barangaroo Restricted Gaming Facility (as defined in the Casino Control Act 1992 (NSW)) forming part of the Hotel Resort, does not attract a liability to pay any amount towards the Total Payment Amount.

4.3 Not used

4.4 Not used

4.5 Not used

4.5A Authority Payments

The Authority and the Developer acknowledge and agree that the two Authority Payments have been made (either by payment or reduction of the Total Payment Amount Instalment amounts as referred to in clause 4.2).

4.6 Public Authority Levies

In consideration for the right granted to the Developer to undertake the Project in accordance with this deed, without limiting clause 4.7 but subject to clause 34.5, the Developer must pay all Public Authority Levies (but excluding any Cost or levy imposed by any Public Authority arising out of the Authority's exercise of its rights under clause 37.7).

4.7 Outgoings and other liabilities

(a) In consideration for the right granted to the Developer to undertake the Project in accordance with this deed, during the Development Period, the Developer:

(i) must pay on time all Outgoings whether imposed on the Authority, the Developer or the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6) and, if required by the Authority, produce to the Authority the receipts for those payments within 20 Business Days after the respective due dates for payment;

(ii) unless otherwise provided in this deed, must pay all other Costs that are directly incurred in respect of the Developer Secured Area as if the Developer were the owner of the Developer Secured Area, and the Authority has no responsibility in that regard; and

(iii) takes, and is subject to, the same responsibilities and liabilities in regard to the Developer Secured Area including in respect of:

A. persons and property; and

B. capital and structural works, repairs and maintenance,

which the Developer would take and be subject to if the Developer were the owner of the Developer Secured Area.

(b) If the Developer does not pay the amounts payable under this clause 4.7 when they become due the Authority may, if it thinks fit, pay the same and the Developer must reimburse the Authority on demand for any sum or sums so paid.

(c) The Developer agrees that where a Relevant Law Change occurs, it must pay to the Authority such amounts equivalent to those which it would have paid to the Council of the City of Sydney (in respect of rates) or the NSW Office of State Revenue (in respect of land tax) but for that Relevant Law Change in respect of Barangaroo. Such payments are to be made at the same time as the Developer would have otherwise have made such payments to the City of Sydney or the NSW Office of State Revenue (as the case may be).

4.8 Payment of Outgoings despite termination

The Outgoings payable by the Developer pursuant to clause 4.7 are payable notwithstanding that this deed may have been terminated before the Outgoings for any particular period prior to the date of termination are capable of being calculated. In that case, the Authority's reasonable estimate of the Outgoings for that period, as between the Authority and the Developer, will be taken to be the actual Outgoings payable by the Developer under clause 4.7 without any further adjustment.

4.9 Authority's right to reimbursement

The Developer must reimburse the Authority on demand for any moneys paid by the Authority in respect of any liability expressly imposed on the Developer under this deed, notwithstanding that any Law imposes that liability on the Authority.

4.10 Indemnity for refund

The Developer indemnifies the Authority against any liability or loss arising from, and any Costs incurred in connection with, any claim by the Developer (or any person claiming through the Developer) for refund or repayment of any amount payable by the Developer under this clause 4, other than a right for refund or repayment, specifically provided for in this deed.

4.11 Additional payment

(a) Until such time as the Authority gives the Developer written notice that it accepts the offer referred to in clause 5.1(a), the Developer must pay to the Authority amounts equivalent to the amounts that the Developer would have been required to pay the Authority pursuant to clause 5.2 if the Authority had given the Developer written notice that it had accepted that offer, at such times, and in such a manner, as contemplated in clause 5.2.

(b) Any amounts payable under clause 4.11(a) are in addition to the [redacted] payable under clause 4.1A and the Total Payment Amount Instalments payable pursuant to clause 4.2.

(c) If the Authority gives the Developer written notice that it accepts the offer referred to in clause 5.1(a) after the Developer has paid any amount to the Authority pursuant to clause 4.11(a), then any amount paid by the Developer pursuant to clause 4.11(a) will be taken to be in part satisfaction of the Developer's obligations to pay contributions under the Barangaroo Contributions Plan and clause 5.2.

[redacted]

5. Offer - Developer Contributions

5.1 Offer

(a) The Developer irrevocably offers to the Authority that it will be bound by the provisions of clauses 5.2 to 5.11, and that this deed will include clauses 5.2 to 5.11, if the Barangaroo Contributions Plan is made by the Authority and approved by the Minister.

(b) The Authority may accept the Developer's irrevocable offer by giving the Developer written notice that the Barangaroo Contributions Plan is made by the Authority and approved by the Minister.

(c) If the Barangaroo Contributions Plan is never made by the Authority and approved by the Minister, clauses 5.2 to 5.11 never operate.

5.2 Developer Contributions

(a) The Developer must pay to the Authority a Developer Contribution equivalent to 1% of the Cost of Development of Land.

(b) The Developer Contribution is payable by the Developer in instalments in respect of each Works Portion, each instalment to be:

(i) equivalent to 1% of:

A. the amount determined to be the Works Portion Development Cost Amount relevant to that Works Portion; or

B. in case of a Works Portion for Barangaroo Works, the 'Developer Contribution Estimate' relevant to that Works Portion (referred to in clause 15.4(c)); and

(ii) paid on or before the Contribution Payment Date.

5.3 Works Portion Development Cost Amount

(a) In respect of each Works Portion other than a Works Portion for Barangaroo Works to which clause 15.4 applies, no later than the Contribution Payment Date (and not earlier than 20 Business Days before that date), the Developer must provide to the Authority:

(i) a statement containing the Developer's reasonable determination of the Works Portion Development Cost Amount for that Works Portion (**Developer's Statement**);

(ii) such documents and records which are reasonably required by the Authority to verify each of the itemised costs used to determine the Works Portion Development Cost Amount in the Developer's Statement;

(iii) a certificate executed by the Project Director or a director of the Developer, certifying that after due enquiry the amount referred to in the Developer's Statement is a reasonable determination of the Works Portion Development Cost Amount for that Works Portion; and

(iv) a certificate from a Quantity Surveyor, certifying that after due enquiry the amount referred to in the Developer's Statement is a reasonable determination of the Works Portion Development Cost Amount for that Works Portion.

(b) The Developer must provide to the Quantity Surveyor such documents and records which are reasonably required by the Quantity Surveyor to enable it to provide the certification contemplated by clause 5.3(a)(iv).

5.4 Authority to consider

(a) The Developer must:

(i) act reasonably and co-operate with the Authority;

(ii) provide to the Authority all information reasonably requested by the Authority; and

(iii) answer any questions reasonably asked by the Authority,

in relation to the Developer's Statement and the Quantity Surveyor's certificate provided to the Authority.

(b) The Developer must promptly provide to the Authority any additional reports and information reasonably requested by the Authority:

(i) from the Quantity Surveyor (who provides a certificate referred to in clause 5.3(a)(iv)); or

(ii) from any other consultant retained by or on behalf of the Developer in connection with any part of the relevant Works Portion,

to assist the Authority in considering the Developer's Statement.

(c) The Authority must notify the Developer within 30 Business Days of receipt of the Developer's Statement whether it is satisfied that the Works Portion Development Cost Amount in the Developer's Statement is a reasonable determination of the Works Portion Development Cost Amount for the purpose of clause 5.5(a).

5.5 Authority's discretion

(a) If the Authority (acting reasonably) is satisfied that the amount referred to in the Developer's Statement is a reasonable determination of a relevant Works Portion Development Cost Amount, then that amount is taken for all purposes of this deed to be the Works Portion Development Cost Amount for that Works Portion.

(b) If the Authority (acting reasonably) is not satisfied that the amount referred to in the Developer's Statement is a reasonable determination of a relevant Works Portion Development Cost Amount, then:

(i) either the Authority or the Developer may notify a dispute in accordance with clause 45; and

(ii) the relevant Works Portion Development Cost Amount is to be determined by an expert pursuant to the dispute resolution provisions of clause 45.

(c) If the Works Portion Development Cost Amount has not been determined as at the date the Developer is required to pay the relevant Works Portion Instalment to the Authority pursuant to clause 5.2(b)(ii), then on that date the Developer must pay to the Authority an amount equivalent to 1% of the amount referred to in the Developer's Statement and any such payment will be deemed to be a payment on account of the Developer's obligations under clause 5.2(b).

(d) If the Works Portion Development Cost Amount is determined to be greater than the amount referred to in the Developer's Statement, the Developer must pay to the Authority within 5 Business Days of demand by the Authority:

(i) the amount by which 1% of the Works Portion Development Cost Amount exceeds 1% of the amount referred to in the Developer's Statement and any such payment will be deemed to be a payment pursuant to clause 5.2(b); and

(ii) interest at the Interest Rate on the amount referred to in clause 5.5(d)(i), calculated in accordance with clauses 55.8 and 55.9, in respect of the period commencing on the Contribution Payment Date, to and including the date that the Developer pays the total amount referred to in clause 5.5(d)(i) (plus interest on that amount) to the Authority.

(e) If the Works Portion Development Cost Amount is determined to be less than the amount referred to in the Developer's Statement, the Authority must pay to the Developer within 5 Business Days of demand by the Developer the amount by

which 1% of the amount referred to in the Developer's Statement exceeds 1% of the Works Portion Development Cost Amount.

5.6 Failure to provide a Developer's Statement

In respect of each Works Portion, if the Developer fails to provide a Developer's Statement (and supporting documents, certificates and records) to the Authority by the Contribution Payment Date, then:

(a) the Authority may nominate by notice to the Developer an amount that it considers to be a reasonable determination of the Works Portion Development Cost Amount for that Works Portion, and that amount (subject to clause 5.8), is taken for all purposes of this deed to be the Works Portion Development Cost Amount for that Works Portion;

(b) the Developer must pay to the Authority, within 10 Business Days of receiving the Authority's notice pursuant to clause 5.6(a):

(i) an amount equivalent to 1% of the Works Portion Development Cost Amount nominated in the Authority's notice; and

(ii) interest at the Interest Rate on the amount referred to in clause 5.6(b)(i), calculated in accordance with clauses 55.8 and 55.9, in respect of the period commencing on the Contribution Payment Date, to and including the date that the Developer pays the total amount referred to in clause 5.6(b)(i) (plus interest on that amount) to the Authority; and

(c) where the Authority has nominated an amount pursuant to clause 5.6(a), the Developer may not provide a Developer's Statement (and supporting documents, certificates and records) to the Authority in respect of that Works Portion, until after such time that the Developer pays all amounts to the Authority as required by clause 5.6(b).

5.7 Assist Authority

To assist the Authority to provide a notice pursuant to clause 5.6(a), the Developer must:

(a) act reasonably and co-operate with the Authority;

(b) provide to the Authority all information reasonably requested by the Authority; and

(c) answer any questions reasonably asked by the Authority.

5.8 Developer subsequently provides a Developer's Statement

If the Developer submits a Developer's Statement to the Authority in respect of a Works Portion after the Developer has paid all amounts pursuant to clause 5.6(b) in respect of that Works Portion, then:

(a) the Developer must comply with clause 5.4 in respect of that Developer's Statement by providing all supporting documents, certificates and records required by that clause;

(b) if the Authority (acting reasonably) is satisfied that the amount referred to in the Developer's Statement is a reasonable determination of the relevant Works Portion Development Cost Amount, then that amount is taken for all purposes of this deed to be the Works Portion Development Cost Amount for that Works Portion (instead of the amount nominated by the Authority pursuant to clause 5.6(a)), and:

(i) if 1% of the amount referred to in the Developer's Statement is greater than the amount paid by the Developer pursuant to clause 5.6(b)(i) (excluding any interest payable under clause 5.6(b)(ii)), the Developer must pay to the Authority within 5 Business Days of demand:

A. the amount by which 1% of the amount referred to in the Developer's Statement exceeds the amount paid by the Developer pursuant to clause 5.6(b)(i) (excluding any interest payable under clause 5.6(b)(ii)) and any such payment will be deemed to be a payment pursuant to clause 5.6(b); and

B. interest at the Interest Rate on the amount referred to in clause 5.8(b)(i), calculated in accordance with clauses 55.8 and 55.9, in respect of the period commencing on the Contribution Payment Date, to and including the date that the Developer pays the total amount referred to in clause 5.8(b)(i)A (plus interest on that amount) to the Authority; or

(ii) if 1% of the amount referred to in the Developer's Statement is less than the amount paid by the Developer pursuant to clause 5.6(b)(i) (excluding any interest payable under clause 5.6(b)(ii)), then the Authority must refund to the Developer, the amount by which the amount paid by the Developer pursuant to clause 5.6(b)(i) exceeds 1% of the amount referred to in the Developer's Statement;

(c) if the Authority (acting reasonably) is not satisfied that the amount referred to in the Developer's Statement is a reasonable determination of the relevant Works Portion Development Cost Amount, then:

(i) either the Authority or the Developer may notify a dispute in accordance with clause 45;

(ii) the relevant Works Portion Development Cost Amount is to be determined by an expert pursuant to the dispute resolution provisions of clause 45;

(iii) until such time that the relevant Works Portion Development Cost Amount is determined the relevant Works Portion Development Cost Amount is such amount nominated by the Authority pursuant to clause 5.6(a);

(iv) if it is determined pursuant to clause 45 that that 1% of the Works Portion Development Cost Amount is greater than the amount paid by the Developer pursuant to clause 5.6(b)(i) (excluding any interest payable under clause 5.6(b)(ii)), then the Developer must pay to the Authority within 5 Business Days of demand by the Authority:

A. the amount by which 1% of the Works Portion Development Cost Amount exceeds the amount paid by the Developer pursuant to clause 5.6(b)(i) (excluding any interest payable under clause 5.6(b)(ii)) and any such payment will be deemed to be a payment pursuant to clause 5.6(b); and

B. interest at the Interest Rate on the amount referred to in clause 5.8(c)(iv)A, calculated in accordance with clauses 55.8 and 55.9, in respect of the period commencing on the Contribution Payment Date, to and including the date that the Developer pays the total amount referred to in clause 5.8(c)(iv)A (plus interest on that amount) to the Authority; and

(v) if it is determined pursuant to clause 45 that 1% of the Works Portion Development Cost Amount is less than the amount paid by the Developer pursuant to clause 5.6(b)(i) (excluding any interest payable under clause 5.6(b)(ii)), then the Authority must refund to the Developer, the amount by which the amount paid by the Developer pursuant to clause 5.6(b)(i) (excluding any interest payable under clause 5.6(b)(ii)) exceeds 1% of the Works Portion Development Cost Amount.

5.9 Inconsistency

If the Barangaroo Contributions Plan is inconsistent with this clause 5 in any respect, the Authority and the Developer must act reasonably to agree and document changes to this clause 5, so that this clause 5 is consistent with the Barangaroo Contributions Plan.

5.10 Acknowledgements

Except as otherwise provided in this deed, the Developer acknowledges and agrees that the Authority:

(a) has not made any warranty or representation that a Developer Contribution must, or will, be used for, or expended on, a particular purpose by any Public Authority to which the Authority transmits a Developer Contribution;

(b) has no obligation to use or expend a Developer Contribution for a particular purpose, except as required by the Barangaroo Contributions Plan; and

(c) is not required to repay to the Developer, and the Developer is not entitled to a repayment of, any Developer Contribution.

5.11 Security

For the avoidance of doubt, the Developer's obligations under this clause 5 are included in the Guaranteed Obligations.

6. Public Art and Cultural Development Contribution

6.1 Public Art and Cultural Development Contribution

(a) The Authority and the Developer have together prepared the Barangaroo Public Art and Culture Plan in order to ensure cohesive delivery of Integrated Public Art across the whole of Barangaroo.

(b) The Developer must:

(i) provide the Public Art and Cultural Development Contribution; and

(ii) carry out Works in accordance with the Barangaroo Public Art and Culture Plan,

in the manner described in this clause.

(c) The Public Art and Cultural Development Contribution must be provided by the Developer in respect of each Works Portion as follows:

(i) payment to the Authority of an amount equivalent to 0.5% of each Works Portion Development Cost Amount, as contemplated by clause 6.2, to be spent by the Authority on public art and/or cultural development facilities, programs and initiatives within Barangaroo;

(ii) the carrying out of Works at a cost of no less than 0.2% of each Works Portion Development Cost Amount, to facilitate Integrated Public Art in the façade and/or internal public spaces of Buildings within the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6); and

(iii) the carrying out of Works at a cost of no less than 0.3% of each Works Portion Development Cost Amount, to facilitate Integrated Public Art within external public spaces within the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6).

(d) Despite clause 6.1(c), the Arts and Culture Panel resolved at its February 2014 meeting that the Public Art and Cultural Development Contribution required in relation to each Works Portion could be aggregated to fund one or more art works across the Site (excluding the part of the Site comprising any part of Hickson Road, Block 5 or Block 6). Therefore the Authority agrees that the amounts referred to in clauses 6.1(c)(ii) and 6.1(c)(iii) may be aggregated such that the Developer's obligations under clauses 6.1(c)(ii) and 6.1(c)(iii) will be satisfied by the Developer carrying out (at a cost of no less than 0.5% of the Works Portion Development Cost Amount of all Works Portions calculated in accordance with clause 6.1(e).

(i) works to facilitate Integrated Public Art in the façade and/or internal public spaces of Buildings within the Site;

(ii) works to facilitate Integrated Public Art within external public spaces within the Site; or

(iii) any combination of the Works referred to in clauses 6.1(d)(i) and 6.1(d)(ii).

as contemplated by the Barangaroo Public Art and Culture Plan.

The amounts referred to in clauses 6.1(c)(ii) and 6.1(c)(iii) may also be used to fund:

A. the costs of the Arts and Culture Panel;

B. the costs of preparing the Barangaroo Public Art and Culture Plan (and any amendments to it); and

C. provided there is a reasonable connection between the fee or cost and the Integrated Public Art, any one or more of the following:

1) the fees payable with respect to any Application for;

2) the costs of preparing, including relevant consultant's fees, any Application for;

3) the costs of installing; and

4) the costs incurred in the project management of,

any of the Works funded by the Public Art and Cultural Development Contribution.

(e) For the purposes of this clause 6:

(i) the Works Portion Development Cost Amount for each Works Portion is to be determined pursuant to the processes set out in clauses 5.3 to 5.8 (inclusive); and

(ii) clause 15.4 also applies in relation to a Works Portion for Barangaroo Works.

6.2 Works Portion Development Cost Amount

(a) In respect of each Works Portion, on or before the Contribution Payment Date, the Developer must pay to the Authority an amount equivalent to 0.5% of the Works Portion Development Cost Amount relevant to that Works Portion.

(b) Where a Works Portion Development Cost Amount is not determined by the date contemplated in clause 6.2(a), then:

(i) on that date, the Developer must pay to the Authority an amount equivalent to 0.5% of the amount referred to in the Developer's Statement (as the Developer's reasonable determination of the Works Portion Development Cost Amount) for the relevant Works Portion; or

(ii) where the Developer has not provided a Developer's Statement on that date, the Developer must pay to the Authority an amount equivalent to 0.5% of the amount nominated by the Authority's notice pursuant to clause 5.6(a) within 10 Business Days of receiving that notice.

(c) If it is determined pursuant to clause 5.5 or 5.8 that the Works Portion Development Cost Amount) for the relevant Works Portion is greater than the amount referred to in the Developer's Statement or the Authority's notice pursuant to clause 5.6(a) (as relevant), the Developer must pay to the Authority, within 5 Business Days of demand:

(i) the amount by which 0.5% of the Works Portion Development Cost Amount for the relevant Works Portion exceeds 0.5% of the amount referred to in the Developer's Statement or the Authority's notice (as relevant); and

(ii) interest at the Interest Rate on the amount referred to in clause 6.2(c)(i), calculated in accordance with clauses 55.8 and 55.9, in respect of the period:

A. commencing on the Contribution Payment Date;

B. to and including the date that the Developer pays the total amount referred to in clause 6.2(c)(i) (plus interest on that amount) to the Authority.

(d) If it is subsequently determined pursuant to clause 5.5 or 5.8 that the Works Portion Development Cost Amount) for the relevant Works Portion is less than the amount referred to in the Developer's Statement or the Authority's notice (as relevant), the Authority must pay to the Developer within 5 Business Days of demand by the Developer the amount by which 0.5% of the Works Portion Development Cost

Amount for the relevant Works Portion, is less than 0.5% of the amount referred to in the Developer's Statement.

(e) The Authority must spend any amount received under this clause 6.2 on public art and/or cultural development facilities, programs and initiatives within Barangaroo in accordance with the Barangaroo Public Art and Culture Plan, although the timing and allocation of any such expenditure is at the discretion of the Authority (exercised reasonably).

6.3 Delivery of Integrated Public Art

The Developer must, in respect of each piece of Integrated Public Art:

(a) provide to the Authority for approval an Artist's Brief, which must set out:

(i) the scope of the commission for the Integrated Public Art;

(ii) the commissioning process to be followed in respect of the Integrated Public Art;

(iii) the project budget for the Integrated Public Art;

(iv) the location at which the Integrated Public Art will be installed;

(v) the technical and operational requirements of the Integrated Public Art;

(vi) a requirement for the artist not to enforce any Moral Rights that artist may have, now or in the future, in any design work in which copyright subsists, so that the Authority may freely exercise its rights pursuant to the licence granted under clause 42.2, in respect of the Integrated Public Art;

(vii) a requirement for the artist to sign the Moral Rights letter of consent comprising Annexure H, amended to include a certificate of authenticity;

(viii) a program for the delivery and installation of the Integrated Public Art (which must provide for the completion of the installation of the Integrated Public Art by no later than the Public Art Long Stop Date; and

(ix) the selection criteria to be applied in selecting an artist to create the Integrated Public Art and the responsibilities that will be imposed on the artist;

(b) keep the Authority informed of progress in selecting an artist to create the Integrated Public Art and the progress of the creation and installation of the Integrated Public Art;

(c) within a reasonable time after:

(i) the selection of the artist to create the Integrated Public Art has been carried out; and

(ii) the artwork proposal in respect of the Integrated Public Art is sufficiently developed,

provide to the Authority a maintenance plan, together with an estimate of the Costs which are likely to be incurred pursuant to that plan, for the maintenance of the Integrated Public Art;

(d) act reasonably and co-operate with the Authority, provide to the Authority all information reasonably requested by the Authority, have regard to the comments of the Authority in finalising the Artist's Brief and selecting an artist and otherwise use all reasonable endeavours to obtain the Authority's approval to the Artist's Brief and the artist. The Authority must act reasonably to consider, and if thought fit, approve the Artist's Brief and the artist within 90 Business Days of request by the Developer;

(e) ensure that the Integrated Public Art is installed in accordance with the Artist's Brief (including in accordance with the timetable set out in that Artist's Brief, extended to accommodate any extensions in time which would be granted to the Developer under clause 25), but in all circumstances prior to the Public Art Long Stop Date; and

(f) provide to the Authority a copy of all Moral Rights letters of consent signed by the artists pursuant to this clause 6.3 as soon as those signed letters of consent are received from the those artists.

6.4 Reconciliation of Public Art and Cultural Development Contribution

(a) No later than 20 Business Days after the date on which each piece of Integrated Public Art is installed, the Developer must provide the Authority with a statement (**Costs and Works Statement**) which:

(i) provides full details of Works undertaken by the Developer in respect of that piece of Integrated Public Art, to a level of detail reasonably satisfactory to the Authority;

(ii) is accompanied by a certificate executed by the Project Director or a director of the Developer, certifying that the statement accurately provides full details of the Works undertaken by the Developer in respect of that piece of Integrated Public Art, and full details of the Costs incurred by the Developer in undertaking those Works; and

(iii) provides full details of Costs incurred by the Developer in undertaking those Works, along with documents and records to reasonably verify those Works, including a certificate from the Quantity Surveyor.

(b) If the total Costs referred to in the Costs and Works Statement are less than 0.5% of the Works Portion Development Cost Amount for all Works Portions, the Developer must pay the difference:

(i) *where there are still Works Portions to be completed*, as an additional contribution under clause 6.1(c)(ii) relating to the next Works Portion; or

(ii) *where there are no further Works Portions to be completed*, as a payment to the Authority, at the same time that the Developer provides the Costs and Works Statement to the Authority.

(c) The Developer must:

(i) act reasonably and co-operate with the Authority;

(ii) provide to the Authority all information reasonably requested by it; and

(iii) answer any questions reasonably asked by the Authority,

in relation to the Costs and Works Statement (and supporting documents and records) provided to the Authority.

6.5 Security for Integrated Public Art in external public spaces

If Works are required to facilitate the installation of Integrated Public Art within external public spaces on the Site, the Developer will, on the reasonable request of the Authority, provide to the Authority reasonable security in respect of the carrying out of such Works.

6.6 Audit

(a) The Authority may elect to cause an audit of:

(i) the Costs and Works Statement (and supporting documents and records) provided to the Authority; and

(ii) the Developer's books of account and other records relating to the Works undertaken by the Developer pursuant to a Barangaroo Public Art and Culture Plan, and Costs incurred by the Developer in undertaking those Works,

and in this regard the Authority or an Authorised Officer of the Authority must give the Developer at least 2 Business Days prior notice that it wishes to inspect the Developer's books of account and other records, and the Developer must make its books of account available for the Authority or the Authority's auditor or Authorised Officer during business hours.

(b) The Developer must act reasonably and co-operate with the Authority or the Authority's auditor or Authorised Officer, and provide to the Authority or the Authority's auditor or Authorised Officer all information reasonably requested by the Authority or the Authority's auditor or Authorised Officer and answer any questions reasonably asked by the Authority or the Authority's auditor or Authorised Officer for the purposes of the Authority's audit.

(c) If the Authority causes an audit pursuant to clause 6.6(a) and that audit reveals that the total costs incurred by the Developer as referred to in an Costs and Works Statement is different to the amount determined by the Authority's auditor as the total costs actually incurred by the Developer in carrying out the relevant Works, then within 5 Business Days of the discrepancy being so notified to the Developer, the appropriate adjustments will be made and the provisions of clause 6.4(b) will apply.

(d) The auditor appointed to carry out the audit under clause 6.6(a) must:

(i) be an accountant of at least 10 years' professional standing;

(ii) have not undertaken any professional services for the Authority or the Developer (and must not be employed or a partner in, any firm connected with the Authority or the Developer) within the previous 24 months from the date of the appointment to audit;

(iii) agree to keep confidential all information disclosed in the audit other than to the parties; and

(iv) complete the audit within 30 Business Days following the auditor's appointment.

6.7 Arts and Culture Panel

(a) The Authority has established a committee (known as the Arts and Culture Panel) to:

(i) advise the Authority in relation to the Barangaroo Public Art and Cultural Plan, including any amendments to it;

(ii) advise the Authority in relation to any maintenance plan provided by the Developer;

(iii) advise the Authority how and when the amounts received under this clause 6 are to be spent; and

(iv) make recommendations to the Authority in relation to any approvals to be given or refused by the Authority to any matter referred to or contemplated by this clause 6.

(b) The Authority will determine the life and the constitution of the Arts and Culture Panel.

(c) The Arts and Culture Panel may request information from the Developer in the same manner as the Authority may do so under this clause 6 and the Developer must provide such information to, and co-operate with, the Arts and Culture Panel in accordance with this clause 6 as if such request had been made by the Authority.

(d) The Developer acknowledges that when the Authority decides to grant or refuse its approval to any matter referred to or contemplated by this clause 6, it must take into account any recommendations from the Arts and Culture Panel.

6.8 Arts and Culture Panel and Developer must co-operate

The Authority and the Developer agree that it is in the interest of the Project, that the processes contemplated by this clause 6 be dealt with as efficiently as commercially practicable. Accordingly, each of the Authority and the Developer will (and the Authority will procure that the Arts and Culture Panel will) seek to make and comply with the requests for further information referred to in this clause 6 as promptly as possible to enable the additional information to be provided by the Developer in a manner to minimise the effect of any delays pursuant to this clause 6 will have on compliance with the Development Program.

6.9 Developer not to remove Integrated Public Art

(a) The Developer must not cause or permit any Integrated Public Art to be demolished, removed from its place of installation or in any way obscured without the prior consent of the Authority which must not be unreasonably withheld or delayed if the removal or obscuring is temporary and is for the purpose of development, maintenance or repair.

(b) The Developer and the Authority agree that all Leases of Premises which incorporate Integrated Public Art must include provisions prohibiting the Tenant from causing or permitting any Integrated Public Art to be demolished, removed from its place of installation or in any way obscured without the prior consent of the Authority, which must not be unreasonably withheld or delayed if the removal or obscuring is temporary and is for the purposes of development, maintenance or repair.

6.10 Security

For the avoidance of doubt, the Developer's obligations under this clause 6 are included in the Guaranteed Obligations.

7. Management Committee

7.1 Outline of Management Committee's responsibilities

The Management Committee will:

(a) be formed to represent the Authority and the Developer in the implementation and delivery of the Project;

(b) comprise:

(i) 2 members appointed by the Authority;

(ii) 2 members appointed by the Developer; and

(iii) an independent chairperson, if agreed by the Authority and the Developer.

It is agreed that any one member appointed by either the Authority or the Developer can exercise all of the rights and powers of both members appointed by the Authority or the Developer, as the case may be, including under clause 7.2;

(c) monitor the progress of the Project and the Developer's performance of its obligations under this deed;

(d) be a management forum for Significant Project Issues; and

(e) be responsible for such other matters as are provided for in this deed or otherwise agreed by the Authority and the Developer in writing from time to time.

7.1A Department of Premier and Cabinet attendee

The Developer and the Authority agree that a senior executive of the NSW Department of Premier and Cabinet will be entitled (but not obliged) to attend all meetings of the Management Committee and to receive copies of all minutes, agendas, reports and other materials provided to the Management Committee in the same form and at the same time as members of the Management Committee. That attendee will have observer and participant status (but without a right to make decisions, approvals or consents for the purposes of clause 7.9) at all meetings of the Management Committee.

7.2 Powers of Management Committee

The Management Committee may:

(a) call for, receive and consider the Management Committee reports in accordance with clause 7.3;

(b) require the Developer to, and in that event the Developer agrees to use reasonable endeavours to procure the following to attend a meeting of the Management Committee:

(i) a representative of any Builder;

(ii) a representative of any Independent Certifier; and

(iii) any member of the Developer's Project Team;

(c) make recommendations to the Authority or the Developer on Significant Project Issues, and the parties agree that such recommendations must be considered by the relevant parties in good faith; and

(d) do such other things as the Developer and the Authority agree in writing from time to time.

7.3 Management Committee reports

(a) The Developer must provide to the Management Committee:

(i) the Management Committee reports at the intervals and with such content and particulars as are set out in Annexure L (in both paper and electronic formats); and

(ii) such other reports or materials in connection with the Project reasonably requested by the Management Committee (with the independent chairperson, if any, to decide whether a request is reasonable if the members appointed by the Authority and the Developer do not agree).

(b) Any Management Committee report or such other report required to be given by the Developer to the Management Committee:

(i) must be provided at meetings of the Management Committee, in the format and cover such matters as reasonably required by the Management Committee;

(ii) does not entitle the Developer to an extension of time; and

(iii) does not reduce or compromise the Developer's obligations to achieve and deliver all the works and events referred to in, and within the time contemplated by, the Development Program.

(c) For the purposes of this deed, any information or document given to a member of the Management Committee appointed by the Authority during a meeting of the Management Committee or which is included in material which is tabled at a meeting of the Management Committee, will be deemed to have been given to the Authority.

7.4 Appointment of Authority members

The Authority:

(a) is entitled to appoint:

(i) 2 members of the Management Committee; and

(ii) an alternate member for each such member to exercise some or all of the appointed member's powers,

on such terms and conditions as the Authority thinks fit and as set out in writing;

(b) is entitled to remove or replace any member of the Management Committee, or alternate member, appointed by the Authority; and

(c) must, within 20 Business Days of the relevant event, appoint a person to replace any member of the Management Committee, or alternate member, appointed by the Authority who dies, resigns, is removed from or otherwise vacates their membership of the Management Committee.

7.5 Appointment of Developer members

The Developer:

(a) is entitled to appoint:

(i) 2 members of the Management Committee; and

(ii) an alternate member for each such member to exercise some or all of the appointed member's powers,

on such terms and conditions as the Developer thinks fit and as set out in writing;

(b) is entitled to remove any member, or alternate member of the Management Committee, appointed by the Developer; and

(c) must, within 20 Business Days of the relevant event, appoint a person to replace any member of the Management Committee, or alternate member, appointed by the Developer who dies, resigns, is removed from or otherwise vacates their membership of the Management Committee.

7.6 Appointment of independent chairperson

(a) If the Authority and the Developer agree to appoint an independent chairperson, the Authority and Developer must appoint:

(i) an independent chairperson, who will have no voting rights; and

(ii) a person, to replace an independent chairperson who dies, resigns, is removed from or otherwise vacates their membership of the Management Committee.

(b) Subject to clauses 7.6(a)(ii) and 7.6(c), the independent chairperson, will be appointed for an initial term of 2 years with such term to be extended or renewed as the Authority and the Developer agree in writing from time to time. The Authority and the Developer must each pay an equal share of the Costs of any independent chairperson (including to appoint the chairperson).

(c) The independent chairperson may only be removed if agreed by the Authority and the Developer.

7.7 Instrument of appointment, removal or replacement

An instrument of appointment, removal or replacement of a member of the Management Committee, including an alternate member:

(a) must be in writing signed by an Authorised Officer of the party which is entitled to make the appointment or effect the removal or replacement;

(b) in the case of the independent chairperson, must be signed by both the Authority and the Developer (providing that each other member of the Management Committee has agreed to the appointment of an independent chairperson, if any); and

(c) is effective when the instrument of appointment, removal or replacement is tabled at a meeting of the Management Committee or when sent to the Authority or the Developer, as applicable (or both, in the case of the independent chairperson, if any).

7.8 Tenure of appointment

Unless otherwise specified in the instrument of appointment a member of the Management Committee holds that position until they die, resign or are removed from or otherwise vacates their membership of the Management Committee under this deed or until the Management Committee is disbanded by the written agreement of the Authority and the Developer.

7.9 Vacation of membership

A person vacates their membership of the Management Committee if the member:

(a) resigns from the Management Committee by notice in writing to:

(i) the Authority; and

(ii) the Developer,

or on such other basis as the Management Committee accepts; or

(b) is absent without the consent of at least 2 other members of the Management Committee from more than 3 meetings of the Management Committee held during a period of 12 consecutive months.

7.10 Management Committee's decisions

The Authority and the Developer agree that, in respect of the exercise of the powers of the Management Committee set out in this deed, all decisions, approvals and consents of the Management Committee must be made by 2 members of the Management Committee, one of whom must have been appointed by the Authority and the other of whom must have been appointed by the Developer.

7.11 Meetings of Management Committee

A meeting of the Management Committee will be subject to the following:

(a) the Management Committee will meet not less than quarterly and at such other times as may be required;

(b) unless the requirement for this notice is waived by all members of the Management Committee, a meeting will be properly convened if the Authority or the Developer has given at least 5 Business Days written notice to the members of the Management Committee, provided such notice contains reasonable details of the business to be considered and voted upon at that meeting;

(c) the quorum for any meeting of the Management Committee is:

(i) 2 voting members of which one must have been appointed by the Developer and the other must have been appointed by the Authority; and

(ii) the independent chairperson, if any;

(d) if no quorum is present within half of one hour of the time appointed for that meeting then the meeting will stand adjourned until the next Business Day to the same time and place. If at such adjourned meeting no quorum is present, then for the purposes of this deed, the Management Committee will be deemed to have failed to make a determination on the matters the subject of that adjourned meeting;

(e) resolutions will be taken to be properly passed by a meeting of the Management Committee in each of the following circumstances:

(i) where each member of the Management Committee attending the meeting agrees that the meeting has been properly convened even if sufficient notice of the meeting has not been given as required by this clause 7.11;

(ii) a form of resolution has been signed by each member of the Management Committee, and for this purpose, a form of resolution will be deemed to have been signed by members of the Management Committee if an email is received by any member of the Management Committee or any person nominated by any person of the Management Committee for such purpose, purporting to have been sent by another member of the Management Committee confirming that other member has approved that resolution; or

(iii) that resolution is unanimously passed by another committee or group of persons which has been authorised for that purpose by the Management Committee,

it being agreed that any independent chairperson, if any, shall have no voting rights; and

(f) the Authority will arrange for minutes to be kept of all meetings and proceedings of the Management Committee and will circulate copies of those minutes to all members not less than 5 Business Days after the relevant meeting, such minutes to be approved at the next Management Committee meeting. All such secretariat functions will be provided by the Authority at its expense.

7.12 Remediation and Vacation Works Program and Staging Plans

(a) Within 40 Business Days after the date of the Fifth Deed of Amendment, the Developer must prepare and submit to the Authority:

(i) a Remediation and Vacation Works Program which sets out:

A. each Milestone Date;

B. each PC Date;

C. each Vacation Date; and

D. Construction Staging relevant to the BDA Development Blocks and relevant interdependencies; and

(ii) updated Staging Plans,

based on the target development program referred to in Annexure L and which must provide sufficient detail in respect of the VMP Remediation Works and the VMP Investigation Works and the proposed Construction Staging on the BDA Development Blocks to enable the Remediation QS to assess extensions of time to each PC Date and Vacation Date (including identifying a critical path analysis of relevant activities and noting the nature of the proposed Construction Staging on each BDA Development Block) and the VMP Remediation Works and the VMP Investigation Works.

(b) The Authority and the Developer must negotiate in good faith to agree that Remediation and Vacation Works Program as soon as practicable after receipt of it by the Authority.

(c) If the Authority and the Developer have not agreed the Remediation and Vacation Works Program within 20 Business Days after receipt by the Authority of the draft Remediation and Vacation Program, either party may request the Remediation QS (with a copy of that request to be provided to the other party) to determine whether:

(i) the draft Remediation and Vacation Works Program complies with the definition of Works Program and clause 7.12(a); and

(ii) whether the Remediation QS considers that there is sufficient information in the draft Remediation and Vacation Works Program to enable the Remediation QS to assess and determine extensions of time in accordance with clause 25.3,

and the Remediation QS will be entitled to utilise the services of the Independent Certifier (if one is appointed) and other experts, to the extent that the Remediation QS does not have the expertise required to make the determination.

(d) The Authority and the Developer will engage the Remediation QS on the basis that:

(i) the Remediation QS is obliged to make a determination under clause 7.12(c) within 10 Business Days after being requested to do so;

(ii) the determination must be provided to both the Authority and the Developer at the same time;

(iii) in the determination the Remediation QS must certify:

A. the matters set out in clauses 7.12(c)(i) and 7.12(c)(ii); and

B. any changes to the draft Remediation and Vacation Program which would be required for the draft Remediation and Vacation Program to comply with the definition of Works Program and clause 7.12(a) and to enable them to assess and determine extensions of time in accordance with clause 25.3.

(e) The Developer must amend the draft Remediation and Vacation Program in accordance with the Remediation QS's certification under clause 7.12(c) and resubmit it to the Authority and the Remediation QS and clause 7.12(c) will reapply.

(f) The draft Remediation and Vacation Program agreed or determined in accordance with this clause 7.12 will be the Remediation and Vacation Program for the purposes of this deed, subject to amendments made to it in accordance with clauses 7.12(g) and 7.12(h).

(g) The Developer must regularly status and update the Remediation and Vacation Works Program so that it reflects:

(i) any delays occasioned to the VMP Remediation Works and the VMP Investigation Works and Construction Staging in respect of the PC Dates and the progress in achieving the Vacation Dates;

(ii) any extensions of time granted in accordance with this deed; and

(iii) the target dates for practical completion contained in Relevant Contracts for the VMP Remediation Works and the VMP Investigation Works entered into in accordance with clauses 16 and 17 and Schedule 10.

(h) If the Developer wishes to amend the sequencing of the VMP Remediation Works, the VMP Investigation Works or the Construction Staging as set out in the

Remediation and Vacation Program in such a way that would adversely affect the Developer's progress in achieving Vacation by a Vacation Date or the Remediation QS's ability to assess and determine extensions of time in accordance with clause 25.3, it must provide a revised Remediation and Vacation Program to the Authority for approval not to be unreasonably withheld.

(i) If the parties have not agreed the amendments proposed by the Developer under clause 7.12(h) within 10 Business Days, either party may request the Remediation QS (with a copy of that request to be provided to the other party) to make the determination referred to in clause 7.12(c) in relation to the amended Remediation and Vacation Program and the provisions of clauses 7.12(c), 7.12(d), 7.12(e) and 7.12(f) will reapply.

(j) The Authority must pay the costs of the Remediation QS [redacted].

8. Preparation of Applications

8.1 Developer to prepare Applications

Except as otherwise provided for in this deed, the Developer agrees to prepare at its Cost all Applications. For the avoidance of doubt, the parties agree that this clause does not apply to any Applications which are required for any fit-out works to be undertaken by or on behalf of a Tenant.

8.2 Design responsibility

The Developer agrees to:

(a) design the Works;

(b) perform its design responsibilities with the skill, care and diligence expected of a professional designer experienced in projects of a similar nature to the Project; and

(c) ensure that each member appointed to the Developer's design team performs its design responsibilities with the skill, care and diligence expected of a professional designer experienced in carrying out those responsibilities.

8.3 Further development of Agreed Design Documents

The Developer must for each Works Portion develop the relevant Agreed Design Documents in accordance with this deed into Detailed Plans and Specifications.

8.4 Requirements for proposed Applications

(a) The Developer must ensure that each proposed Application:

(i) is developed to a level necessary to support an Application for the relevant Approval;

(ii) is consistent with:

A. subject to clause 8.5(a), the Barangaroo Approval Documents;

B. subject to clauses 8.5(a) and 8.5(b) and unless otherwise agreed by the Authority, the Agreed Design Documents;

C. if appropriate, the Barangaroo Works Detailed Design; and

D. any relevant Significant Application which has been approved by the Authority under this deed or the Crown Development Agreement, or for which Approval has been obtained in accordance with this deed;

(iii) is accompanied by:

A. a certificate signed by the Project Director or a director of the Developer, stating whether:

1) the Application complies with the relevant requirements of this clause 8.4 and clause 8.5 and if it does not, disclosing each aspect which does not comply or conform with relevant requirements of this clause 8.4 and clause 8.5;

2) the Application is a Significant Application;

3) there is a Significant Project Issue relating to the Application and if there is, giving reasonable details of that Significant Project Issue; and

4) the Works the subject of the Application comprise a Temporary Building;

B. a draft plan (progressed to the extent it is able to be at that time) which shows the boundaries of that Proposed Premises in comparison to the rest of the Site (**Proposed Premises Plan**) for approval by the Authority under clause 10.5, if the Application is a Significant Application which relates to a Works Portion on any part of the Site proposed to comprise 'Premises' for the purposes of this deed (**Proposed Premises**); and

(iv) complies with all Environmental Laws.

(b) The Authority may grant or refuse its consent to an Application which gives rise to a Significant Project Issue in its sole and unfettered discretion.

8.5 Consistency

(a) Although the Applications must be consistent with the Barangaroo Approval Documents, an Application will be deemed to have complied with the requirements of clause 8.4(a)(ii)A where it is consistent with an Application in respect of a Modification or an Alternative Modification Application (as the case may be) which has been approved by the Authority, even though a determination of such Application by the Consent Authority has yet to be made.

(b) For the purposes of clause 8.4(a)(ii)B, an Application is consistent with the Agreed Design Documents notwithstanding any one or more of the following:

(i) either or both of the width or depth of the relevant Works Portion varies by not more than:

A. where the Works Portion is not to be used for Residential Purposes, 10%; or

B. where the Works Portion is to be used for Residential Purposes, 15%

of the width or depth (as the case may be) of that Works Portion as indicated in the Agreed Design Documents;

(ii) the central axis of the relevant Works Portion varies by not more than 8 metres from the central axis of that Works Portion as indicated in the Agreed Design Documents;

(iii) subject to clause 8.5(c), the orientation of the relevant Works Portion varies by not more than 10 on the axis of that Works Portion as indicated in the Agreed Design Documents;

(iv) that relevant Works Portion may not have an external structural frame;

(v) that relevant Works Portion may not have a shared lift core;

(vi) the ancillary east/west road alignments change as a result of any of the circumstances contemplated by this clause 8.5(b); or

(vii) the configuration (i.e. location - vertical or horizontal alignment) of the basement of any Works Portion.

(c) The provisions of clause 8.5(b)(iii) do not apply to any of the Works Portions which are immediately adjacent to Hickson Road.

(d) If as a result of clause 8.5(b), a Works Portion has less GFA than is contemplated for that Works Portion in the Agreed Design Documents, the Developer must with the approval of the Authority under clause 10.2(a), increase the GFA in one or more of the other Works Portions, so that the aggregate GFA for all Works Portions is not less than the aggregate GFA indicated in the Agreed Design Documents, provided that:

(i) any increase in the GFA resulting in an increase to the height of a Building relevant to any Works Portion is subject to the approval of the Authority under clauses 10.1 and 10.2 in connection with the Significant Application relating to that Works Portion; and

(ii) where, in the circumstances contemplated by clause 8.5(b), the Developable GFA exceeds [redacted] m^2, the Developer will have the right but be under no obligation under this clause 8.5(d), to relocate GFA to other Works Portions, provided that the aggregate GFA for all Works Portions is not less than [redacted] m^2 (subject to obtaining the Authority's approval in connection with the Significant Applications relating those Works Portions pursuant to clauses 10.1 and 10.2(a)); and

(iii) for the avoidance of doubt, the Developer must still pay the Total Payment Amount irrespective of any relocation of GFA pursuant to this clause.

8.6 Authority's review of Applications

The Developer acknowledges and agrees that:

(a) the Authority:

(i) is not obliged to critically analyse the Applications;

(ii) has not critically analysed the Agreed Design Documents;

(iii) is not responsible for any errors, omissions or non-compliance with any Law or the requirements of any Public Authority by reason of not critically analysing the Applications or the Agreed Design Documents; and

(iv) is not liable for any liability, loss or Cost incurred by the Developer because of the Authority not critically analysing the Application or the Agreed Design Documents; and

(b) no comment, review or information supplied to the Developer by the Authority alters or alleviates the Developer's obligation to design, construct and complete the Works or otherwise undertake the Works in accordance with the requirements of this deed.

8.7 Developer relies on own skill and judgment

(a) Neither the requirement to obtain the Authority's consent or approval under this deed, nor any consent or approval given by the Authority, imposes any duty, obligation or liability upon the Authority in relation to the design or construction of the Project. The Developer acknowledges that:

(i) it is relying on its own skill and judgment, and that of the Developer's Employees and Agents, in relation to the Works and the Project and is not relying upon the skill and judgment of the Authority or, subject to clause 8.7(b), any of the Authority's Employees; and

(ii) any consent or approval of the Authority is intended as a procedure to enable the Authority to protect its rights, and perform its obligations, as owner of the Site (excluding that part of the Site comprising any part of Hickson Road) and as a statutory authority (including compliance with the Works Documents) and does not relieve the Developer of its obligations under this deed.

(b) Notwithstanding clause 8.7(a), the Authority acknowledges that the Developer is relying on the information referred to in the Reliance Letters with respect to the authors of those letters, but not with respect to the Authority. The Developer acknowledges that nothing in this clause entitles it to bring any action against the Authority.

8.8 Design Excellence

(a) Subject to clause 8.5(a), the Developer must comply with all requirements of the Concept Plan Approval in relation to design excellence including the requirement that a Design Excellence Competition be held in respect of Proposed Buildings (subject to that requirement being waived by the Director-General).

(b) The parties acknowledge and agree that the Developer has held a Design Excellence Competition in respect of Stage 1B and the Hotel Resort, and the Developer has satisfied the requirements for design excellence in respect of Stage 1B and the Hotel Resort as at the date of the Fifth Deed of Amendment.

(c) If the Developer is required to undertake a Design Excellence Competition in respect of a Proposed Building, the Developer must obtain the approval of the Authority (which approval must not be unreasonably withheld or delayed) to the process to be adopted for that Design Excellence Competition, before submitting details of that process to the Director-General.

8.9 Requirement to achieve Green Star rating

(a) The Developer must ensure that:

(i) each Building which includes commercial Premises:

A. achieves a Green Star 6 Star Office Design Rating;

B. achieves a Green Star 6 Star Office As Built Rating;

(ii) each Building which includes residential Premises:

A. achieves a Green Star 5 Star Multi Unit Residential Design Rating; and

B. achieves a Green Star 5 Star Multi Unit Residential As Built Rating;

(iii) each Building which includes retail Premises, that can be rated under the rating system certified by the GBCA:

A. achieves a Green Star 5 Star Retail Design Rating; and

B. achieves a Green Star 5 Star Retail As Built Rating.

(iv) any hotel, other than the Hotel Resort to be developed under the Crown Development Agreement which is the responsibility of Crown, achieves a rating of such stars as represents world's best practice standards for hotels under any design or as built rating tool as published by the GBCA for hotels prior to the date of lodgement of the any Significant Application for a hotel with the Authority, provided that such rating will only be applied under this clause to a hotel if the Developer and the Authority agree that that rating represents world's best practice standards for hotels after taking into account the matters and implementing the processes contemplated in clauses 9.7 and 9.8 as if such requirement were a proposal to improve a Climate Positive Benchmark for the purposes of those clauses,

and in each and every case, that achievement is validated through assessment by the GBCA.

(b) The Developer and the Authority acknowledge and agree that the rating requirements of clause 8.9(a) must be varied from time to time to ensure consistency with the equivalent rating requirements comprising part of the Climate Positive Benchmarks (as updated from time to time in accordance with clause 9.7). On the date the relevant rating requirement is revised, that revised rating requirement will apply to all Works Portions:

(i) for which Part 3A Applications have not yet been lodged with the Authority for consent;

(ii) where a Part 3A Application for a Works Portion has been lodged with the Authority, where the Works the subject of that Works Portion have not been physically commenced (with those Works being undertaken on a continuous basis) by the Developer within 24 months of the date the relevant rating requirement is varied; or

(iii) where a Part 3A Approval has issued, where the relevant Construction Zone Licence has not been granted within 9 months of the date of that

Approval or where Substantial Commencement has not been achieved within 24 months of the date the relevant rating requirement is varied.

(c) The Developer must also ensure that:

(i) each Works Portion referred to in clause 8.9(a) is registered with the GBCA at the earliest opportunity and a copy of the Certification Agreement entered into by the Developer lodged with the Authority;

(ii) the Authority receives a copy of each submission to be made by the Developer to the GBCA in respect of the certification or validation process for its review, at least 5 Business Days before it is submitted to the GBCA;

(iii) it considers (acting reasonably) any comments reasonably made by the Authority in connection with each submission provided to it pursuant to clause 8.9(c)(ii); and

(iv) the Authority receives a copy of the results of that submission.

(d) If the Developer fails to comply with this clause 8.9:

(i) the Authority may take such action as is permitted by clause 9.12(a);

(ii) the Authority's rights to claim damages against the Developer are limited to recovering the amounts referred to in clauses 9.12(b), 9.13 and 9.14; and

(iii) for the avoidance of doubt, the Authority is not entitled to rely on a non-compliance with this clause 8.9 as a Trigger Event.

(e) If at any relevant time the GBCA ceases to exist, the Developer agrees that any obligation on the Developer under this clause 8.9 with respect to certification by the GBCA will operate as follows:

(i) where a body replaces the GBCA and applies a rating or accreditation or similar system which is equivalent to the Green Star Office Design (Relevant Version), the Green Star Office As Built (Relevant Version), the Green Star Retail Design (Relevant Version), the Green Star Retail As Built (Relevant Version), the Green Star Multi Unit Residential Design (Relevant Version) or the Green Star Multi Unit Residential As Built (Relevant Version) ratings system (as the case may be) developed by the GBCA, the reference to the GBCA will be a reference to that other body instead, and the reference to Design and As Built (Relevant Version) rating system will be a reference to that other system instead; or

(ii) where no body replaces the GBCA or the replacement body does not apply a rating or accreditation or similar system which is equivalent to the Green Star Office Design (Relevant Version), the Green Star Office As Built (Relevant Version), the Green Star Retail Design (Relevant Version), the Green Star Retail As Built (Relevant Version), the Green Star Multi Unit Residential Design (Relevant Version) or the Green Star Multi Unit Residential As Built (Relevant Version) ratings system (as the case may be) developed by the GBCA, the reference to obtaining a certificate from the GBCA will be a reference to obtaining a written opinion from an independent expert nominated by the Developer and approved by the Authority as having expertise in certifying similar rating systems as to the star rating which would have been achieved under the rating system had the GBCA still existed.

9. Climate Positive Work Plan and Social Sustainability

9.1 Commitments by the Developer

The Developer acknowledges and agrees that in undertaking the Project it must at its cost and risk:

(a) meet or exceed the Climate Positive Benchmarks no later than the relevant Climate Positive Relevant Date;

(b) provide the Climate Positive Contributions;

(c) subject to clause 9.11, satisfy each Additional CP Obligation on or by the relevant Additional CP Relevant Date; and

(d) do all that is required to be done to ensure that everything contemplated by the Climate Positive Work Plan is undertaken and completed in accordance with that plan and this deed.

9.2 Preparation of Climate Positive Work Plan

The Developer must prepare a Climate Positive Work Plan in accordance with the requirements of this clause 9 and having regard to the Climate Positive Work Plan Requirements.

9.3 Outline of Climate Positive Work Plan

The Climate Positive Work Plan must describe in detail all material things to be done by the Developer to ensure that in undertaking the Project, the Climate Positive Benchmarks and the social sustainability requirements of clause 9.18 are met or exceeded no later than the relevant Climate Positive Relevant Date and the Additional CP Obligations are satisfied by the relevant Additional CP Relevant Date. These details must include the following:

(a) a requirement for the Developer to keep the Authority informed as to its progress in achieving the Climate Positive Benchmarks and the social sustainability requirements of clause 9.18;

(b) a requirement for the Developer to inform the Authority within 4 months (or any longer period agreed with the Authority on a reasonable basis) after each Additional CP Relevant Date whether the Additional CP Obligations relevant to that date (including providing the Authority with information regarding the Developer's estimate of the carbon emissions to be offset through the purchase and retirement of RECs within 4 months of that Additional CP Relevant Date) have been satisfied;

(c) a requirement that if the Authority is not satisfied as to the Developer's progress, an opportunity for the Authority to serve notice on the Developer requiring the Developer to either:

(i) provide reasonable details to the Authority of the additional actions which will be taken by the Developer to achieve the Climate Positive Benchmark and the social sustainability requirements of clause 9.18 no later than the relevant Climate Positive Relevant Date; or

(ii) provide reasons as to why no such additional actions are required or whether additional action should be undertaken (and if so, the process for taking such action); and

(d) reasonable details regarding how the Developer proposes to satisfy the social sustainability requirements of clause 9.18.

9.4 Detail of Climate Positive Work Plan

The Climate Positive Work Plan must:

(a) confirm how the Project will be undertaken to ensure that the Climate Positive Benchmarks, the requirements of clauses 9.14 and 9.18 and the Additional CP Obligations will be met or exceeded no later than the relevant Climate Positive Relevant Date or as otherwise required by clauses 9.14 or 9.18 or the Additional CP Relevant Date. The parties acknowledge that the initiatives expressed in the relevant parts of *Returnable Schedule 5* of the Final Proposal will be included in the initial Climate Positive Work Plan (as proposed Climate Positive Contributions) prepared by the Developer in satisfaction of this requirement;

(b) address the following:

(i) procurement and approval regime;

(ii) the critical milestone dates and activities;

(iii) on-going maintenance and operation;

(iv) the staged delivery of the Project;

(v) the proposed consultation arrangements with relevant Public Authorities and relevant utility providers;

(vi) proposed access rights to third parties for water, energy and cooling; and

(vii) anticipated basis of generating income from the provision of energy, water and other services to occupants of Barangaroo, including by the grant of concessions to third parties;

(c) provide for the Developer to generally liaise with and provide information to the Authority to ensure that the Authority has sufficient detail to enable it to monitor the development of and compliance with the Climate Positive Work Plan;

(d) outline how infrastructure or services for the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6) may interface with or relate to other parts of Barangaroo and properties adjoining or in the vicinity of Barangaroo; and

(e) be accompanied by a Climate Positive Certification.

9.5 Approval by the Authority

(a) The Authority has approved the Current Climate Positive Work Plan and such Climate Positive Work Plan takes effect on and from the date of the Fifth Deed of Amendment subject to satisfaction of the following conditions:

(i) an updated Climate Positive Work Plan will be prepared for submission to the Authority following lodgement of Mod 8;

(ii) Appendix A and Appendix B of the Climate Positive Work Plan will be updated with the next update of the Climate Positive Work Plan to reflect Mod 8; and

(iii) the schedule of "Climate Positive Supporting Documentation" will be updated and consolidated with the next update of the Climate Positive Work Plan.

(b) The Developer must satisfy the conditions referred to in clause 9.5(a) within 3 months after the date of lodgement of the Mod 8 Application with the Consent Authority.

9.6 Updated Climate Positive Work Plan

(a) The Developer may update the Climate Positive Work Plan from time to time and must update the Climate Work Plan at least every 2 years. Once updated the Climate Positive Work Plan must be lodged with the Authority for its approval.

(b) Any updated draft Climate Positive Work Plan must be prepared taking into account all of the Climate Positive Work Plan Requirements (outlined in clauses 9.3 and 9.4).

(c) Within 15 Business Days of receiving the updated draft Climate Positive Work Plan, the Authority may request (acting reasonably having regard to the contents of any updated draft Climate Positive Work Plan being considered by the Authority) additional Climate Positive Supporting Documentation or seek amendments to the updated draft Climate Positive Work Plan. The Developer must provide to the Authority such additional Climate Positive Supporting Documentation as soon as reasonably practicable after any such request and must consider any requested amendments in good faith.

(d) Provided that the Developer has complied with its other obligations pursuant to this clause 9, the Authority must give or refuse its approval to an updated draft Climate Positive Work Plan within 60 Business Days after the Authority receives:

(i) a copy of the updated draft Climate Positive Work Plan (together with a request for approval of that plan);

(ii) all Climate Positive Supporting Documentation (including any additional Climate Positive Supporting Documentation requested by the Authority); and

(iii) a Climate Positive Certification for that updated draft Climate Positive Work Plan.

(e) The Authority must not unreasonably refuse its consent to an updated Climate Positive Work Plan.

(f) If the Authority requests the Developer to reconsider or amend an updated draft Climate Positive Work Plan, the Developer must consider in good faith any such request. If the Developer considers appropriate, the Developer should amend the updated draft Climate Positive Work Plan and re-submit that updated draft plan to the Authority for its approval as soon as reasonably practicable after receiving the Authority's request.

(g) If an updated draft Climate Positive Work Plan has been resubmitted to the Authority pursuant to clause 9.6(f) and it incorporates the matters the subject of the Authority’s request to reconsider or amend, the Authority must approve the updated draft Climate Positive Work Plan.

(h) Once the updated draft Climate Positive Work Plan is approved by the Authority, that plan will be treated as the Climate Positive Work Plan for the purposes of this deed.

(i) Unless the Authority directs the Developer to do otherwise, simultaneously with lodgement by the Developer of any Significant Application for a Works Portion with the Authority for approval, the Developer must confirm that:

(i) in its opinion, if relevant, the Works the subject of the relevant Significant Application will satisfy the relevant requirements of the Climate Positive Works Plan which must be confirmed by the Expert Sustainability Certifier and if the there are no relevant requirements of the Climate Positive Works Plan, then there will be no need for any confirmation to be obtained from the Expert Sustainability Certifier; and

(ii) no update to the then current Climate Positive Works Plan is needed or, if it is needed, update the current Climate Positive Works Plan and comply with clauses 9.6(b) to 9.6(f) in relation to such update.

9.7 Improvement of Climate Positive Benchmarks

(a) The parties acknowledge and agree that over time, the Climate Positive Benchmarks should be revised and improved to impose more stringent requirements on the Project, so that the Project represents world's best practice standards in the area of the environmental sustainability for projects of the size and complexity of the Project (including the Climate Positive Benchmarks) taking into account the overall economic and environmental sustainability of the Project.

(b) The provisions of clause 9.8 will apply if the Developer forms the view, on reasonable grounds and serves notice to this effect on the Authority, that any more stringent requirements on the Project which may be imposed by the operation of clause 9.7(a) have or are likely to have a material adverse impact on:

(i) the financial return to the Developer from that return which could reasonably expected to have been earned by the Developer with respect to either a Works Portion or the Project as a whole, had those requirements not existed; or

(ii) the timing of the delivery of a Works Portion or the Project as a whole.

(c) At intervals of not less than every 2 years from the Commencement Date, the Developer must submit a report to the Authority (supported by reports from relevant Expert Sustainability Certifiers) addressing whether the Climate Positive Benchmarks need to be revised and improved having regard to world's best practice standards in respect of environmental sustainability at that time. Such report is to include developments worldwide relevant to the Climate Positive Benchmarks to ensure the Authority is properly informed as to world's best practice in the area of environmental sustainability.

(d) The Developer and the Authority must each act in good faith and reasonably in discussing and agreeing any revision and improvements from time to time in the Climate Positive Benchmarks but acknowledge and agree that the Climate Positive Benchmarks must reflect world's best practice in respect of environmental sustainability, subject to the provisions of clause 9.7(a) and clause 9.8.

(e) If the Developer and the Authority agree on a revision of and improvement to the Climate Positive Benchmarks, the Authority will adopt those agreed revised and improved Climate Positive Benchmarks which will apply to all Works Portions:

(i) for which Significant Applications have not yet been lodged with the Authority for consent;

(ii) where a Significant Application for a Works Portion has been lodged with the Authority, where the Works the subject of that Works Portion have

not been physically commenced (with those Works being undertaken on a continuous basis) by the Developer within 24 months of the date the Authority adopts those agreed, revised and improved Climate Positive Benchmarks; or

(iii) where a Significant Approval has issued, where the relevant Construction Zone Licence has not been granted within 9 months of the date of that Approval or where Substantial Commencement has not been achieved within 24 months of the date the Authority adopts those agreed, revised and improved Climate Positive Benchmarks,

other than in relation to the Community Facility, in which case the Developer and the Authority agree that any reference to a 'Significant Application' for a Works Portion (including its lodgement with the Authority) in this clause 9.7(d) applies to a Significant Application in relation to the Community Facility being lodged with the Authority or being issued.

9.8 Good faith negotiations

(a) As soon as commercially practicable after receipt of a clause 9.7(b) notice, the parties will enter into negotiations in good faith and in a spirit of mutual understanding and co-operation to deal with those circumstances.

(b) In the negotiations contemplated by clause 9.8(a), the parties must have regard inter alia to the following principles to the extent necessary to deal with the change:

(i) subject to the Works being efficiently delivered by the Developer, the Developer is entitled to receive a reasonable IRR on its investment (which must not be less than [redacted]%) having regard to current market conditions and the additional risks, if any, being undertaken by the Developer;

(ii) commitments which the Developer has made to third party Tenants, sub-tenants and financiers; and

(iii) the likely duration of the changed circumstance and the amount of the Project which remains to be delivered.

(c) If either the Authority or the Developer fails to enter into negotiations within 20 Business Days of receiving the clause 9.7(b) notice or if, having entered into such negotiations, no resolution is reached within a further 20 Business Days, either the Authority or the Developer notify a dispute in accordance with clause 45, and any such resolution must also have regard inter alia to the principles set out in clauses 9.8(b)(i) to (iii).

9.9 Certification of implementation of Climate Positive Work Plan

(a) On the date which is 6 months after the Authority's approval of the Current Climate Positive Work Plan and every 6 months thereafter, the Developer must provide to the Authority a detailed report (supported by certification reports from relevant Expert Sustainability Certifiers provided annually) in relation to the status of the implementation of the Climate Positive Work Plan by the Developer including identifying (as at the date of that report):

(i) those sections of the Climate Positive Work Plan being fully complied with and implemented;

(ii) those sections of the Climate Positive Work Plan not being fully complied with and the extent of that non-compliance;

(iii) the effect on the Climate Positive Benchmarks of any non-compliance with the Climate Positive Work Plan;

(iv) any foreseeable non-compliance or non-implementation of any part of the Climate Positive Work Plan;

(v) in respect of each actual or foreseen non-implementation or non-compliance of any part of the Climate Positive Work Plan, a cure plan which proposes to remedy (and mitigate the effects of) any actual or foreseen failure to implement or comply with any part of the Climate Positive Work Plan and which includes:

A. a detailed program to remedy and mitigate the effects of any non-compliance or non-implementation and to prevent recurrence of the events which led to such non-compliance or non-implementation; and

B. full details of all that must be done in relation to the proposed remedial and mitigation proposals;

(vi) any component of the Climate Positive Work Plan or the Climate Positive Benchmarks that should be updated to accommodate:

A. variables affecting the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6), Barangaroo or properties adjoining or in the vicinity of Barangaroo; or

B. any change in world's best practice in respect of environmental sustainability since the date the Climate Positive Work Plan was last updated by the Developer (taking into account the requirements of clauses 9.8 and 9.8).

(b) If any report discloses a non-compliance or non-implementation of the Climate Positive Work Plan by the Developer and the Authority requests the Climate Positive Work Plan to be updated to include a cure plan to address that non-compliance or non-implementation (and otherwise which addresses those matters contemplated in clause 9.9(a)(v)), then the Developer must promptly prepare an appropriately updated Climate Positive Work Plan and lodge that plan with the Authority for its approval and the provisions of clause 9.6 apply in relation to that updated draft plan.

9.10 Additional CP Obligations

In respect of all Works Portions comprising GFA (up to the total Developable GFA) that have achieved Practical Completion as at an Additional CP Relevant Date, the Developer must:

(a) acquire (or provide funding for such acquisition) RECs, and

(b) voluntarily retire RECs (if the Developer has acquired such RECs),

equivalent to greenhouse gas emissions generated in connection with the use of those Works Portions (excluding the carrying of Tenant's fit-out works) for the period from the immediately preceding Additional CP Relevant Date (or the Commencement Date as relevant) to the Additional CP Relevant Date, provided that such obligation must never exceed the following:

(c) the 200,000 RECs (or balance thereof) required to be funded by the Developer under clause 9.11(c)(ii)B; and

(d) those RECs that are able to be funded by:

(i) contributions by Tenants as contemplated by clause 9.11(a)(i)A; and

(ii) using that part of Estate Levy as contemplated by clause 9.11(a)(i)B,

(**Additional CP Obligations**).

9.11 Acquisition and voluntary retirement of RECs

(a) In relation to the acquisition of RECs to satisfy the Additional CP Obligations and the Climate Positive Benchmarks (subject to the assumption in clause 9.11(b)), the Authority and the Developer agree that they will procure the appropriate entity to undertake, the acquisition and voluntary retirement of RECs which, in relation to:

(i) each Additional CP Obligation, will be funded by:

A. any contributions made by any Tenant under the Barangaroo Management Plan for the purpose of acquiring RECs, having regard to its excessive use of energy;

B. thereafter, the Authority allocating (or by the Authority and the Developer procuring or the Developer procuring its Related Entities to procure the Barangaroo Management Committee to allocate) an amount no greater than $4.90 per annum of the Estate Levy per m^2 of GFA for each Building which has achieved Practical Completion as at the Additional CP Relevant Date relevant to that Additional CP Obligation; and

C. thereafter, the Developer contributing such additional funding (as is required to satisfy the Additional CP Obligation) towards the acquisition of RECs (subject to the Additional CP Obligation Cap); and

(ii) the Climate Positive Benchmarks detailed in *paragraphs 1.3(f)(i), (ii) or (iii)* of Schedule 3, will be funded by:

A. any contributions made by any Tenant under the Barangaroo Management Plan for the purpose of acquiring RECs, having regard to its excessive use of energy;

B. thereafter, the Authority allocating (or by procuring the Barangaroo Management Committee to allocate) an amount no greater than $4.90 per annum of the Estate Levy per m^2 of GFA for each Building which has achieved Practical Completion as at the Climate Positive Relevant Date relevant to the respective Climate Positive Benchmark (to the extent that such amount has not already been allocated by the Authority pursuant to clause 9.11(a)(i)); and

C. thereafter, the Developer contributing such additional funding (as is required to satisfy the relevant Climate Positive Benchmark after taking into account those RECs that have been purchased and voluntarily retired as required in this deed in satisfaction of the Additional CP Relevant Obligations) towards the acquisition of RECs.

(b) The Developer agrees that no later than 31 March next occurring after an Additional CP Relevant Date it must assess (acting reasonably) the number of RECs required to be acquired to satisfy the relevant Additional CP Obligation and provide a report

to the Authority setting out such information as is reasonable for the Authority to be satisfied as to what is required in order to fulfil the Additional CP Obligations by each Additional CP Relevant Date.

(c) For the purposes of determining the number of RECs to be acquired and retired to satisfy the Additional CP Obligations or the Climate Positive Benchmarks detailed in *paragraphs 1.3(f)(i), (ii) or (iii)* of Schedule 3, the Developer and the Authority agree that:

(i) it is to be assumed that greenhouse gas emissions generated in connection with the use of a Works Portions relating to transport is calculated at 23.67kg CO2 e/m^2 GFA/year; and

(ii) the Developer is not required to fund the acquisition of RECs:

A. if and to the extent that the greenhouse gas emissions generated in connection with the use of Works Portions that have been Practically Complete at the Climate Positive Relevant Date are attributable to a failure to meet the targets in section 40 of the Renewable Energy (Electricity) Act 2000; or

B. which in aggregate amount to more than [redacted] RECs (in addition to those RECs that are funded by using any part of Estate Levy or to be funded by Tenants as contemplated by clause 9.11).

(d) If in any year, less than $4.90 is allocated by the Authority or the Barangaroo Management Committee under clause 9.11(a)(i)B to fund the acquisition of RECs in satisfaction of the Additional CP Obligation relevant to that year (**Amount Allocated**) and the Developer has contributed funding pursuant to clause 9.11(a)(i)C in a previous year, the Authority must (or the Authority must procure that the Barangaroo Management Committee must) pay the Developer the balance of that possible allocation (being $4.90 less the Amount Allocated for that year) as a repayment in whole or in part of the Developer's contribution pursuant to clause 9.11(a)(i)C for a previous year (provided that such repayment does not exceed the Developer's contribution for that previous year).

(e) For the avoidance of doubt, the Developer acknowledges and agrees that the Authority is not obliged to forward purchase RECs.

9.12 Failure to comply with Climate Positive Work Plan

(a) If the Developer fails to comply with its obligations under the Climate Positive Work Plan (or otherwise fails to comply with any cure plan that has been implemented by the Developer (and approved by the Authority) in connection with the Climate Positive Work Plan) or with its obligations under clause 8.9, the Authority (and the Authority's Employees) may on 60 Business Days prior notice to the Developer:

(i) do anything which should have been done by the Developer under the Climate Positive Work Plan or clause 8.12 but which has not been done, or which the Authority reasonably considers has not been done properly; and

(ii) enter and remain on the Site for so long as it is reasonably necessary for that purpose,

and in doing so, the Authority must use its best endeavours not to interfere with the parts of the Site not required by the Authority under this clause 9.12(a).

(b) The Authority's rights under clause 9.12(a) are in addition to any other remedies of the Authority for the Developer's non-compliance (including clause 9.13). The Developer must pay to the Authority on demand a sum equal to all costs and liabilities reasonably incurred or suffered by the Authority in taking action pursuant to clause 9.12(a).

(c) For the avoidance of doubt, this clause 9.12 does not apply in relation to a breach of clause 9.14.

9.13 Failure to achieve the Climate Positive Benchmarks

If the Developer fails to achieve any Climate Positive Benchmark to the reasonable satisfaction of the Authority then, without prejudice to any other remedy which may be available to the Authority, the Authority may recover the following from the Developer:

(a) if the Developer fails to achieve a Climate Positive Benchmark by the *first* Climate Positive Relevant Date, then the Developer must pay to the Authority within 20 Business Days of any demand by the Authority, in the case of:

(i) water, $[redacted];

(ii) waste, $[redacted]; and

(iii) carbon, $[redacted];

(b) if the Developer fails to achieve a Climate Positive Benchmark by the *second* Climate Positive Relevant Date, then the Developer must pay to the Authority within 20 Business Days of any demand by the Authority, in the case of:

(i) water, $[redacted];

(ii) waste $[redacted]; and

(iii) carbon, $[redacted]; and

(c) if the Developer fails to achieve a Climate Positive Benchmark by the *third* Climate Positive Relevant Date, then the Developer must pay to the Authority within 20 Business Days of any demand by the Authority, in the case of:

(i) water, $[redacted];

(ii) waste $[redacted]; and

(iii) carbon, $[redacted].

9.14 Failure to achieve specific Climate Positive initiatives

(a) Without limiting clause 9.13, the Developer agrees that:

(i) it will use its best endeavours to achieve the targets referred to in the table below (Column A) by the respective dates specified for those targets referred to in the table below (Column C); and

(ii) if it fails to achieve a target referred to in the table below (Column A), it must pay to the Authority the amount, or where relevant, the relevant proportion of the amount set opposite that target (Column B), when measured in accordance with Column C:

Target **Column A**	**Liquidated damages** **Column B**	**When measured** **Column C**
Green Star 6 Star Office As Built Rating base building or improved rating as agreed in accordance with clause 9.7(d)	$[redacted] (to be apportioned equally to all commercial Buildings of 10,000m^2 GFA or more)	[redacted]
Green Star 5 Star Multi Unit Residential As Built Rating or improved rating as agreed in accordance with clause 9.7(d)	$[redacted] (to be apportioned equally to all residential Buildings of 10,000m^2 GFA or more)	[redacted]
Green Star 5 Star Retail As Built Rating (subject to the retail centre able to be separately rated) or improved rating as agreed in accordance with clause 9.7(d)	$[redacted] (to be apportioned equally to all retail Buildings of 10,000m^2 GFA or more)	[redacted]
Completion of ecological footprint and carbon footprint reports and assessments	$[redacted]	[redacted]
Engage an external internationally recognised sustainability consultant (on terms reasonably acceptable to the Authority) to undertake an independent assessment of the Project and have input into the Climate Positive Work Plan	$[redacted]	[redacted]
The preparation of a 'Green Travel Plan' and the implementation of 75% of appropriate travel initiatives (as agreed to by the Authority). Such initiatives to be consistent with those contained in Section 6.5.1 of *Returnable Schedule 5* of the Final Proposal	$[redacted]	[redacted]
Reducing the embodied carbon per square metre of the base building for each Works Portion, by 20% compared to 'standard construction practice' as at the Commencement Date which will not be satisfied unless by 6 months after the Date of	$[redacted] (to be apportioned equally to all Buildings of 10,000m^2 GFA or more)	[redacted]

Target Column A	Liquidated damages Column B	When measured Column C
Practical Completion of the relevant Works Portion comprising GFA, the reduction in the embodied carbon footprint for the Building forming part of that Works Portion compared to 'standard construction practice', being greater than the greenhouse gas emissions generated in connection with the development and construction of that Building (excluding emissions generated from offsite disposal of excavated material during the construction phase and including emissions generated from basement works associated with that Building but only to the extent that such emissions can be reasonably apportioned to that Building having regard to the GFA of that Building compared to the total GFA of all Works associated with those basement works)		
The implementation of educational and demonstration initiatives promoting sustainability as described in Section 11.5 of *Returnable Schedule 5* of the Final Proposal	$[redacted]	[redacted]
The achievement of 75% of the initiatives set out in Schedule 4 or as otherwise agreed to by the Authority	$[redacted]	[redacted]
Subject to clause 9.14(b)(ii), the base building for office Buildings of 10,000m^2 GFA or more has been designed and constructed to operate at no less than 25% better than the 5 Star NABERS Energy requirement (**NABERS Target**)	$[redacted] (to be apportioned equally to all office Buildings of 10,000m^2 GFA or more)	[redacted]
Subject to clause 9.14(b)(ii), the certificates issued in accordance with clause 9.14(b) in respect of the NABERS Target will show that each office Building of 10,000m^2 GFA or more has been designed and constructed such that the average base building energy consumption (calculated on a GFA basis) for all office Buildings of over 10,000m^2 achieves at least	$[redacted]	[redacted]

Target Column A	Liquidated damages Column B	When measured Column C
30% better than the 5 Star NABERS Energy requirement (**NABERS Average Target**)		

(b) The Developer and the Authority agree that:

(i) subject to clause 9.14(b)(ii), the Developer must provide the Authority within 30 days of the date on which the NABERS Target and NABERS Average Target is to be measured a certificate issued by an independent professional consultant approved by the Authority (acting reasonably) confirming that the NABERS Target or NABERS Average Target, as the case may be, in column A of the Table in clause 9.14(a) has been satisfied; and

(ii) certification by the independent consultant in accordance with clause 9.14(b)(i) is to be given on the basis of the assumptions referred to in Schedule 5.

9.15 Partial Refund on Non-Compliance

The Authority agrees to pay to the Developer not less than 75% of the funds paid to the Authority under clause 9.13, 9.14 or 9.18 in respect of the Developer's failure to achieve one or more of the Climate Positive Benchmarks or the social sustainability initiatives in the manner set out in the Climate Positive Work Plan, provided that the Authority is satisfied (acting reasonably) that the Developer has subsequently achieved that Climate Positive Benchmark or social sustainability initiative (as the case may be) (or such other benchmark or initiative as the Authority (acting reasonably) agrees) in the manner set out in the Climate Positive Work Plan (albeit outside the timeframe contemplated).

9.16 William J Clinton Foundation MOU

(a) The Developer:

(i) has entered into a memorandum of understanding with the Clinton Climate Initiative (a program of the William J Clinton Foundation) as generally envisaged by the CCF MOU, including so as to enable the Project to be designated as one of the 'First Stage Developments' (as that term is referred to in the CCF MOU) by that program;

(ii) agrees to comply with all its obligations under any such memorandum of understanding (including complying with all reporting requirements).

(b) The parties acknowledge that the CCF MOU has expired, and that no further liabilities or obligations remain to be performed or observed in relation to the CCF MOU.

(c) The Authority proposes to continue to interact with the William J Clinton Foundation or its successor bodies and the Developer will co-operate with the Authority to assist, where required, with that interaction.

9.17 Other Climate Positive Acknowledgements

(a) Except where expressly provided for in this deed, the Developer agrees and acknowledges that while the Climate Positive Benchmarks include an obligation on the Developer to purchase RECs in certain circumstances, nothing in this deed imposes on the Authority any obligation to acquire RECs at any time whether before

or after the commencement of any Lease, and the Developer agrees not to make any representation or warranty to any person that the Authority, or the Barangaroo Management Committee or any person on its behalf, will or may acquire RECs in any circumstances without the Authority's prior written approval.

(b) Subject to clause 9.11, the Developer will work cooperatively and in good faith with the Authority, and potentially other third parties (including the Federal Government) to explore and consider the optimal long term approach to offsetting carbon from an off-site source for the purposes of the Project (including long term approaches which generate financial returns to Barangaroo to support the climate positive and sustainability objectives for Barangaroo).

9.18 Social sustainability

(a) Subject to clause 9.18(d), the Developer must deliver 50 of the community and learning and skilling programs, outlined in Appendix E of Vol. 3 of Returnable Schedule 5 of the Final Proposal (or other relevant programs) as agreed and within time frames approved, by the Authority (acting reasonably) from time to time but such time frames must be no earlier than the relevant target timeframes set out in Appendix E of Vol. 3 of Returnable Schedule 5 of the Final Proposal.

(b) The Authority and the Developer agree that:

(i) of the 50 community and learning and skilling programs delivered by the Developer as contemplated by clause 9.18(a) , the Developer must provide at least one child care facility;

(ii) the child care facility referred to in clause 9.18(b)(i) will be designed, developed and delivered in a manner consistent with the CoS Policy; and

(iii) the Authority will act reasonably in considering any request by the Developer for the Developer to contribute funding for additional child care facilities outside Stage 1 if that is the most practical way of satisfying the requirements in the CoS Policy on the basis that the parties agree an offset for the amount of such funding as against the Developer's obligations under clause 9.18(a).

(c) Subject to clause 9.18(d), if the Developer fails to comply with clause 9.18(a) by the second Climate Positive Relevant Date, the Developer must pay to the Authority $[redacted] (pro rated equally across the 50 community, learning and skilling programs for each program of the 50 which is not delivered) within 10 Business Days of any demand by the Authority.

(d) Whilst the Crown Development Agreement remains in effect:

(i) the number of community and learning and skilling programs the Developer is obliged to deliver is reduced by [redacted]% (being an agreed percentage representing the proportion which the GFA of Site 1C bears to the Developable GFA expected to be included in the Mod 8 Approval); and

(ii) if the Developer is obliged to pay an amount under clause 9.18(c), that amount is to be determined by reference to the reduced number of programs the Developer is required to deliver under clause 9.18(d)(i) with the amount of $[redacted] substituting for $[redacted] in the operation of clause 9.16(c).

(e) If, following termination of the Crown Development Agreement, the Consent Authority approves an Alternative Modification Application which reflects an

Approved Alternative Development Proposal, the number of such programs will be increased by the same proportion which the Developable GFA made available by the Approved Alternative Modification Application bears to the applicable Developable GFA in effect immediately prior to the termination of the Crown Development Agreement.

9.19 Expert Sustainability Certifiers

(a) At the same time as the Developer seeks the approval of a person to act as an 'Expert Sustainability Certifier' from the Authority, it must disclose to the Authority whether or not that person is 'strategically aligned' or otherwise has ongoing relations with, or provides substantial services to, the Developer, the Guarantor or any Related Entity of the Developer or the Guarantor.

(b) If the Developer discloses to the Authority that a person whom it is seeking approval to act as an 'Expert Sustainability Certifier' is 'strategically aligned' or otherwise has ongoing relations with, or provides substantial services to, the Developer, the Guarantor or any Related Entity of the Developer or the Guarantor (or otherwise the Authority reasonably believes that such person has such alignment, relations or arrangements), then the Developer must prove to the Authority's reasonable satisfaction that such alignment, relations or arrangements will not compromise the 'independence' of that person when carrying out the relevant Expert Sustainability Certifier duties.

9.20 Key Worker Housing

(a) At the Developer's own cost and risk and on the basis that the GFA of any Key Worker Housing is part of the Developable Area, the Developer must provide Key Worker Housing comprising 2.3% of residential Developable GFA in residential Buildings situated along Hickson Road (in Proposed Buildings R1 and R2 or possibly another residential Building on Hickson Road) by the Date of Practical Completion of that Works Portions comprising residential GFA, which when that GFA is added to other residential GFA of Works Portions which have been Practically Completed comprises not less than 75% to the total residential Developable GFA.

(b) On the basis that any GFA of additional Key Worker Housing (i.e. in addition to that Key Worker Housing referred to in clause 9.20(a)) is part of the Developable Area, if the Authority agrees to fund that additional Key Worker Housing situated along Hickson Road comprising GFA of not more than 1,518m^2, then the Developer agrees to provide that additional Key Worker Housing on the basis that the Authority and the Developer agree:

(i) that the Developer will design and carry out the Works necessary for that Key Worker Housing at a price which does not include a development profit (but does include an agreed development management fee);

(ii) the basis upon which the Authority will contribute to those costs, or there will be an offset against monies otherwise payable by the Developer to the Authority in respect of such agreed costs; and

(iii) that the Authority will fund such additional Key Worker Housing for the purposes of this clause 9.20(a), being the amount by which the value to the Developer of the whole or any part of the relevant residential Works Portion which is to be used for Key Worker Housing (assuming it was not used for Key Worker Housing) exceeds the value to the Developer of that same residential Works Portion (on the basis it is used for Key Worker Housing).

(c) At either the Developer or the Authority's request, the Developer and the Authority agree to meet to discuss (acting in good faith) other opportunities for the provision of Key Worker Housing within Barangaroo including:

(i) the possibility of the Developer providing Key Worker Housing within Stage 1 (on a basis that the GFA for that Key Worker Housing is additional to the Developable Area approved for Stage 1 at the relevant time); and

(ii) the possibility of the Developer providing Key Worker Housing on another location within Barangaroo but outside Stage 1,

(iii) including agreement on the basis that the Developer will only seek revenue (for example by sale of that Key Worker Housing) to reimburse costs incurred in designing and carrying out Works comprising that Key Worker Housing without a normal developer return (but including a reasonable development management fee) and on a basis which does not involve payment to the Authority in respect of land or GFA made available by the Authority for that purpose.

9.21 Waste processing and disposal

Without derogating from the Developer's other obligations under this deed, the Developer agrees to act reasonably in considering any proposal the Authority may put to it in relation to innovative solutions for waste processing and disposal, including any person whom the Authority may recommend as the 'Approved Operator' for the purposes of the waste processing and disposal agreement to be entered into as required by this deed as part of the Developer achieving the Climate Positive Benchmarks.

9.22 75% reduction in carbon emissions

The Authority and the Developer agree that they will work together on a co-operative basis taking into account their respective obligations under this deed targeting an outcome involving a 75% reduction in carbon emissions as compared to business as usual from the Buildings, their use but not the fitting out, through building demand initiatives, and exclusive of the purchase of RECs.

10. Consent to Applications

10.1 Authority's approval of Applications

(a) The Developer must not lodge an Application with the relevant Consent Authority or other relevant body for approval without the Authority's prior approval, except applications for:

(i) Construction Certificates;

(ii) Occupation Certificates;

(iii) Complying Development Certificates;

(iv) licences under the Liquor Act 2007 (NSW);

(v) any variations of Applications referred to in subparagraphs (i) to (iv) of this clause;

(vi) any fit-out works to be undertaken by or on behalf of a Tenant; or

(vii) which the Authority agrees in writing that its approval is not required in respect of an Application or a class of Applications.

(b) The Developer must provide to the Authority complete copies of all Applications for all Approvals within 10 Business Days after they are lodged for Approval with the Consent Authority or other relevant approval body.

(c) Despite any other provision of this deed, in respect of any time period within which the Authority must approve an Application, that time period will not commence until the Authority has received all information in respect of that Application that the Developer is required to provide to the Authority under this deed.

(d) The Developer acknowledges and agrees that whenever the Authority has the right under this deed to request further information or documentation from the Developer, the Developer is required to provide that information or documentation to the Authority.

10.2 Applications must be lodged with the Authority

(a) Subject to clause 10.2(h), the Developer must lodge all Applications, other than those referred to in clause 10.1(a)(i) to 10.1(a)(vii) inclusive, with the Authority for approval.

(b) The Developer must have reasonable regard to any reasonable comments or suggestions that the Authority may make in respect of the proposed terms and conditions of any Significant Application.

(c) Notwithstanding clause 10.2(b), the Developer is not required to incorporate or accommodate any suggestions or comments of the Authority which would require changes to the design documents that form part of any Significant Application, where those suggestions or comments are inconsistent (within the meaning of clause 8.5(b)) with the Agreed Design Documents.

(d) Without limiting any other provision of this deed but subject to clauses 8.4, 8.5 and 10.2(a), the Authority may refuse its consent on reasonable grounds or impose reasonable conditions on its consent to a Significant Application or any other Application and must promptly notify the Developer of its reasons for refusing or imposing conditions on the consent.

(e) Despite any other provision of this deed the Authority may grant or refuse its consent to an Application which gives rise to a Significant Project Issue in its sole and unfettered discretion.

(f) If the Authority does not grant or refuse consent to a Significant Application or an Application (as the case may be), then the Developer may notify a dispute in accordance with clause 45, provided that:

(i) the provisions of clause 45.4 will not apply;

(ii) the parties agree that the dispute must be referred to a relevant expert for determination, who must be an appropriately qualified architect;

(iii) except in the case of clause 10.2(f)(iii), this clause 10.2(f) does not apply, and the matter may not be referred for dispute resolution in relation to, the exercise of the Authority's discretion to grant or refuse its consent to an Application which gives rise to a Significant Project Issue; and

(iv) if the Authority does not grant or refuse its consent within the applicable Application Approval Timeframes referred to in clause 10.4, then clause 10.4(d) will apply.

(g) The Developer must:

(i) consult and discuss with all relevant Public Authorities (other than the Authority, but including, in the case of the Director-General consultations and discussions in order to obtain the Director-General's environmental assessment requirements);

(ii) notify the Authority of any material comments any relevant Public Authority makes in respect of the proposed terms and conditions of a Significant Application;

(iii) have reasonable regard to any reasonable comments or suggestions any relevant Public Authority may make in respect of:

A. the proposed terms and conditions of an Application;

B. terms and conditions the relevant Public Authority indicates may be imposed on any consent; and

C. terms and conditions the relevant Public Authority indicates are required as a matter of policy or as a matter of best industry practice,

in a manner which would be reasonably expected of a developer such as the Developer, with respect to a project, the size and nature of the relevant Works, the subject of the relevant Application; and

(iv) (unless otherwise agreed) give the Authority wherever possible at least 3 Business Days' notice, but where not possible a reasonable period (having regard to the nature of the meeting) of notice of any proposed meeting with a relevant Public Authority (giving details of the time, date and the matters to be discussed) and must give the Authority an opportunity to attend and participate at such meeting.

(h) The Developer must lodge with the Consent Authority each Significant Application including applicable, the Alternative Modification Application, in the form which has been approved by the Authority as soon as practicable (and in any event, within 5 Business Days) after obtaining the Authority's approval.

(i) The Developer must lodge with the Authority for its approval:

(i) each proposed Significant Application at least 20 Business Days before it is intended to be lodged with the relevant Consent Authority; and

(ii) any other proposed Application in sufficient time before it is intended to be lodged with the relevant Consent Authority.

(j) If the Authority is required to sign an Application in its capacity as landowner, the Authority must do so within 3 Business Days of that Application being approved by the Authority. This clause does not apply to Mod 8 or an Application for the Hotel Resort which are to be dealt with in accordance with the Crown Development Agreement.

10.3 Mod 8 Application

(a) The Authority agrees that it has approved the Mod 8 Application, and that no further Authority approval is required in respect of the Mod 8 Application before it is lodged with the Consent Authority.

(b) The Authority must use its reasonable endeavours (after any request by the Developer) to assist the Developer (at the Developer's cost and risk) to obtain the Mod 8 Approval, provided that:

(i) the Mod 8 Application complies with the requirements of clause 8.4(a)(ii);

(ii) the Authority is not requested to do anything which is illegal; and

(iii) the Chief Executive Officer of the Authority has not otherwise reasonably determined that such requested assistance would be inappropriate for the Authority to provide for legal, political or other proper reasons,

and subject to the provisions of the Crown Development Agreement.

(c) The Developer and the Authority acknowledge that for so long as the Crown Development Agreement has not been terminated, the Mod 8 Application will be governed by that agreement rather than this deed.

(d) If the Crown Development Agreement has been terminated before the Mod 8 Approval is received the Developer and the Authority agree that the Mod 8 Application is then to be finalised in accordance with this deed, including in relation to Unacceptable Conditions.

10.4 Timing for the Authority consent

(a) Where the consent of the Authority is required under this deed to an Application, the Developer must submit to the Authority a copy of the relevant proposed Application together with:

(i) a notice from the Developer requesting consent to that Application;

(ii) all relevant supporting documents required by clause 8.4; and

(iii) any further information and documents which the Authority, acting reasonably, requires to consider the proposed Application.

(b) The Authority must consider and determine whether to give consent to any Application within the following timeframes (**Application Approval Timeframes**), calculated from the date following the date on which the Developer has submitted all the documents required by clause 10.4(a) to the Authority.

(i) in respect of Significant Applications, 15 Business Days and in respect of any part of that Application relating to:

A. design, plans and drawings, a further 5 Business Days;

B. the environmental assessment, 7 Business Days after the expiry of the 5 Business Days referred to subparagraph (A) above; and

C. technical reports, 3 Business Days after the expiry of the 5 Business Days referred to subparagraph (A) above,

such that the 15 Business Day timeframe referred to above will be extended to take into account the Authority's entitlement to the above minimum time periods; and

(ii) 10 Business Days in respect of Applications (other than Significant Applications) relating to:

A. Remediation Works;

B. Other Remediation Works;

C. Other Remaining Remediation Works; and

D. Public Art; and

(iii) 5 Business Days in respect of Applications not relating to any matter referred to in paragraphs (b)(i) or (b)(ii) above,

as extended or varied in accordance with clause 10.4(c).

(c) Despite any other provision of this deed, if the Authority receives more than one Significant Application from the Developer or Crown for its review and consent at any time during an Application Approval Timeframe, then the Application Approval Timeframe is extended by 10 Business Days for each Significant Application that the Authority receives during the Application Approval Timeframe.

(d) If an Application is not approved or refused by the Authority within the applicable Application Approval Timeframe, then the Developer may give notice to the Authority requesting that the Authority notify the Developer of its determination within 5 Business Days of receiving the Developer's notice under this clause. If the Authority's determination is not so received, the Developer may notify a dispute under clause 45.

10.5 Approval of Proposed Premises Plan

(a) The Developer must obtain the Authority's approval to each Proposed Premises Plan submitted to the Authority with a Significant Application.

(b) The Authority will act reasonably when granting or refusing approval to any draft Proposed Premises Plan taking into account the reasonable requirements of occupiers and users of the Proposed Premises the subject of the relevant Works Portion and the requirements of occupiers and users of the Public Domain or other areas in the vicinity of the Proposed Premises. The Authority must grant or refuse its approval to the draft Proposed Premises Plan within the Application Approval Timeframe for the Significant Application to which it relates.

(c) If the Authority makes recommendations to the Developer in relation to a draft Proposed Premises Plan, the Developer agrees to have reasonable regard to that recommendation, amend the draft Proposed Premises Plan accordingly and resubmit that draft Proposed Premises Plan to the Authority for its approval.

(d) Once any draft Proposed Premises Plan has been approved by the Authority, that plan will be taken to be a Proposed Premises Plan for the purposes of clause 26.1.

10.6 Capacity of the Authority

The Developer acknowledges that in giving or refusing its consent to an Application in accordance with this deed, the Authority is not acting in the capacity of a Consent Authority.

10.7 Authority not liable in connection with consents

Except to the extent that the Authority is in breach of any provision of this deed (other than clause 10.4), the Developer releases the Authority from, and agrees that the Authority is not liable for, liability or loss arising from, and any Costs incurred in connection with, the Authority rejecting or consenting to an Application or any delay in giving or refusing that consent.

10.8 Temporary Buildings

Despite any other provision of this deed, the parties agree that the Authority will not be required to approve an Application relating to a Temporary Building unless and until the Developer and the Authority agree (in their sole discretion) on the legal and commercial arrangements relating to that Temporary Building.

10.9 No Hotel within Sydney Harbour or Public Recreation Zone

The Developer agrees it does not have the right (despite any Approval in relation to the Site) to develop a hotel in Sydney Harbour, and agrees that the Authority has no obligation, to approve any Significant Application (or give landowner's consent to any Significant Application) which contemplates either a hotel or any other development located within:

(a) Sydney Harbour; or

(b) the Public Recreation Zone,

other than the elements contemplated by the Mod 8 Application.

11. Part 3A Approvals and other Approvals

11.1 Part 3A procedures

Without limiting any of the Developer's other obligations under this deed, the Developer must regularly consult with the Authority and keep the Authority fully informed in relation to all its dealings with the Consent Authority, the Department of Planning and Environment and the Director-General in connection with or relating to a Part 3A Application including with respect to:

(a) any submissions the Developer makes to any panel of experts or panel of officers;

(b) any environmental assessment and revised environmental assessment the Developer submits;

(c) any submission the Developer may make in relation to the environmental assessment made publicly available;

(d) any response to issues raised, any preferred project report, any revised statement of commitments or any other document which the Developer submits; and

(e) all details of any significant changes, Modifications or conditions of which the Developer becomes aware, which the Director-General or the Consent Authority may consider in relation to the relevant Part 3A Application or the proposed Approval to that Part 3A Application.

11.2 Obtaining other Approvals

The Developer agrees that in addition to the Approvals specifically contemplated by this deed, it must:

(a) obtain all other required Approvals promptly; and

(b) subject to clause 8.5(a), ensure that those Approvals are consistent with the Barangaroo Approval Documents and all other applicable Part 3A Approvals.

11.3 Approvals from Roads and Maritime Services

(a) Unless otherwise agreed by the Developer, to the extent necessary to enable the Developer to implement the Project in accordance with the Concept Plan Approval, as the case may be, the Authority must use its reasonable endeavours (and the Developer must co-operate with and assist the Authority):

(i) to obtain relevant consents which may be needed from Roads and Maritime Services to implement Works Portions consistent with the Agreed Design Documents; and

(ii) to secure from Roads and Maritime Services access to, and either:

A. an unencumbered freehold interest in (which as at the Commencement Date is the Developer's and the Authority's preferred form of tenure); or

B. a head lease, of sufficient tenure to enable the Authority to comply with its obligations under this deed, with respect to (if unencumbered freehold interest cannot be obtained);

such land as is required to implement Works Portions; and

(iii) to obtain from Roads and Maritime Services a construction zone licence pursuant to which the Authority has the right:

A. to occupy such land and for such purposes and timeframes as are required for the Developer to carry out the relevant Works Portions contemplated by this deed; and

B. to grant a sub-licence to the Developer on terms reasonably satisfactory to the Developer.

(b) Whilst the Authority will use its reasonable endeavours to obtain the necessary consents required from Roads and Maritime Services and otherwise secure access and tenure contemplated by clause 11.3(a) as soon as practicable, the Developer has no claim against the Authority for its failure to do so.

11.4 Assistance by the Authority

(a) Subject to the Developer complying with the provisions of clauses 8, 10 and this clause 11, the Authority, in its capacity as landowner, agrees to sign all documents and promptly provide all authorisations, consents and approvals as may be reasonably required to enable the Developer to lodge any Application, which has been approved by the Authority, with a Consent Authority.

(b) The Authority must use its reasonable endeavours to assist the Developer to obtain Approval for the VMP Remediation Works and the PDA Remediation Works, provided that the Application for the Part 3A Approval for the VMP Remediation Works and PDA Remediation Works is not inconsistent with the requirements of clauses 16 and 17 (to the extent those clauses relate to those Works).

11.5 Delays in obtaining Approvals

(a) Subject to clause 11.5(b), the Developer agrees that any delay in obtaining Approvals will not prevent it from achieving the Milestones by the times

contemplated in this deed, except to the extent, and for the period during which, the Authority does not perform its obligations under this deed.

(b) Clause 11.5(a) will not operate to prevent the Developer from exercising any rights that it expressly has under clause 25.

11.6 Not used

11.7 Authority to be informed of progress

The Developer must:

(a) at the request of the Authority, inform the Authority of the progress of, and give the Authority other information in connection with, the Applications; and

(b) use its reasonable endeavours to identify, and keep the Authority informed of, the anticipated timing of Applications required to be made to the relevant Public Authorities and in any event will provide the Authority with a rolling 12 month forecast of the timing of such Applications (prepared on a quarterly basis).

11.8 Copies of Applications, Approvals and associated documents

The Developer must promptly give the Authority a copy of:

(a) each Application as lodged with any Consent Authority;

(b) all significant correspondence between the Developer (or any person on behalf of the Developer) and any Consent Authority in connection with any Application, proposed Application, Approval or proposed or draft determination of any Application;

(c) all environmental assessment requirements issued by the Director General in relation to the Project and any Application;

(d) all submissions that may be made by or on behalf of the Developer to any panel of experts or panel of officers in relation to a Part 3A Application;

(e) all submissions received, and any report provided to the Developer in relation to a Part 3A Application;

(f) any response to issues raised in submissions, preferred project reports and revised statement of commitments or other documents provided by the Developer in relation to a Part 3A Application;

(g) all written submissions in relation to any Application which are received by the Developer or of which it has a copy; and

(h) all Approvals received in relation to any Application.

11.9 Unacceptable Conditions

(a) The following provisions will apply if the Approval to the Alternative Modification Application contains Developer Unacceptable Conditions or if it becomes apparent that the Approval to the Alternative Modification Application will issue with Developer Unacceptable Conditions.

(b) Within 15 Business Days of receiving the Approval to the Alternative Modification Application or becoming aware that the Approval to the Alternative Modification Application will issue with Developer Unacceptable Conditions, the Developer must:

(i) notify the Authority and where the Approval has issued, provide a copy of that Approval to the Authority; and

(ii) notify the Authority whether or not, in the Developer's opinion, any conditions in that Approval may constitute Developer Unacceptable Conditions.

(c) Within 30 Business Days of complying with clause 11.9(b), the Developer must notify the Authority of its concluded view as to whether or not any conditions in that Approval to the Alternative Modification Application constitute or are likely to constitute Developer Unacceptable Conditions. If the Developer has concluded that the Approval to the Alternative Modification Application contains or is likely to contain one or more Developer Unacceptable Conditions, then the Developer must also in that notice:

(i) provide reasonable details to support its opinion (having regard to the matters to be taken into account in determining whether a condition of that Approval to the Alternative Modification Application is a Developer Unacceptable Condition as contemplated by Schedule 1); and

(ii) indicate its proposed course of action with respect to any Developer Unacceptable Condition having regard to *paragraph 3* of Schedule 1.

(d) Within 20 Business Days of the Authority receiving notification of any Developer Unacceptable Condition pursuant to clause 11.9(c) (or if no such notice is received by the Authority, within 50 Business Days of becoming aware that the Consent Authority has issued the Approval to the Alternative Modification Application), the Authority must notify the Developer:

(i) whether it agrees or disagrees with the Developer's opinion that the conditions are Developer Unacceptable Conditions (if such opinion has been expressed by the Developer);

(ii) whether it is of the opinion that the Approval to the Alternative Modification Application contains or is likely to contain an Authority Unacceptable Condition, providing reasonable details to support its opinion, having regard to the matters to be taken into account in determining whether a condition is an Authority Unacceptable Condition as contemplated by Schedule 1; and

(iii) of its proposed course of action with respect to the Authority Unacceptable Conditions having regard to *paragraph 3* of Schedule 1.

(e) If the effect of the Developer's notice under clause 11.9(c) and the Authority's notice under clause 11.9(d) is that:

(i) both the Authority and the Developer are satisfied that the Approval to the Alternative Modification Application does not contain or is not likely to contain Unacceptable Conditions, that Approval is an Acceptable Modification:

A. if there is no Third Party Appeal, on the expiry of the Appeal Period; or

B. if there is a Third Party Appeal, upon final determination of that Third Party Appeal, including any further Third Party Appeal; or

(ii) either the Authority or the Developer is of the opinion that the relevant Approval contains or is likely to contain any Unacceptable Conditions,

then the provisions of *paragraph 3* of Schedule 1 apply.

(f) Where pursuant to *paragraph 3* of Schedule 1, the Developer is seeking to obtain Approval to the Alternative Modification Application, the Developer must use all reasonable endeavours on its part to obtain the Approval to the Alternative Modification Application.

11.10 Third Party Appeals

If a Third Party Appeal occurs in relation to the Alternative Modification Application or an Approval to the Alternative Modification Application, the Authority and the Developer agree that promptly after either the Authority or the Developer becomes aware of the Third Party Appeal, the Developer and the Authority must meet and discuss in good faith (both acting reasonably) the most appropriate action to be taken in respect of that Third Party Appeal, which may include:

(a) lodging a new (and amended) Application with the Consent Authority;

(b) lodging an amended Alternative Modification Application; or

(c) taking whatever action necessary to object to the Third Party Appeal,

and notwithstanding anything to the contrary contained in this deed, if the effective outcome of any such Third Party Appeal is to vary or supplement the conditions of the Concept Plan Approval or the Approval to the Alternative Modification Application as previously granted, the provisions of clause 11.9 will apply mutatis mutandis to the relevant Approval as varied or supplemented to determine whether it is an Acceptable Modification.

11.11 Authority Unacceptable Conditions in Approvals to a Significant Application (other than Mod 8 Approval or the Approval to the Alternative Modification Application)

(a) Within 20 Business Days of receiving an Approval to a Significant Application (other than the Mod 8 Approval or the Approval to the Alternative Modification Application as the case may be) the Authority may notify the Developer whether it is of the opinion that the Approval contains Authority Unacceptable Conditions, providing reasonable details to support its opinion and having regard to the matters to be taken into account in determining whether a condition is an Authority Unacceptable Condition.

(b) If the Authority gives a notice under clause 11.11(a), the Developer and the Authority must meet in good faith within 5 Business Days from the date the Authority issues that notice:

(i) to discuss the condition which the Authority claims to be an Authority Unacceptable Condition; and

(ii) use their reasonable endeavours to agree on an appropriate course of action to reduce the effect of the Authority Unacceptable Condition,

and the Developer may elect to either proceed with the modifications to the Significant Approval agreed in those discussions or not proceed with the Significant Application, acting in its sole discretion.

(c) If the Authority does not give a notice under clause 11.11(a) within 20 Business Days after receiving the Approval, the Developer may give notice to the Authority requesting that the Authority notify the Developer of any Authority Unacceptable Condition in accordance with clause 11.11(a). If the Authority does not give a notice under clause 11.11(a) within 5 Business Days of receiving the Developer's notice under this clause, the Developer may notify a dispute in accordance with clause 45.

(d) The Developer must not commence any Works Portion, whilst an Approval to a Significant Application contains any Authority Unacceptable Conditions and the Authority has not waived its rights in relation to those conditions.

11.12 Developer must comply with all Approvals

The Developer must subject to the terms of this deed, comply on time with all relevant Approvals and all Laws in connection with the carrying out of the Works and the construction and use of the Site.

11.13 Changes to Works Documents

If changes to the Works Documents are required under a Law, then subject to clauses 8, 10 and this clause 11, the Developer must at its own cost:

(a) cause the Works to be redesigned to accommodate the changes;

(b) obtain all necessary Approvals for the changes; and

(c) incorporate those changes into the Works.

11.14 Authority not liable

Except to the extent that the Authority is in breach of any provision of this clause 11 and subject to any other express provision of this deed, the Developer releases the Authority from, and agrees that the Authority is not liable for, liability or loss arising from, and any Costs incurred in connection with:

(a) any conditions attaching to an Approval; or

(b) anything contained in the Works Documents.

11.15 Copies of Final Plans and Specifications

The Developer must give the Authority and the Independent Certifier:

(a) a consolidated set of the Final Plans and Specifications for each Works Portion promptly after the Developer receives any Construction Certificate for that Works Portion or, if no Construction Certificate is required by Law, prior to commencement of any works on the Site; and

(b) written details of any changes to the Final Plans and Specifications (including copies of the changed plans and specifications), promptly after the Developer receives any other Approval.

11.16 POEO Requirements

The Developer and Authority acknowledge and agree that:

(a) on 25 October 2010 the Authority obtained the POEO Act Licence in relation to the Barangaroo Project as a whole and that the Authority will obtain one or more

variations to the POEO Act Licence if and as required to carry out the Relevant POEO Works;

(b) the POEO Act Licence was obtained by the Authority in consultation with and at the request of OEH on the basis that the Authority was the 'occupier' of the whole of Barangaroo which constituted the 'premises' for the purposes of the POEO Act having regard to the Authority's rights in relation to Barangaroo, and the activities being contracted, managed and co-ordinated by the Authority over Barangaroo;

(c) the Developer must comply with, carry out and fulfil the conditions and requirements of all Approvals in relation to the Relevant POEO Works (whether obtained by the Developer or the Authority) including those conditions and requirements which the Authority is expressly or impliedly required under the terms of the POEO Act Licence or one or more variations to the POEO Act Licence pursuant to any Variation Application (as required to carry out the Relevant POEO Works) to comply with, carry out or fulfil in relation to the Relevant POEO Works;

(d) without limiting clause 11.16(c), the Developer must, in relation to the Relevant POEO Works:

(i) establish, operate and publicise a telephone complaints line in accordance with condition M5 of the POEO Act Licence (as at 25 October 2010);

(ii) prepare and provide to the Authority*:*

A. a draft of each annual return (**Annual Return**) referred to in condition 6 of the POEO Act Licence (as at 25 October 2010), 20 Business Days prior to the date on which the Authority must submit the relevant Annual Return to the Environment Protection Authority; and

B. promptly upon request, drafts of any reports (**Incident Report**) required by the Environment Protection Authority under condition R3 of the POEO Act Licence (as at 25 October 2010),

(iii) make any changes reasonably required by the Authority to each draft Annual Return or Incident Report;

(iv) prepare and provide the Authority with any other information or documentation reasonably required by the Authority in relation to the Annual Returns or Incident Reports or any other obligations of the Authority under the POEO Act Licence; and

(v) do anything else necessary to enable the Authority to complete and submit each Annual Return and Incident Report and respond to any queries from the Environment Protection Authority in accordance with the POEO Act Licence;

(e) without limiting clause 11.16(c), the Authority must:

(i) in relation to the Relevant POEO Works, using the Annual Return and the Incident report developed as contemplated by clause 11.16(d)(ii), (iii), (iv) and (v) complete and submit each Annual Return and Incident Report and respond to any queries from the Environment Protection Authority in accordance with the POEO Act Licence;

(ii) in relation to any Other POEO Works and to the extent the Authority has received all information and reports from other consultants who are

involved in the carrying out of the Other POEO Works, complete and submit all information required by and respond to any queries from the Environment Protection Authority in accordance with the POEO Act Licence, the Developer acknowledging that the recourse available to it in connection with the Authority's breach of this obligation will be limited to the extent that such breach caused the Developer actual delay in undertaking the Relevant POEO Works; and

(iii) use best endeavours to maintain the POEO Act Licence until such time as the Authority is not the holder of the POEO Act Licence in relation to the Site (excluding any part of the Site comprising Hickson Road, Block 5 or Block 6). To the extent the Authority is reliant upon other persons to provide to it information or documents necessary for the Authority to comply with conditions forming part of the POEO Act Licence, the Authority agrees to use best endeavours to require those persons to comply with their contractual obligations to provide to the Authority such information and documents;

(f) except to the extent prohibited by Law, the Developer indemnifies the Authority against any claim or loss the Authority suffers or incurs arising out of or in any way in connection with a failure by the Developer to comply with its obligations under clauses 11.16(a) to (e), to the extent only that such failure results in the Authority becoming liable for Relevant Monies;

(g) without limiting clause 11.17, in respect of any:

(i) Approvals which are to be obtained by the Authority in relation to the Relevant POEO Works after 25 October 2010; or

(ii) conditions and requirements of Approvals which are to be satisfied or fulfilled by the Authority (as agreed by the Authority) in relation to the Relevant POEO Works,

the Developer must provide the Authority with such reasonable assistance as may be reasonably required by the Authority to obtain the Approvals or satisfy or fulfil the conditions and requirements;

(h) if, at any time, the Developer considers it necessary, desirable or convenient to replace the POEO Act Licence obtained by the Authority with:

(i) a licence or licences issued to the Developer under the POEO Act and which relate(s) solely to the Relevant POEO Works; and

(ii) a licence or licences issued to the Authority under the POEO Act and which relate(s) solely to the Other POEO Works,

the Developer may issue a notice to this effect to the Authority; and

(i) on receipt of a clause 11.16(h) notice by the Authority, the Developer and the Authority must meet within 10 Business Days of that notice to negotiate in good faith whether the POEO Act Licence is to be replaced, and if so, what legal arrangements each party requires to be put in place in relation to that replacement, including in relation to the contractors of the Authority who may carry out Other POEO Works on land to which the POEO Act Licence relates. The Developer and the Authority acknowledge that this arrangement contemplates an agreement to agree, and failing any such agreement, the matter is not to be referred to dispute resolution under clause 45. For the avoidance of doubt, nothing in this clause will operate to require either the Authority or the Developer to act in a way which is in breach of the Law.

11.17 POEO Act Licence

The Developer and the Authority acknowledge and agree that:

(a) subject to the Developer complying with clause 11.17(c), the Authority will apply for one or more variations (**Variation Applications**) to the POEO Act Licence to the extent that any variations are required to permit the carrying out of the Relevant POEO Works;

(b) the Developer must pay all fees and charges associated with the Variation Applications;

(c) the Developer must:

(i) keep the Authority regularly informed in relation to all proposed Variation Applications (including progressively providing to the Authority relevant information in relation to any proposed Variation Application as and when it becomes available);

(ii) prepare drafts of the Variation Applications for the Authority's review and approval, including all documentation required for the purposes of the Variation Applications;

(iii) make any changes reasonably required by the Authority to the Variation Applications;

(iv) prepare and provide the Authority with any other information or documentation reasonably required by the Authority in relation to the Variation Applications; and

(v) do anything else necessary to enable the Authority to complete and submit the Variation Applications and obtain the variations to the POEO Act licence required to carry out the Relevant POEO Works;

(d) the Authority must:

(i) respond to any draft Variation Application submitted to it by the Developer in accordance with clause 11.17(c)(ii) by giving approval or requiring reasonable amendments within 5 Business Days of the Variation Application being submitted to it; and

(ii) do all things necessary to complete and submit the Variation Applications and obtain the variations to the POEO Act Licence required to carry out the Relevant POEO Works; and

(e) without limiting clause 11.16, the Developer must, in relation to the Relevant POEO Works:

(i) when a variation referred to in clause 11.17(a) is obtained, comply with, carry out and fulfil all conditions of the varied POEO Act Licence (including those conditions and requirements which the Authority is expressly or impliedly required under the terms of the varied POEO Act Licence to comply with, carry out or fulfil) unless directed otherwise by the Authority;

(ii) continue to comply with clause 11.16(d) to the extent that it applies to the varied POEO Act Licence;

(iii) co-operate and liaise with the Authority (as required by the Authority) and comply with any reasonable directions of the Authority in relation to compliance with the conditions of the varied POEO Act Licence;

(iv) provide all information, documentation and assistance reasonably required by, and respond to any reasonable queries from, the Authority to ensure that the Authority is able to comply with its obligations under the varied POEO Act Licence, including:

A. preparing and submitting to the Authority drafts of any reports, management plans or other documents to be submitted by the Authority to any relevant Public Authority; and

B. amending such reports, management plans or other documents as reasonably required by the Authority;

(v) put in place or comply with any management procedures, protocols or systems relating to compliance with the POEO Act Licence as reasonably required by the Authority;

(vi) except to the extent prohibited by Law, the Developer indemnifies the Authority against any claim or loss the Authority suffers or incurs arising out of or in any way in connection with a failure by the Developer to comply with its obligations under this clause 11.17(e), to the extent only that such failure results in the Authority becoming liable for Relevant Monies; and

(vii) the Developer must not commence any Works or do anything which constitutes work or an activity which requires authorisation under the POEO Act unless and until a variation of the POEO Act Licence authorising that work or activity has been granted.

12. Contractors, Independent Certifier and Project Team

12.1 Appointment of Builder

(a) The Developer must not appoint any person as a Builder without the prior approval of the Authority (which approval must not be unreasonably withheld). The Authority gives prior approval to the appointment of LLB as a Builder, whilst it is a subsidiary of Lend Lease Corporation Limited, for any part of the Works or any Works Portion.

(b) The Developer warrants to the Authority that the Builder will be a person that the Developer is satisfied, after due enquiry, has the capacity, financial resources, experience and expertise to comply with all the Builder's obligations under the proposed Building Contract in relation to the carrying out of that part of the Works the subject of the relevant Works Portion.

12.2 Providing information about Building Contract

Before entering into a Building Contract, the Developer must give the Authority a copy of the proposed Building Contract and evidence satisfactory to the Authority that:

(a) the Building Contract includes provisions:

(i) requiring the Builder to comply with:

A. this deed to the extent the Building Contract relates to the execution of the Works Portion; and

B. the Code in relation to the carrying out of the Works the subject of the that Works Portion; and

(ii) requiring the Builder achieve Practical Completion of the Works Portion by a date which is consistent with the Developer's obligations under this deed;

(iii) prohibiting the Builder from assigning the Building Contract or any payment, right, benefit or interest under it without the consent of the Authority (which consent must not be unreasonably withheld or delayed); and

(b) with respect to any Works Portions which relate to Barangaroo Works, the Other Remediation Works and Other Remaining Remediation Works:

(i) the Authority, the Developer and the Builder have entered into a Builder's Side Deed in relation to that Works Portion; and

(ii) the Authority and the Developer have reached agreement in relation to how any limitation of the Builder's liability under the Builder's Side Deed entered into in relation to that Works Portion is to be applied (as between the Developer and the Authority) in relation to the claims the Developer and the Authority may separately have against the Builder in respect of that Works Portion. In reaching such agreement, the Authority and the Developer will have regard to the liability of the Developer and the Guarantor to the Authority under this deed.

12.3 Provisions in third party contracts

All contracts entered into by the Developer in connection with the carrying out of the Works must contain provisions which:

(a) require that, if the Authority exercises a right to terminate the whole or any part of this deed, the Developer and the contractor must, at the election of the Authority, promptly execute a deed of novation novating the contract in favour of the Authority (to the extent that it relates to that part of this deed which has been terminated); and

(b) are sufficient to enable the Developer to grant the licence required under clause 42.

12.4 Quality assurance systems

(a) The Developer must carry out or procure that the Works are carried out in accordance with quality assurance systems conforming to the ISO 9000 or AS3900 series of standards.

(b) The Developer must ensure that all major contractors engaged in respect of a Works Portion have certified quality assurance systems and have achieved substantial implementation of a quality assurance system conforming to the ISO 9000 series.

12.5 Developer liable for acts of contractors

The entry into a contract in respect of the Works (or any Works Portion) does not relieve the Developer from any liability or obligation under this deed. The Developer is liable to the Authority for the acts and omissions of any contractor or person engaged by the Developer in connection with the Works.

12.6 Choice of Independent Certifier

At any time the Developer may nominate up to 3 persons who it believes each have the necessary expertise, experience and resources to carry out the responsibilities and functions of the Independent Certifier for the purposes of a Works Portion, and request the Authority to approve each of those 3 persons (which approval must not be unreasonably withheld). Once so approved, the Developer may nominate any one of those persons to be the Independent Certifier for the purposes of that Works Portion.

12.7 Appointment of Independent Certifier

Prior to the commencement of any Works Portion, the Developer must (if it has not already done so) appoint the Independent Certifier in connection with that Works Portion and that appointment must be substantially in the form of the Independent Certifier's Deed. If the Independent Certifier is dismissed then the Developer must appoint another Independent Certifier as soon as practicable after that dismissal.

12.8 Project Team

The Developer agrees to:

(a) procure that the Developer's obligations in relation to the Project and its obligations under the Project Documents are managed by the Project Director;

(b) submit for the approval of the Authority, such approval not to be unreasonably withheld or delayed, the name of the person the Developer nominates from time to time to undertake the obligations of the Project Director;

(c) subject to clause 12.8(d), utilise and retain the services of those individuals that comprise the Project Team;

(d) consult with, and obtain the prior written approval of, the Authority, such approval not to be unreasonably withheld or delayed, to any change regarding the Key Personnel and the scope of services being provided by those Key Personnel; and

(e) notify the Authority of any other changes to the Project Team.

13. Commencement of Works and Access

13.1 Access to Premises, Construction Zone Licence and Staging Licence

(a) In respect of each Works Portion, in consideration of the Developer agreeing to pay a licence fee of $1.00 to the Authority, the Authority grants to the Developer, and the Developer accepts the grant of:

(i) in respect of each Works Portion (other than a Works Portion referred to in clause 13.1(aa)), a Construction Zone Licence relevant to that part of the Site the subject of that Works Portion on the terms set out this clause 13 and Schedule 2;

(ii) in respect of any part of the Site owned by Roads and Maritime Services, subject to clause 11.3, a licence or sub-licence of that part of the Site on terms reasonably acceptable to the Developer; and

(iii) in respect of areas referred to in paragraph (c) of the definition of 'Site' in clause 1.1, construction zone licences for the purposes and for the periods referred to in paragraph (c), on terms substantially similar to those contained in the Construction Zone Licence.

(aa) The Authority grants to the Developer, and the Developer accepts the grant of, separate Staging Licences of each of the BDA Development Blocks, and for the term specified in the relevant Staging Licence in Schedules 2A, 2B, 2C, 2D, 2E and 2F as applicable.

(b) Upon request from the Authority, the Developer must act reasonably in:

(i) reviewing and agreeing a realignment of the northern boundary of the Staging Areas to move it closer to the boundary between BDA Development Block 7 and BDA Development Block 6before commencement of Works for the Hotel Resort, subject to the total area of the Staging Area not being reduced;

(ii) discussing and negotiating in good faith any realignment of any other areas in the drawings forming part of the Staging Plans if requested by the Authority, subject to the total area of the Staging Area not being reduced;

(iii) reviewing and varying the Staging Area, if there is a divergence from the Remediation and Vacation Program of more than 6 months in the timing for completion of the Hotel Resort or the timing for completion of the VMP Remediation Works or the VMP Investigation Works, subject to the total areas of those Staging Areas remaining the same;

(iv) revising the Staging Plans, if the Crown Development Agreement is terminated and in adjusting the Vacation Dates to the extent reasonable having regard to whether the Staging Area is required for Construction Staging for the Hotel Resort; and

(v) either agreeing to exclude from the area of the Developer Secured Area or co-operating in other ways reasonably required by the Authority to facilitate the construction by others of the waterside ferry infrastructure, including construction access and access to provide services required in connection with the installation and construction of that waterside ferry infrastructure.

(c) Any Construction Zone Licence which has been granted to the Developer will terminate, with respect to the Premises under a Lease (to the extent it formed part of the Developer Secured Area), at midnight on the date immediately prior to the date of the grant of that Lease. Accordingly, the Developer will be responsible to ensure it is able to gain access to those Premises through the Tenant and not require the Authority to grant to it a Construction Zone Licence for those Premises.

(d) The Authority may terminate:

(i) the Staging Licence as it applies to a BDA Development Block; and

(ii) the Construction Zone Licence, if any, for a Works Portion being VMP Remediation Works or VMP Investigation Works as it applies to that same BDA Development Block,

and retake possession of that BDA Development Block if on or after the relevant Vacation Date for that BDA Development Block either:

A. all Significant Contamination has been Remediated on the Declaration Area; or

B. the Declaration then in force either:

1) applies, separately to the Block 4 Declaration Area (that is the Declaration is separate and can be lifted in relation to the Block 4 Declaration Area without the need for completion of the VMP Remediation Works or the VMP Investigation Works required to be done to any other area contemplated by the Declaration); or

2) can be independently lifted in so far as it relates to the Block 4 Declaration Area while continuing to apply to any other area contemplated by the Declaration,

and on and from the date of such termination the Authority will retake possession, step in and carry out and complete any remaining incomplete VMP Remediation Works and VMP Investigation Works required to be carried out to the relevant BDA Development Block and have the Relevant Contracts for those Works novated to it. Without prejudice to the Authority's rights to claim damages against the Developer under this deed, the Authority agrees that it will use reasonable endeavours to carry out and complete any such incomplete VMP Remediation Works and VMP Investigation Works on that BDA Development Block within a reasonable time (at its cost).

(e) The Authority and the Developer acknowledge and agree that any such termination of a Staging Licence applicable to Block 5 will operate to cause the termination of any corresponding construction zone sublicence to be granted by the Developer to Crown under the Crown Development Agreement.

(f) The Authority and the Developer agree that a Construction Zone Licence or Staging Licence in relation to a BDA Development Block operates as from the date it commences to effect a surrender or partial surrender of any Construction Zone Licence previously granted in relation to the same area prior to the Date of the Fifth Deed of Amendment.

13.2 Terms of Developer access to the Site

(a) Subject to clauses 13.4, 21 and 46.4, the Authority must give the Developer access to the Developer Secured Area from the relevant Works Portion Commencement Date (or such other date agreed between the Developer and the Authority (acting reasonably)). Such rights are to be conferred on the Developer through the Construction Zone Licence or Staging Licence (as applicable) providing the provisions of this deed relating to the grant of the Construction Zone Licence or Staging Licence are otherwise satisfied.

(b) The Developer acknowledges that:

(i) the Authority is entitled to continue to use the Site (other than the Developer Secured Area or the BDA Development Blocks from time to time) for its own purposes; and

(ii) access to the Developer Secured Area or a BDA Development Block from time to time confers on the Developer a right only to such use and control as is necessary to:

A. enable it to satisfy its obligations under clause 33.1; or

B. subject to the provisions of this deed, carry out the relevant Works the subject of the Works Portion or carrying out the Construction Staging applicable to each BDA Development

Block as shown in the Staging Plans (and to authorise the Developer's Employees and Agents, including the Builder, to execute the Works, and to enter into sub-licences for that purpose),

and for any other purpose agreed by the Authority.

(c) The access granted under this clause 13.2 in respect of any part of the Site but subject to the access rights that the Developer requires to comply with clause 38.1, terminates at midnight on the day immediately before the expiry date specified in the Construction Zone Licence or Staging Licence (as applicable) (and on and from that expiry date, that part of the Site ceases to be included in the Developer Secured Area).

(d) Any Construction Zone Licence or Staging Licence (as applicable) granted to the Developer as contemplated under this deed, and any other licence to access any other part of Barangaroo that has been granted or is to be granted by the Authority to the Developer, shall be deemed to be granted on the basis that whilst the Developer has the right to access and use the relevant premises the subject of the relevant licence, the Developer has no general right of occupation of the relevant premises.

(e) Any Construction Zone Licence or Staging Licence (as applicable) granted or to be granted to the Developer in respect of the Hickson Road Declaration Area, is granted subject to the Developer obtaining all necessary Approvals from the Authority as roads authority under the Roads Act. Nothing in this deed in any way restricts or otherwise affects the unfettered discretion of the Authority as to the exercise of its statutory functions and powers as roads authority under the Roads Act.

13.3 Foreshore Access

(a) The Developer is not required to obtain the consent of the Authority before:

(i) undertaking any Works which it reasonably believes may disturb safe and continuous access to and use of the harbour foreshore; and

(ii) closing pedestrian access to the harbour foreshore or any part of it for the purposes of carrying out such Works,

but must give the Authority at least 10 Business Days' notice before any such closure.

(b) The Developer will use its reasonable endeavours to maintain pedestrian access along the harbour foreshore for periods consistent with the Staging Plans.

(c) If reasonably requested by the Authority, the Developer must provide a brief report giving details of the likely period and timing of any proposed disturbance to safe and continuous access to and use of the harbour foreshore, and its method of minimising to the extent practicable that disturbance (including by diverting pedestrian traffic).

(d) The Authority must not impose any conditions on a Construction Zone Licence in respect of a Works Portion requiring the Developer to maintain pedestrian access at all times, and the terms of any Construction Zone Licence or Staging Licence shall reflect the terms of clause 13.3(a).

13.4 Pre-conditions to commencement of Works Portion

The Developer must not commence physical construction on any Works Portion:

(a) before the Date for Commencement of that Works Portion and the notices contemplated under clause 13.5(a) have been given in accordance with that clause;

(b) until:

(i) it has notified the Authority that all Approvals necessary for commencement of that Works Portion have been obtained and has provided the Authority with copies of those Approvals;

(ii) the Authority, acting reasonably, is satisfied that the Approvals contain no Authority Unacceptable Conditions that have not been waived;

(iii) the Authority, acting reasonably, is satisfied that the Developer has complied with such requirements of the Code as are required to be complied with prior to the commencement of that Works Portion;

(iv) evidence reasonably satisfactory to the Authority has been provided that the Developer has entered into a Building Contract for the construction of that Works Portion (or any part of it) and the Developer has complied with clause 12.2 with respect to that Building Contract;

(v) it has effected the Insurances referred to in clause 35 and provided the Authority with evidence, as reasonably required by the Authority, of such compliance; and

(vi) otherwise provided the documents set out in the document checklist comprising Annexure O; and

(c) whilst an Event of Default subsists.

13.5 Notice of Date for Commencement of Works

(a) The Developer must give the Authority:

(i) 30 Business Days;

(ii) 15 Business Days; and

(iii) 5 Business Days,

notice of the date on which the Developer wishes to commence a Works Portion, specifying the date it expects to commence those works (including any Site Establishment and erection of hoardings and works on Services).

(b) The Developer must not give the Authority a notice under clause 13.5(a)(iii) until it believes, acting reasonably, that all of the pre-conditions in clause 13.4 have been satisfied.

(c) The Developer may change the date in its notice to the Authority under clause 13.5(a) one or more times by giving a further notice to the Authority.

13.6 Notice Re VMP Remediation Works, VMP Investigation Works or Construction Staging

The Developer must give the Authority a notice requesting a Staging Licence or a Construction Zone Licence for VMP Remediation Works and VMP Investigation Works relating to a BDA Development Block within 10 Business Days after the later of:

(a) the date a Relevant Contract is entered into with a Relevant Person in relation to VMP Remediation Works and VMP Investigation Works in accordance with this deed and Schedule 10; and

(b) receipt of Approval to the carrying out of that component of the VMP Remediation Works and VMP Investigation Works or Construction Staging (if applicable),

and the Authority must grant a Construction Zone Licence or Staging Licence to the Developer within 10 Business Days after receipt of the Developer's notice under this clause 13.6.

13.7 Restriction on entry after Works Portion Commencement Date

Subject to clause 37.5, no person may enter the Developer Secured Area unless they fully comply with all site safety requirements implemented by the Developer or the Builder, including:

(a) the WH&S Plan;

(b) any safe work method statement;

(c) any clothing requirements;

(d) any supervision requirements; and

(e) any safety directions issued by the Developer or the Builder.

14. Progress of Works - reporting and meetings

14.1 Works Control Group

(a) The Authority and the Developer must, within 25 Business Days after a Works Portion Commencement Date, establish a Works Control Group for that Works Portion consisting of a maximum of 2 representatives appointed by the Developer and 2 representatives appointed by the Authority.

(b) The Works Control Group must meet every 2 months until the Date of Practical Completion of that Works Portion.

(c) The Works Control Group will be responsible for reviewing:

(i) the progress of the Works the subject of that Works Portion and the timing of Practical Completion; and

(ii) the Developer's compliance with its obligations under this deed.

(d) The Developer is responsible for preparing minutes of meetings of the Works Control Group and for preparation of action lists of matters that need to be undertaken or pursued following each such meeting.

(e) No member of the Works Control Group has any power to bind the parties to any act, matter or thing otherwise than pursuant to an express written authority to do so given from time to time by any party.

14.2 Reports

(a) Until the Date of Practical Completion of a Works Portion, the Developer must prepare and provide to the Works Control Group, every 2 months, a report (**WCG Report**), which contains:

(i) details of the Works carried out in the previous quarter;

(ii) details of the progress towards achieving the Milestones, the PC Dates and the Vacation Dates;

(iii) details of whether there are any issues which have or are likely to materially affect the Developer's ability or timing to complete the Project or the Works (including the VMP Remediation Works and the PDA Remediation Works); and

(iv) details of the likelihood and estimated cost and timing of any Nominated Payments.

(b) Where an event occurs which impacts on the timing of the Works as set out in the Development Program (**Delay Event**):

(i) the Developer must provide reasonable details of the Delay Event to the Works Control Group; and

(ii) the Works Control Group must consider the details and make recommendations to the Developer about any remedial action which is reasonably necessary to address the consequences of the Delay Event.

(c) After consulting with the Works Control Group, the Developer will take such action as is reasonably necessary to address the consequences of the Delay Event, having regard to the recommendations of the Works Control Group provided it is not required to incur any Costs in doing so and in respect of any Milestone is not required to do anything unless it is obliged to pursuant to any other clause (other than this clause 14) in this deed.

(d) The Developer must include details of any action taken by it in respect of a Delay Event in the WCG Report immediately following the occurrence of a Delay Event.

14.3 Keeping the Authority informed

(a) The Developer must provide to the Authority any information reasonably requested by the Authority at any time in connection with the performance of the Works in accordance with the requirements of this deed.

(b) The Authority may, on reasonable notice, require the Developer to attend (and may also require the Developer to use its best endeavours to procure that any or all of the Builder, the Guarantor, the Financier and the Independent Certifier attend) a meeting with the Authority to discuss any aspect of the performance of the Works in accordance with this deed.

15. Barangaroo Works

15.1 Commitment by the Developer

(a) Subject to the balance of the provisions of this deed and the Authority's obligations under clauses 15.2 and 15.4, the Developer acknowledges and agrees that in undertaking the Project it must at its cost and risk, design, carry out and complete each item of Barangaroo Works in accordance with:

(i) Public Domain Works Design Brief;

(ii) if relevant, the Barangaroo Works Detailed Design;

(iii) the Approvals;

(iv) the Barangaroo Works Program; and

(v) this deed,

and that the Barangaroo Works will be delivered to, or as directed by, the Authority in consultation with the Authority.

(b) The Developer and the Authority must consult and agree on a Public Domain Works Design Brief (which must reflect the 'Preferred Scheme Cost Plan' in Schedule 6) as soon as practicable after the date of the Fifth Deed of Amendment.

15.2 Unscoped Barangaroo Works

(a) At such times as is required to comply with the Development Program and the Barangaroo Works Program, the Developer must:

(i) progress the design and preparation of a draft Barangaroo Works Detailed Design and the draft Barangaroo Works Performance Specifications for the Unscoped Barangaroo Works in accordance with the Public Domain Works Design Brief; and

(ii) prepare an estimate of anticipated costs in relation to that part of the Unscoped Barangaroo Works (**Cost Estimate**).

(b) The Developer must have spent in respect of Unscoped Barangaroo Works which have become Scoped Barangaroo Works pursuant to the terms of this deed, not less than the cumulative amounts shown in the sixth column of the Development Program by the Milestone Date shown opposite to the relevant cumulative amount.

(c) The Developer must submit the draft Barangaroo Works Detailed Design, the Barangaroo Works Performance Specifications and the Cost Estimate to the Authority for its approval.

(d) In considering whether or not to approve draft Barangaroo Works Detailed Design, the Barangaroo Works Performance Specifications and the Cost Estimate, the Authority must take into account the matters referred to in clause 15.2(f).

(e) Once the draft Barangaroo Works Detailed Design, the Barangaroo Works Performance Specifications and the Cost Estimate of any component of Unscoped Barangaroo Works is approved by the Authority (taking into account the arrangements contemplated by clause 15.2(f)), such Unscoped Barangaroo Works component will be treated as Scoped Barangaroo Works for the purposes of this deed and:

(i) the approved detailed design will be the Barangaroo Works Detailed Design for that now Scoped Barangaroo Works;

(ii) the approved performance specifications will be the Barangaroo Works Performance Specifications for that now Scoped Barangaroo Works; and

(iii) the Cost Estimate will be deemed to be included in the Barangaroo Works Allocated Costs.

(f) In respect of any component of Unscoped Barangaroo Works, if the scope of that component (including the proposed performance specification) will:

(i) increase the costs of that component beyond the Unscoped Barangaroo Works Allocated Cost relevant to that component, then the additional costs must be taken from the Reserve to the extent there are funds in the Reserve. If there are insufficient funds in the Reserve, then to the extent of the insufficiency, the parties can agree to reduce the costs allocated to another component or components to cover that shortfall or, the Authority at its election must either:

A. pay the Developer for the shortfall and be entitled to recover that from the Reserve prior to any distribution as contemplated by clause 15.2(g); or

B. approve a revision to the scope of that component (including a revision of the performance specifications for that item) so that there is no shortfall; or

(ii) decrease the costs of that component to less than the Unscoped Barangaroo Works Allocated Cost relevant to that component, then the Reserve will be increased by the amount of the difference between those costs.

(g) Once all components of the Unscoped Barangaroo Works are treated as Scoped Barangaroo Works under clause 15.2(d) then within 20 Business Days after receipt of a written request from the Authority which cannot be served prior to the last component of Scoped Barangaroo Works being Substantially Commenced, the Developer must pay to the Authority an amount equivalent to 75% of the amount of the Reserve as at the date of the Authority's notice and the balance of the Reserve may be retained by the Developer.

(h) If as at Practical Completion of the Last Works Portion, there remains components of Unscoped Barangaroo Works that have not been treated as Scoped Barangaroo Works for the purposes of clause 15.2(e), then (unless otherwise agreed by the Developer and the Authority) the Developer must pay to the Authority on that date an amount equivalent to 75% of the aggregate of:

(i) the Unscoped Barangaroo Works Allocated Costs relevant to those components of the Unscoped Barangaroo Works; and

(ii) the amount of the Reserve as at that date.

The remaining 25% may be retained by the Developer.

(i) The Developer has disclosed and the Authority has agreed that the Developer has allowed $9 million for the purposes of designing and constructing the Community Facility.

(j) Prior to approval by the Authority of the Significant Application including the Community Facility, the Developer and the Authority must agree the Community Facility Proposal, including the funding of the design and construction costs of the Community Facility, as Unscoped Barangaroo Works under clause 15 subject to the provisions of clause 19.

(k) The cost of the design and construction of the Pier, excluding the Public Domain located on the Pier, is not included in the Barangaroo Works Allocated Costs or the Unscoped Barangaroo Works Allocated Costs and the Developer must design and construct the Pier at its cost and risk.

(l) If the Authority and the Developer do not agree a Community Facility Proposal in accordance with clause 19 and consequently the Developer is not required to build the Community Facility on the Pier as contemplated by clause 19, the Developer must nevertheless construct a Pier which will be a lighter weight and narrower or floating pier structure to enclose the Southern Cove, so as to be fit for this modified purpose but subject to the plans and specifications for such modified Pier being approved by the Authority, such approval not to be unreasonably withheld or delayed. For the avoidance of doubt, clause 15.2(k) applies despite the design of the Pier being modified in accordance with this clause.

15.3 Unscoped Barangaroo Works - approval of estimate of anticipated costs

(a) In respect of each component of Unscoped Barangaroo Works, simultaneously with seeking the Authority's approval to that component under clause 15.2(c) the Developer must provide to the Authority an estimate of anticipated costs in the form of a statement detailing:

(i) the Developer's reasonable estimate of the total anticipated design and construction costs to bring the relevant Unscoped Barangaroo Works to Practical Completion (including a reasonable allowance for contingencies and escalations to all costs);

(ii) how that estimate relates to the Unscoped Barangaroo Works Allocated Costs for those Unscoped Barangaroo Works; and

(iii) if that estimate differs from the Unscoped Barangaroo Works Allocated Costs for those Unscoped Barangaroo Works, a reasonable explanation for that difference; and

(iv) the amount remaining in the Reserve as at the time of preparing the statement,

(**Anticipated Costs Statement**).

(b) The Anticipated Costs Statement must be accompanied by:

(i) such documents and records which are reasonably required by the Authority to verify each of the itemised costs listed in the Anticipated Costs Statement and to verify the amount remaining in the Reserve;

(ii) a certificate executed by the Project Director or a director of the Developer, certifying that after due enquiry the amount referred to in the Anticipated Costs Statement is a reasonable estimate of the total anticipated design and construction costs to bring the relevant Unscoped Barangaroo Works to Practical Completion (including a reasonable allowance for contingencies and escalations to all costs); and

(iii) a certificate from a Quantity Surveyor, certifying that after due enquiry the amount referred to in the Anticipated Costs Statement is a reasonable estimate of the total anticipated design and construction costs to bring the relevant Unscoped Barangaroo Works to Practical Completion (including a reasonable allowance for contingencies and escalations to all costs).

(c) The Developer must:

(i) act reasonably and co-operate with the Authority;

(ii) provide to the Authority all information reasonably requested by the Authority; and

(iii) answer any questions reasonably asked by the Authority,

in relation to the Anticipated Costs (and supporting documents, certificates and records) provided to the Authority.

(d) The Developer must promptly provide to the Authority any additional reports and information reasonably requested by the Authority:

(i) from the Quantity Surveyor (who provides a certificate referred to in clause 15.3(b)(iii)); or

(ii) from any other consultant retained by or on behalf of the Developer in connection with the relevant Barangaroo Works,

to assist the Authority in considering the Anticipated Costs Statement.

15.4 Developer Contributions

(a) The amount of the Developer Contributions or the Public Art and Cultural Development Contribution referable to any component of the Barangaroo Works is not included in the Barangaroo Works Allocated Costs or Unscoped Barangaroo Works Allocated Costs specified for that component in the 'Preferred Scheme Cost Plan' in Schedule 6 as at the Commencement Date (as the case may be).

(b) If the Developer pays the Developer Contributions under clause 5.2 or the Public Art and Cultural Development Contributions under clause 6.1(c) on any component of Barangaroo Works (and provides evidence of such payment to the reasonable satisfaction of the Authority) and the amount of those contributions so paid for that component:

(i) is greater than the Developer Contribution Estimate (referred to in clause 15.4(c)) for that component, the Authority must pay the difference to the Developer within 20 Business Days of any request from the Developer; and

(ii) is less than the Developer Contribution Estimate for that component, the Developer must pay the difference to the Authority within 20 Business Days of any request from the Authority.

(c) For the purposes of clause 15.4(b), in respect of any component of Barangaroo Works, the 'Developer Contribution Estimate' for that component is the amount equivalent to the Barangaroo Works Allocated Costs or Unscoped Barangaroo Works Allocated Costs specified for that component in the 'Preferred Scheme Cost Plan' in Schedule 6 (as the case may be) multiplied by 1% in the case of a Developer Contribution or the percentages specified in clause 6.1(c) in the case of the Public Art and Cultural Development Contribution.

15.5 Preparation of other draft Scoped Barangaroo Works Detailed Design

(a) The Developer must prepare for each item of Scoped Barangaroo Works (which as at the Commencement Date is Scoped Barangaroo Works) and submit to the Authority for its consent, a Barangaroo Works Detailed Design for those Scoped Barangaroo Works in accordance with clause 15.7.

(b) The parties agree and acknowledge that:

(i) the Developer has submitted to the Authority for approval in accordance with clause 15.7 the Barangaroo Works Detailed Designs set out in Schedule 13;

(ii) the Developer must provide the Authority with 'Approved For Construction' documentation in respect of those designs; and

(iii) the Authority has consented to the Barangaroo Works Detailed Designs for the Scoped Barangaroo Works set out in Schedule 13.

15.6 Requirements of Barangaroo Works Detailed Design

Each draft Barangaroo Works Detailed Design prepared for Scoped Barangaroo Works must:

(a) be consistent with all relevant Approvals;

(b) for those items of Scoped Barangaroo Works which are Unscoped Barangaroo Works as at the date of this deed, be consistent with the Barangaroo Works Performance Specifications for those Scoped Barangaroo Works and the Public Domain Works Design Brief;

(c) for those items of Scoped Barangaroo Works which are Scoped Barangaroo Works as at the date of this deed, must be consistent with the 'Preferred Scheme Cost Plan' in Schedule 6;

(d) must be consistent with all Laws;

(e) contain a detailed design (developed to a level necessary to support a Part 3A Application for the relevant Scoped Barangaroo Works, or (in respect of Scoped Barangaroo Works which were Unscoped Barangaroo Works as at the Commencement Date) otherwise developed to a sufficient level (including detail as to the finishes and surface treatment) (in the Authority's reasonable opinion) for the Authority to review and approve in accordance with clause 15.7) and all relevant supporting documentation in connection with the design; and

(f) contain a report prepared by the Developer (accompanied and supported by reports from the Developer's relevant consultants) which certifies that, if completed in accordance with the draft Barangaroo Works Detailed Design, all relevant proposed Barangaroo Works Performance Specifications for those Scoped Barangaroo Works will be satisfied.

15.7 Approval of Barangaroo Works Detailed Design

(a) The Developer must promptly lodge each draft Barangaroo Works Detailed Design prepared in accordance with clauses 15.5 and 15.6 with the Authority for its approval.

(b) The Authority may request (acting reasonably having regard to the contents of any draft Barangaroo Works Detailed Design being considered by the Authority and within a reasonable timeframe after receiving a draft of the Barangaroo Works Detailed Design from the Developer) additional supporting documentation in connection with the design of the Barangaroo Works. The Developer must provide to the Authority such additional supporting documentation as soon as reasonably practicable after any such request.

(c) Providing that the Developer has complied with its other obligations pursuant to this clause 15, the Authority must give or refuse its approval to a draft Barangaroo Works Detailed Design within 30 Business Days after the Authority receives:

(i) a copy of the draft Barangaroo Works Detailed Design (together with a request for approval of that plan); and

(ii) all supporting documentation (including any additional supporting documentation requested by the Authority).

(d) A draft Barangaroo Works Detailed Design for Barangaroo Works will be a Barangaroo Works Detailed Design for those Barangaroo Works once approved by the Authority under this clause 15.7.

(e) In respect of all Barangaroo Works, and despite anything to the contrary in this clause 15.7, the Authority's review of the draft Barangaroo Works Detailed Design will be limited to ensuring that:

(i) for those items of Scoped Barangaroo Works which are Scoped Barangaroo Works as at the Commencement Date, are consistent with the 'Preferred Scheme Cost Plan' in Schedule 6; and

(ii) for those items of Scoped Barangaroo Works which are Unscoped Barangaroo Works as at the Commencement Date, the relevant Barangaroo Works Performance Specifications will be achieved.

If the Authority acting reasonably is satisfied that there is consistency with the 'Preferred Scheme Cost Plan' in Schedule 6 or that the Barangaroo Works Performance Specifications will be achieved, as the case may be, then the draft Barangaroo Works Detailed Design is a Barangaroo Works Detailed Design for those Barangaroo Works.

15.8 Applications for Scoped Barangaroo Works

(a) For the avoidance of doubt, clause 8, clause 10 and clause 11 apply to all Applications for Scoped Barangaroo Works.

(b) To the extent the Developer is required to obtain approval from the Authority, or to submit documents referred to in clause 15.7 to the Authority, the Developer is not required to obtain approval from the Authority, or to submit those documents again under this clause 15.8 (or clauses 8, 10 or 11).

(c) If the Infrastructure Works, the Ferry Facility, the Southern Cove, the Pier or the Community Facility have been dealt with as part of an Application for Approval for a Works Portion and approved by the Authority in accordance with this deed, then the Developer does not have to also obtain the Authority's approval to those developments under this clause.

15.9 Directing variations to Barangaroo Works

The Authority may before Practical Completion of any Barangaroo Works, direct the Developer to vary any Barangaroo Works by giving the Developer written notice. The Developer must not otherwise vary any Barangaroo Works without the written consent of the Authority.

15.10 Proposed variations to or delivery of additional Barangaroo Works

(a) The Authority may give the Developer notice of a proposed variation of any Barangaroo Works or a notice requesting that the Developer deliver additional Works (which if the Developer and the Authority agree will comprise Barangaroo Works) including:

(i) the delivery of additional pedestrian bridges; and

(ii) the provision of such other Infrastructure Works or Public Domain Works (which were not otherwise contemplated as Scoped or Unscoped Barangaroo Works as at the Commencement Date).

(b) The Developer must as soon as practicable after receiving a notice from the Authority of a proposed variation (or request for the delivery by the Developer of additional Works) under clause 15.10(a) price the proposed variation or request by

giving the Authority a quotation (supported by reasonable measurements or other evidence of cost) detailing:

(i) the effect on the Development Program; and

(ii) the cost (including time-related costs, if any) of the proposed variation or request, based on the rates or prices included in any relevant schedule of rates or schedule of prices included in the 'Preferred Scheme Cost Plan' in Schedule 6, which must not exceed reasonable rates or prices (including a reasonable amount for profit and overheads and a reasonable allowance for contingencies and escalations to all costs).

(c) Subject to clause 15.10(e), the Authority may direct the Developer to vary any Barangaroo Works (or add as additional Barangaroo Works) by giving a written notice accepting the price given by the Developer under clause 15.10(b).

(d) By directing a variation or the delivery of additional Barangaroo Works under clause 15.10(c), the Authority agrees to pay the price (including any Developer Contribution and Public Art and Cultural Development Contribution payable as a result of the variation) (unless the Developer and the Authority are otherwise able to agree that such Works will be funded from the Reserve) and grant extensions of time, for any variation or delivery of additional Barangaroo Works directed by the Authority in such manner as may be agreed with the Developer.

(e) The Developer may, acting reasonably, refuse to undertake a variation of Barangaroo Works (or a request for the delivery of additional Barangaroo Works) if the Developer is able to demonstrate to the Authority's reasonable satisfaction that that variation is likely to:

(i) reduce the GFA available to the Developer for its commercial exploitation;

(ii) materially impact on the Project as conceived by the Final Proposal in the following respects:

A. the quality of the Project or any of its elements;

B. the Developer's ability to attract Tenants or subtenants;

C. delay to the commencement of any Works Portion; or

D. increases the Cost of Development of Land; or

(iii) otherwise result in the Developer's loss of pre-commitments and/or take-out parties.

15.11 Variations for convenience of Developer

If the Developer requests the Authority to direct a variation for the convenience of the Developer, the Authority may do so. The Authority may determine in its discretion (acting reasonably) whether to direct any such variation. The direction shall be written and may be conditional. Unless the direction provides otherwise, the Developer is not entitled to extra time nor extra money.

15.12 Standard of care

The Developer agrees to ensure that the Developer and each member appointed to the Project Team, performs its design responsibilities with the skill, care and diligence expected of a professional designer experienced in carrying out those responsibilities in projects of a similar nature to the Barangaroo Works.

15.13 Design to be suitable

The Developer warrants that the design of the Barangaroo Works:

(a) will be consistent with the Agreed Design Documents;

(b) will be suitable for their intended purpose;

(c) will achieve the relevant Barangaroo Works Performance Specification; and

(d) will not adversely affect in any material way:

(i) the functional integrity of any of the Works; or

(ii) the quality or standard of any of the Works required under this deed.

15.14 Completed Barangaroo Works

The Developer warrants that the Barangaroo Works when completed will be fit for their intended purpose, satisfy the relevant Barangaroo Works Performance Specification and comply with all other requirements of this deed.

15.15 Warranties unaffected

The Developer acknowledges and agrees the warranties given by the Developer under clauses 15.13 and 15.14 and the Developer's other obligations in respect of the Barangaroo Works remain unaffected notwithstanding:

(a) any approval given by the Authority under clause 15.7; and

(b) any other approval, review, comment or rejection made by or on behalf of the Authority.

15.16 Construction Documents

(a) The Developer must ensure that during the carrying out of the Barangaroo Works, one complete set of the design documents prepared under this clause 15 and all working and construction drawings, plans, reports, computer records and specifications (whether in hard copy or electronic form) required in connection with the planning design and construction of the Barangaroo Works are kept at a site office on the Site or another location approved in writing by the Authority (acting reasonably) and must be available at all times for inspection and reference by the Authority, the Management Committee and any persons nominated in writing by any of them.

(b) Except in the case of an emergency, the Authority must give the Developer reasonable notice before inspecting the documents referred to in clause 15.16(a).

(c) At the Authority's request and expense, and within a reasonable period, the Developer must make the copies of documents referred to in clause 15.16(a) which the Authority reasonably requires and provide those copies to the Authority.

(d) Whilst on Site all agents and representatives of the Authority must comply with the reasonable directions of the Developer and must not remove anything from the site office.

(e) Anything disclosed to or copied for the Authority from the site office is deemed to be confidential for the purposes of clause 58.16 (unless the Developer specifies to the contrary).

15.17 Developer must not suspend the Barangaroo Works

The Developer must ensure that the progress of the Barangaroo Works is not suspended without the prior written consent of the Authority except in the case of:

(a) Force Majeure;

(b) a suspension required by Law or an order of a court; or

(c) a suspension required in order to comply with the WH&S Act.

15.18 Rights of the Authority

If the Developer fails to comply with this clause 15 in a material respect, then in addition to any other remedies of the Authority, the Developer agrees:

(a) the Authority may give notice to the Developer that:

(i) any part of the Barangaroo Works has not been completed in accordance with the Approvals, the Development Program or this deed;

(ii) sets out the works required to complete the work in accordance with the Approvals, the Development Program and this deed;

(iii) provides an estimate by the Independent Certifier of the Costs to complete the work; and

(iv) allows the Developer a reasonable period to complete the Barangaroo Works;

(b) the Authority may give notice to the Developer that:

(i) part of the Barangaroo Works is defective, giving details;

(ii) describes the works required to rectify the defect;

(iii) provides an estimate by the Independent Certifier of the Costs to rectify the work; and

(iv) allows the Developer a reasonable period to rectify the Barangaroo Works;

(c) if the Developer fails to complete or rectify the Barangaroo Works within the period required by a notice issued under clause 15.18(a) or clause 15.18(b), then, subject to clause 45, the Authority may have the Barangaroo Works completed or rectified at the Developer's expense. For the avoidance of doubt, the Authority agrees that although it is under no obligation to issue a notice under clause 15.18(a) or clause 15.18(b), it may not exercise its rights under this clause 15.18(c) unless it has issued that notice;

(d) the reasonable amount estimated by the Independent Certifier to either complete or rectify the relevant part of the Barangaroo Works will be a debt due from the Developer to the Authority payable on demand, it being agreed that the amounts so paid must be applied by the Authority in completing or rectifying the Barangaroo Works;

(e) if the amount estimated by the Independent Certifier is less than the actual Costs incurred by the Authority in completing or rectifying the Barangaroo Works under this clause 15.18 the shortfall will be a debt due by the Developer to the Authority payable on demand; and

(f) if the amount estimated by the Independent Certifier (to the extent such amount has been paid by the Developer to the Authority) is greater than the actual Costs received by the Authority in completing or rectifying the Barangaroo Works under this clause 15.18 the excess will be a debt due by the Authority to the Developer payable on demand.

15.19 Cost savings and overruns

For the avoidance of doubt, having regard to the Developer's commitment to provide the Barangaroo Works at its sole cost and risk but subject to the balance of the provisions of this deed and the Authority's obligations under clauses 15.2(f)(i) and 15.10(d), the Developer acknowledges that if the provision of the Scoped Barangaroo Works requires expenditure by or on behalf of the Developer of an amount that is:

(a) greater than the Barangaroo Works Allocated Costs, the Developer is responsible for all such cost overruns and cannot make any claim against the Authority to recover such monies; or

(b) less than the Barangaroo Works Allocated Costs, the Developer is entitled to the benefit of all such cost savings and the Authority cannot make any claim against the Developer to recover such monies or to require further amounts to be spent by the Developer.

15.20 Third party warranties

The Developer must use best endeavours to procure that all warranties given by third party contractors or suppliers in respect of any part or parts of the Barangaroo Works are given for the benefit of (and in a form enforceable by) the Authority and the Developer.

15.21 Works Portion Provisions

All provisions in this deed that relate or apply to Works or a Works Portion also apply to the Barangaroo Works except to the extent that there is an inconsistency between the provisions of this clause 15 and the other clauses in this deed that relate or apply to Works or a Works Portion. In the event of any such inconsistency, the provisions of this clause 15 prevail to the extent of the inconsistency.

15.22 Additional Barangaroo Works

(a) The Authority discloses to the Developer that in connection with the Temporary Cruise Terminal Works, it proposes to give a notice requesting the Developer to deliver the Contribution Service Works which will be additional Works (to be included as part of the Barangaroo Works) pursuant to clause 15.10.

(b) The Developer acknowledges and agrees that in providing a quotation to carry out these works pursuant to clause 15, it accepts that any such quotation shall take into account that the Developer agrees to bear [redacted]% of the cost of the Contribution Service Works.

16. Remediation Works

16.1 Consultation

(a) The Authority will be consulting with interested stakeholders, including OEH, the Council of the City of Sydney, and the identified Responsible Persons in relation to the proposed VMP Investigation Works and the VMP Remediation Works.

(b) The Authority agrees to confer with the Developer from time to time (and whenever reasonably requested by the Developer) in connection with the Authority's clause 16.1(a) consultation.

16.2 Appointment of Developer

(a) The Authority appoints the Developer to carry out the Remediation Works and the VMP Investigation Works.

(b) Prior to commencement of the Pilot Trials, the Authority may direct the Developer in writing not to carry out the Pilot Trials, in which event the relevant Methodology will, in accordance with clause 16.9, be the Methodology directed by the Authority and, if approval by OEH is required by Law, approved by the OEH. Clause 16, and any other relevant parts of this deed, shall be read on the basis that the relevant Methodology is the Methodology directed by the Authority and, if approval by OEH is required by Law, approved by the OEH.

(c) Subject to clauses 13.1 and 25, the Authority must give to the Developer such access to the Declaration Area and such parts of the Site on the terms of the Construction Zone Licence (and in relation to access to Hickson Road, on such other terms as the Authority reasonably requires at the time) which are reasonably required to enable the Developer to carry out the VMP Investigation Works and the Remediation Works.

(d) Where requested by the Authority, Lend Lease is to prepare and make available to the Authority or any Public Authority all documentation reasonably required to explain the manner and timing of the Remediation Works, within the time reasonably requested by the Authority.

(e) The Developer agrees that when it seeks a costs quotation from any consultants to provide services with respect to the Remediation Works and/or the Other Remaining Remediation Works (whether as a standalone costs quotation or as part of a cost quotation to provide services for other Works as well), the Developer must ask that consultant to provide quotations on both of the following bases:

(i) the Developer and the Authority (or its nominee) may each rely on all work product produced by the consultant as part of those services (a **BDA Reliance Price**) and the terms upon which the Authority (or its nominee) is entitled to rely upon that work; and

(ii) the Developer, but not the Authority, may rely on all work product produced by the consultant as part of those services (a **BDA Non-Reliance Price**).

in both cases, to the extent that work product relates to the Remediation Works and/or the Other Remaining Remediation Works.

(f) Without limitation to the Developer's rights under Schedule 10, the Developer agrees that it will accept the Authority's recommendation as to whether a BDA Reliance Price or a BDA Non-Reliance Price is to be selected from a particular consultant, to the extent that it relates to the Remediation Works and/or the Other Remaining Remediation Works.

(g) In relation to the Remediation Works and Other Remaining Remediation Works, the Developer must:

(i) maintain a detailed record of the progressive Total Contractors Cost incurred;

(ii) track the progressive Total Contractors Cost against the forecast Total Contractors Cost;

(iii) maintain and provide to the Authority on a monthly basis an updated forecast of the Saving; and

(iv) otherwise maintain all information reasonably necessary to substantiate the claim [redacted].

16.3 Cost of Remediation Works and Other Remaining Remediation Works

(a) The Developer agrees to carry out and complete the VMP Investigation Works and VMP Remediation Works [redacted].

[redacted]

(e) In carrying out the Remediation Works and the Other Remaining Remediation Works, the Developer and the Authority must take all reasonable steps to mitigate the costs of those Works and to mitigate the impact of any delay to those Works, having regard to and taking into account both the Developer's obligations under this deed and the Authority's rights under this deed including the Authority's rights to direct the Developer as to the carrying out of the Remediation Works. For the avoidance of doubt, this clause does not impact on the Developer's rights under this deed (including to claim an extension of time in respect of the Remediation Works in accordance with this deed).

[redacted]

16.4 Progress claims for [redacted]

(a) The Developer must submit progress claims for [redacted] on the 25th of each month (or as otherwise agreed by the parties) for work undertaken in connection with:

(i) Remediation Works;

(ii) Other Remaining Remediation Works; and

(iii) the Lend Lease Remediation Legal Costs,

to the Remediation QS (with a copy to the Authority).

(b) Each progress claim referred to in clause 16.4(a) must be given to the Remediation QS in writing and shall include:

(i) the amount of the claim, which must be broken down into separate categories for each of the following Works:

A. VMP Remediation Works;

B. PDA Remediation Works;

C. Other Remaining Remediation Works; and

D. the Lend Lease Remediation Legal Costs.

For the avoidance of doubt, where the progress claim is not for one or more of these categories, then the Developer must attribute a zero balance to that category;

(ii) [redacted]

(iii) identification of any amounts previously claimed and not certified by the Remediation QS and a reasonable description of what has relevantly changed since the amounts were not certified and why these amounts should now be certified by the Remediation QS;

(iv) reasonable substantiation of the amount of the claim including:

A. copies of all sub-contractor invoices for Works the subject of the progress claim;

B. if as part of the Works the subject of the progress claim, any material has been disposed (including weighbridge receipts) of Off-Site to a licensed landfill, documentation confirming the volume and the costs of the material being disposed of; and

C. in relation to any Scenario that is applicable to the claim.

(v) an updated calculation of any Saving projected,

and be accompanied by such supporting documentation as is reasonable (in the Remediation QS's opinion) having regard to the nature and amount of the claim being submitted.

(c) Within 15 Business Days of receiving a progress claim, the Remediation QS must issue to the Authority a certificate certifying:

(i) the extent to which the Works the subject of the progress claim have been carried out in accordance with the Relevant Contract;

(ii) the amount of the payments claimed in the progress claim that are properly payable by the Authority, having regard to the extent relevant to each of the categories of , the provisions of clauses 16, 17 and 18A and,

(iii) .

[redacted]

16.5A Payment of workers and subcontractors

[redacted]

16.6 Investigation Works

(a) Pursuant to the clause 16.2(a) appointment, the Developer must:

(i) appoint the Accredited Site Auditor for the purposes of procuring an Acceptable Investigation Works (VMP) Section B Site Audit Statement;

(ii) in accordance with the Phase 1 VMP, carry out the Works set out in the Phase 1 VMP, and assist the Authority in obtaining confirmation from OEH (and do all that is necessary to obtain that confirmation, including carrying out any treatment tests and Pilot Trials) that OEH has no

objection to the proposed Methodology for carrying out the VMP Remediation Works;

(iii) in accordance with the Approved Voluntary Management Proposal, prepare a VMP Remedial Action Plan and submit that plan to the Authority for its approval. Once the VMP Remedial Action Plan is approved by the Authority, procure that:

A. either:

1) the VMP Remedial Action Plan is endorsed by the Accredited Site Auditor; or

2) the Accredited Site Auditor confirms that he has no objection to the VMP Remedial Action Plan; and

B. OEH has no objection to the VMP Remedial Action Plan;

(iv) in accordance with the Approved Voluntary Management Proposal, prepare a VMP Remedial Works Plan and submit that plan to the Authority for its approval, and once approved, procure that:

A. either:

1) the VMP Remedial Works Plan is endorsed by the Accredited Site Auditor; or

2) the Accredited Site Auditor confirms that he has no objection to the VMP Remedial Works Plan; and

B. OEH has no objection to the VMP Remedial Works Plan;

(v) in accordance with the Approved Voluntary Management Proposal, prepare and finalise the reports referred to in the Approved Voluntary Management Proposal and provide copies of those reports to the Authority for its review in sufficient time to allow for lodgement, in accordance with the periods set out in that Approved Voluntary Management Proposal;

(vi) complete the VMP Investigation Works by no later than the period set out in the Approved Voluntary Management Proposal;

(b) Also pursuant to the clause 16.2(a) appointment, the Developer must:

(i) procure an Acceptable Investigation Works (PDA) Section B Site Audit Statement;

(ii) prepare a PDA Remedial Action Plan and submit that plan to the Authority for its approval, and once approved, procure that either:

A. the PDA Remedial Action Plan is endorsed by the Accredited Site Auditor; or

B. the Accredited Site Auditor confirms that he has no objection to the PDA Remedial Action Plan; and

the PDA Remedial Action Plan must propose a plan of Remediation that will allow, following the carrying out of the PDA Remediation Works, the land on which those Works are carried out to be suitable for use for the purposes contemplated by the

Agreed Design Documents, and so as not to affect the quality of the groundwater in relation to the Hickson Road Declaration Area; and

(c) Also pursuant to the clause 16.2(a) appointment, the Developer must prepare a HHERA in relation to each of the VMP Remediation Works and PDA Remediation Works (as at the date of the Fifth Deed of Amendment, the Authority acknowledges that the Developer has performed this obligation). Prior to making an amendment to that HHERA, the Developer must first procure the approval of the Authority to that amendment. Any request for approval to a HHERA amendment from the Developer to the Authority must be accompanied by a summary of the changes to the HHERA. The Authority must respond to any such request within 15 Business Days.

(d) Also pursuant to the clause 16.2(a) appointment, the Developer must prepare a PDA Remedial Works Plan and submit that plan to the Authority for its approval, and once approved, procure that either:

(i) the PDA Remedial Works Plan is endorsed by the Accredited Site Auditor; or

(ii) the Accredited Site Auditor confirms that he has no objection to the PDA Remedial Works Plan.

16.7 VMP Remediation Works

(a) The Developer must in relation to the VMP Remediation Works:

(i) appoint the Accredited Site Auditor for the purposes of procuring the Acceptable VMP Remediation Works Section B Site Audit Statement;

(ii) subject to clause 16.21, promptly obtain all Remediation Approvals required to carry out any VMP Remediation Works (except the approval of the Voluntary Management Proposal);

(iii) carry out the VMP Remediation Works, in accordance with:

A. the Remediation Approvals;

B. the VMP Remedial Action Plan;

C. the VMP Remedial Works Plan;

D. subject to clause 16.22, the obligations of the Authority under or pursuant to any Approved Voluntary Management Proposal;

E. any requirements imposed from time to time by OEH or any other Public Authority (not being the Authority);

F. any requirements of the Accredited Site Auditor (appointed pursuant to clause 16.13);

G. any requirements of the CLM Act or other Law; and

H. the HHERA in respect of the VMP Remediation Works.

(iv) subject to clause 12 and Schedule 10, appoint such person or persons reasonably acceptable to the Authority as the Developer's sub-contractor to carry out the VMP Remediation Works on such terms as the Developer determines;

(v) if in-situ works are to be undertaken as part of those VMP Remediation Works, comply with Schedule 10 (or procure that its Builder complies with Schedule 10) in relation to any appointment of VeruTEK as the contractor for the whole or any part of those VMP Remediation Works;

(vi) in accordance with the Approved Voluntary Management Proposal, prepare and finalise the reports referred to in the Approved Voluntary Management Proposal and provide copies to the Authority for its review in sufficient time to allow for lodgement, in accordance with the periods set out in that Approved Voluntary Management Proposal;

(vii) subject to clause 16.22, complete the VMP Remediation Works by the expiry of the period indicated in the Approved Voluntary Management Proposal;

(viii) in accordance with clause 16.31, ensure that no Long-term Environmental Management Plan to address Significant Contamination is required for any part of the Declaration Area (excluding the Hickson Road Declaration Area, which may be subject to a plan referred to in paragraph (a) of the definition of Long-term Environmental Management Plan), following completion of the VMP Remediation Works;

(ix) in accordance with clause 16.31, provide to the Authority an Acceptable VMP Remediation Works Section B Site Audit Statement upon completion of the VMP Remediation Works; and

(x) comply with Schedule 10.

(b) The Developer will co-operate with the Authority and provide all assistance reasonably requested by the Authority in relation to identifying and providing information in relation to the work comprising, and costs of, the VMP Investigation Works and VMP Remediation Works for the purposes of any claim the Authority may have against any polluter of the Declaration Area or any other person in respect of all costs of the VMP Investigation Works and VMP Remediation Works. The Developer and the Authority anticipate that the identification of the relevant work and costs will be carried out through the Developer complying with its obligations under clauses 16.7(c), 16.7(d) and (e) and 16.42.

(c) The Developer acknowledges that information will or may be required from it by the Authority, and the Developer must provide such information, to substantiate the work comprising and the costs of the VMP Investigation Works and VMP Remediation Works for the purpose of a claim referred to in clause 16.7(b) in respect of the VMP Investigation Works and VMP Remediation Works including:

(i) a detailed itemisation of the work undertaken that comprised the VMP Remediation Works and the VMP Investigation Works and the cost of those VMP Remediation Works and VMP Investigation Works;

(ii) all environmental validation records, survey results, waste classification and waste tracking records;

(iii) weighbridge receipts and receipts for Remediation Levies and any other cost incurred applicable to the carrying out of the VMP Remediation Works;

(iv) all payment certificates issued by the Remediation QS both under a Relevant Contract and clause 16.4 applicable to the carrying out of the VMP Remediation Works;

(v) copies of all subcontractor invoices for VMP Remediation Works; and

(vi) if part of the Works material has been disposed Off-Site to a licensed landfill, documentation confirming the volume and the costs of the material being disposed of.

(d) The Developer acknowledges that the Authority, for the purposes of any such claim, requires both the VMP Investigation Works and VMP Remediation Works and the costs of those works to be separately identified from all other Works and costs. The Authority will consult with the Developer (and, at the Authority's discretion, the Remediation QS and other experts) as to a process to be followed by the Developer when the VMP Investigation Works and VMP Remediation Works are undertaken in order for those Works and the costs of those Works to be separately identified and the Developer will co-operate with the Authority in those consultations. The Authority agrees that this process must be finalised before any invitation to tender is issued in respect of the Remediation Works and agrees to provide input into the process promptly with a view to mitigating delay in issuing any Invitations to Tender.

(e) (i) The Developer must comply with any reasonable direction from the Authority in relation to a process to separate out both the VMP Investigation Works and VMP Remediation Works and the cost of those Works from any other Works undertaken and costs.

(ii) If any direction will require a variation to an existing Relevant Contract, the Developer will notify the Authority and the Authority will either revoke the direction or direct the Developer to obtain from the Relevant Person the proposed cost of that variation, the terms of that variation, and any delay occasioned by that variation. If the Authority, having reviewed the terms and delays, directs the Developer to enter into that variation to the Relevant Contract, that will be an approved Relevant Variation for the purposes of Schedule 10.

(iii) If the Authority is considering making a direction or request under clause 16 or 17, the Authority may request the Development to provide (acting reasonably) an estimate of the likely cost and delay to be incurred as a result of that direction or request being complied with, within 10 Business Days of being so requested.

16.8 PDA Remediation Works

(a) In relation to the PDA Remediation Works the Developer must:

(i) appoint the Accredited Site Auditor for the purposes of procuring the Acceptable PDA Remediation Works Section A Site Audit Statement;

(ii) subject to clause 16.21, promptly obtain all Remediation Approvals required to carry out the PDA Remediation Works;

(iii) carry out the PDA Remediation Works, in accordance with:

A. the Remediation Approvals;

B. the PDA Remedial Action Plan;

C. the PDA Remedial Works Plan;

D. any requirements imposed from time to time by OEH or any other Public Authority (not being the Authority);

E. any requirements of the Accredited Site Auditor (appointed pursuant to clause 16.13);

F. any requirements of the CLM Act or other Law; and

G. the HHERA in respect of the PDA Remediation Works;

(iv) subject to clause 12 and Schedule 10, appoint such person or persons reasonably acceptable to the Authority as the Developer's sub-contractor(s) to carry out the PDA Remediation Works on such terms as the Developer determines;

(v) in accordance with clause 16.31, ensure that no Long-term Environmental Management Plan is required following completion of the PDA Remediation Works;

(vi) in accordance with clause 16.31, provide to the Authority an Acceptable PDA Remediation Works Section A Site Audit Statement upon completion of the PDA Remediation Works; and

(vii) comply with Schedule 10.

16.9 Methodology and Pilot Trials

(a) Upon receipt of all information reasonably required to do so, the Authority is to promptly direct the Developer in writing as to which, if any, of the Pilot Trials is to be carried out.

(b) If the Authority directs the Developer to carry out a Pilot Trial:

(i) the Developer is to provide updates on the progress of the Pilot Trial when reasonably requested by the Authority;

(ii) the Authority may direct the Developer to cease a Pilot Trial at any time, in which case the Developer will cease the Pilot Trial, or cause the Pilot Trial to be ceased, as soon as reasonably practicable; and

(iii) the Authority may direct the Developer to conduct another Pilot Trial.

(c) The Authority must, promptly after either:

(i) the completion of the Pilot Trials, or

(ii) directing the Developer not to carry out the Pilot Trials or cease carrying out a Pilot Trial,

direct the Developer in writing as to the relevant Methodology, make a request under clause 16.10 in respect of an Alternate Methodology or direct the Developer to carry out another Pilot Trial.

(d) The Methodology for carrying out the Hickson Road VMP Remediation Works is the Methodology that is directed by the Authority in accordance with this clause 16.9 and approved the by OEH (if approval by the OEH is required by Law).

16.10 Alternate Methodology for Hickson Road Declaration Area

(a) The Authority may, within the time specified under clause 16.9(c), request the Developer to submit to the Authority:

(i) a proposal for the carrying out of the Hickson Road VMP Remediation Works in accordance with a proposed alternate methodology that is anticipated to be acceptable to OEH; and

(ii) an estimate of the time and cost for carrying out the Hickson Road VMP Remediation Works using that alternate methodology.

(b) The Developer must submit the documents contemplated in clause 16.10(a) to the Authority as soon as reasonably practicable upon receipt of request from the Authority.

16.11 Developer to consult with Authority in respect of Alternate Methodology

(a) The Developer must consult with the Authority in respect of the Alternate Methodology submitted to the Authority pursuant to clause 16.10, including:

(i) providing all additional information reasonably requested by the Authority, including costings and expert reports in relation to any aspect of the Alternate Methodology;

(ii) amending the detail of the Alternate Methodology taking the Authority's reasonable comments into account; and

(iii) acting reasonably in negotiating with the Authority any amendments required to this deed or to the relevant Approved Voluntary Management Proposal as a result of the Alternate Methodology, it being agreed that the Authority must also act reasonably in these negotiations,

(b) Acting promptly, the Authority may approve the Alternate Methodology or otherwise direct the Developer in writing as to the relevant Methodology pursuant to clause 16.9.

16.12 [redacted]

(a) [redacted] the costs of re-locating any businesses which front Hickson Road [redacted] any compensation payable with respect to interruption to those businesses [redacted]:

(i) the Developer has consulted with the Authority in relation to the re-location of businesses which front Hickson Road and the cost of any compensation payable with respect to interruption to those businesses before incurring any [redacted], has taken into account any reasonable comments from the Authority and has acted reasonably to minimise the [redacted]; and

(ii) if the relevant business is owned by a related body corporate of the Developer, then the Authority will only be liable for [redacted] in respect of that business if and to the extent that the relevant related body corporate would have a right to claim damages, of not less than the relevant [redacted] amount arising from an action in tort, by reason of or in connection with the carrying out of the Remediation Works.

(b) The Developer agrees that it will undertake the Works associated with the [redacted] on an 'open book basis' and will work co-operatively with the Authority to seek to minimise (to the extent reasonably practicable) the additional costs to be borne by the Authority pursuant to this clause 16.12.

16.13 Appointment of Accredited Site Auditor

The following provisions apply to the VMP Investigation Works, the VMP Remediation Works and the PDA Remediation Works:

(a) Graeme Nyland or such other person the Developer and the Authority agree in writing must be appointed by the Developer as the Accredited Site Auditor for the purposes of the VMP Investigation Works, the VMP Remediation Works and the PDA Remediation Works;

(b) in the event that the person referred to in clause 16.13(a) is unable or unwilling to perform the duties contemplated for the Accredited Site Auditor by this deed, or otherwise clause 16.13(e) applies, the Developer and the Authority must agree to a replacement Accredited Site Auditor to be appointed by the Developer. If the parties are unable to agree to the replacement within 20 Business Days, either the Authority or the Developer may notify a dispute in accordance with clause 45;

(c) prior to the appointment of the Accredited Site Auditor, the Developer must prepare an Instruction Brief (RW) to the Accredited Site Auditor, and request the Authority to approve that Instruction Brief (RW). The Developer must amend the Instruction Brief (RW) taking the reasonable comments of the Authority into account, and procure the Authority's approval of the Instruction Brief (RW), such approval not to be unreasonably withheld;

(d) the Developer's appointment of the Accredited Site Auditor must be substantially in the form of the Instruction Brief (RW) approved by the Authority; and

(e) if the Accredited Site Auditor is dismissed or otherwise unable to perform his functions as contemplated by this deed, the Developer must, as soon as possible thereafter, appoint a replacement Accredited Site Auditor in the manner contemplated by clauses 16.13(b) to 16.13(d).

16.14 Communications with Accredited Site Auditor

(a) The Developer must co-operate with the Accredited Site Auditor at all times during the Accredited Site Auditor's appointment, and provide to the Accredited Site Auditor any documents, information or reports the Accredited Site Auditor requires.

(b) Subject to clause 16.14(c), each of the Developer and the Authority must provide to the other of them copies of all written or electronic communications between them (or their respective agents or representatives) and the Accredited Site Auditor, as soon as reasonably practicable after communicating to and receiving communications from the Accredited Site Auditor.

(c) The Authority is not required to provide to the Developer any written or electronic communications pursuant to clause 16.14(b) if the Chief Executive Officer of the Authority determines that the provision of such communications would be inappropriate for the Authority to provide for legal or other proper reasons.

(d) The parties acknowledge that the Accredited Site Auditor:

(i) must comply with the requirements of the CLM Act or other Law; and

(ii) must be able to demonstrate that in conducting the Site Audit the Accredited Site Auditor has exercised his/her own professional judgement and that the opinions expressed in the audit documentation have been reached independently.

16.15 Preparation of Plans

(a) Within the period specified in the Approved Voluntary Management Proposal the Developer must prepare:

(i) in accordance with an Approved Voluntary Management Proposal, a VMP Remedial Action Plan; and

(ii) in accordance with an Approved Voluntary Management Proposal, a VMP Remedial Works Plan,

in consultation with the Authority and in accordance with the requirements of clause 16.16 and having regard to the Authority's obligations under section 17(4) of the CLM Act, having reasonable regard to any comments or suggestions of the Authority (acting reasonably) in respect of those plans.

(b) At the same time as contemplated in clause 16.15(a), the Developer must prepare:

(i) a PDA Remedial Action Plan; and

(ii) a PDA Remedial Works Plan,

in consultation with the Authority and in accordance with the requirements of clause 16.16, having reasonable regard to any comments or suggestions of the Authority (acting reasonably) in respect of those plans.

(c) The parties agree and acknowledge that the VMP Remedial Action Plan and the PDA Remedial Action Plan may be contained in a single document with each of the VMP Remediation Works and PDA Remediation Works separately identified.

16.16 Requirements of Remedial Action Plans

The Remedial Action Plans referred to in clause 16.15 must:

(a) be prepared in accordance with all relevant guidelines endorsed by OEH under section 105 of the CLM Act;

(b) provide details of how and when the VMP Remediation Works or the PDA Remediation Works, as the case may be, will be carried out;

(c) in relation to the carrying out of the VMP Remediation Works or the PDA Remediation Works, as the case may be, address the following:

(i) summarise the results of previous investigations of the Declaration Area to the extent required by the Accredited Site Auditor;

(ii) describe the remedial options and make provision for the adoption of an option approved by OEH which will be implemented for the VMP Remediation Works or the PDA Remediation Works, as the case may be;

(iii) describe the overall Remediation strategy; and

(iv) propose a plan that will allow:

A. the VMP Remediation Works to be carried out so that the Declaration is removed from the Declaration Area; and

B. the PDA Remediation Works to be carried out so that the land is suitable to be used for the purposes contemplated by the Agreed Design Documents.

16.17 Requirements of Remedial Works Plans

The Remedial Works Plans referred to in clause 16.15 must:

(a) be consistent with the relevant Remedial Action Plans referred to in clause 16.15;

(b) detail the work that must be carried out and the methodology, procedures and timing that must be complied with in order to carry out the VMP Remediation Works or the PDA Remediation Works, as the case may be;

(c) provide details of plans to be implemented during the carrying out of the VMP Remediation Works or the PDA Remediation Works, as the case may be, to ensure:

(i) the protection of health and safety and the amenity of workers involved in the VMP Remediation Works or the PDA Remediation Works, as the case may be, and members of the public in land adjoining and in proximity to the land on which the VMP Remediation Works or the PDA Remediation Works, as the case may be, are carried out; and

(ii) the protection of the Environment.

16.18 Authority's approval of Plans

(a) The Developer must lodge the draft plans referred to in clause 16.15 with the Authority for its approval promptly.

(b) The Authority may request (acting reasonably) additional supporting documents in connection with any such plan. The Developer must provide to the Authority such additional supporting documents as soon as reasonably practicable after any such request.

(c) Provided the Developer has complied with its other obligations pursuant to clause 16 and the relevant draft Remedial Action Plans are consistent with the approved Methodology, and the draft Remedial Works Plans are consistent with the relevant draft Remedial Action Plans, the Authority must give or refuse its approval to the relevant plan, as soon as reasonably practicable after the Authority receives:

(i) a copy of the plan (as relevant); and

(ii) all supporting documentation (including any additional supporting documentation reasonably requested by the Authority).

(d) The Developer acknowledges that the Authority must provide the identified Responsible Persons with a reasonable opportunity to participate in the formulation of the draft Remedial Action Plans and the draft Remedial Work Plans on reasonable terms.

16.19 Authority refuses approval

If the Authority refuses its approval of the relevant draft plan or having regard to the provisions of clause 16.18, the Developer must revise that plan, taking the Authority's comments into account, and clauses 16.16, 16.17 and 16.18 re-apply, except that the Developer must lodge the revised plan with the Authority for its approval no later than 20 Business Days after the Authority gives notice to the Developer that it refuses its approval of the relevant plan.

16.20 Confirmation of plans

(a) Within 20 Business Days of the Authority giving its approval to each draft Remedial Action Plan or draft Remedial Works Plan, the Developer must submit that plan to the Accredited Site Auditor for endorsement or confirmation that he has no objection to that plan.

(b) If the Accredited Site Auditor requires any amendments to that draft Remedial Action Plan or the draft Remedial Works Plan, the Developer must make those amendments, and obtain the Authority's approval of those updated plans pursuant to clause 16.18.

(c) The Authority may not, as a condition of its approval, require the Developer to either:

(i) include a condition in a draft Remedial Action Plan or a draft Remedial Works Plan which the Accredited Site Auditor will not approve; or

(ii) require the removal of a condition in a draft Remedial Action Plan or a draft Remedial Works Plan which the Accredited Site Auditor requires be included.

(d) As soon as practicable after receiving either:

(i) endorsement by the Accredited Site Auditor of; or

(ii) confirmation from the Accredited Site Auditor that he has no objection to,

each of the draft Remedial Action Plans and the draft Remedial Works Plan referred to in clause 16.15, the Developer must finalise each plan and obtain an Investigation Works (VMP) Section B Site Audit Statement or Investigation Works (PDA) Section B Site Audit Statement as the case may be from the Accredited Site Auditor. The Developer must provide a copy of the Investigation Works (VMP) Section B Site Audit Statement or Investigation Works (PDA) Section B Site Audit Statement as the case may be obtained from the Accredited Site Auditor to the Authority, promptly after receipt of the originals from the Accredited Site Auditor.

(e) While applying to OEH for confirmation that it has no objections to the finalised VMP Remedial Action Plan referred to in clause 16.15(a), the Developer must:

(i) regularly liaise and consult with the Authority throughout the period of applying for OEH's confirmation;

(ii) keep the Authority regularly informed in respect of any electronic or written communications with OEH, and give the Authority copies of all such correspondence as soon as reasonably practicable after communicating to and receiving communications from OEH;

(iii) to the extent practicable, give the Authority no less than 5 Business Days' notice of any meeting scheduled between the Developer (or its agent or representative) and OEH, and allow the Authority to attend any such meeting;

(iv) provide to the Authority all information reasonably requested by the Authority; and

(v) answer any questions reasonably asked by the Authority.

16.21 Remediation Approvals

(a) The Developer must promptly obtain all Remediation Approvals subject to clause 16.21(b).

(b) The parties will act cooperatively in order for the Developer to prepare, lodge and progress, and for the Authority to consent to, or refuse consent to, (as the case may be), Applications for the Remediation Approvals expeditiously.

(c) All provisions of this deed that relate to Approvals will apply to the Developer's obligations to obtain all such Remediation Approvals.

(d) The Developer must lodge the Application for Approvals for the VMP Remediation Works and the VMP Investigation Works with the Consent Authority for:

(i) the Hickson Road Declaration Area expeditiously after receipt of the Authority's Approval of that Application; and

(ii) either of BDA Development Block 6, if Remediation Works are applicable to that area and BDA Development Block 7, if Remediation Works are applicable to that area expeditiously after receipt of the Authority's approval of that Application, if the then existing Remediation Approvals do not allow for VMP Remediation Works and VMP Investigation Works to be carried out on either or both of BDA Development Block 6 and BDA Development Block 7,

and must diligently pursue those Applications.

(e) Where the Authority is not the 'road authority', the Authority must exercise reasonable endeavours to obtain all relevant consents and approvals from the Council of the City of Sydney in its capacity as the relevant road authority to enable the Developer:

(i) to apply for the Remediation Approvals required to carry out the Hickson Road VMP Remediation Works; and

(ii) to undertake the Hickson Road VMP Remediation Works,

in a timely manner so as to permit the Developer to undertake the Hickson Road VMP Remediation Works in accordance with the requirements of this deed and the Approved Voluntary Management Proposal.

16.22 Voluntary Management Proposal

(a) The Authority has disclosed to the Developer that its preferred approach to the VMP Investigation Works and the VMP Remediation Works is to enter into one or more Voluntary Management Proposals with OEH (and potentially with other Responsible Persons who may be joined as parties) on the basis that the Authority will undertake pursuant to those proposals obligations to carry out the VMP Investigation Works and the VMP Remediation Works.

(b) In relation to the preparation of any proposed Voluntary Management Proposal, the Developer must prepare and provide to the Authority the first draft of that Voluntary Management Proposal, which contemplates that at completion of all of the proposed works:

(i) an Acceptable VMP Remediation Works Section B Site Audit Statement will issue; and

(ii) there is no requirement for a Long-term Environmental Management Plan to address Significant Contamination, except in the Hickson Road Declaration Area, which may be subject to a plan referred to in paragraph (a) of the definition of Long-term Environmental Management Plan.

(c) The Authority:

(i) will keep the Developer informed in relation to its negotiations with OEH (and potentially other Responsible Persons who may be joined as parties) in connection with any proposed Voluntary Management Proposal, with it being acknowledged that the Developer's preference is that the form of Voluntary Management Proposal be substantially consistent with the Draft Voluntary Management Proposal; and

(ii) prior to entering into an Approved Voluntary Management Proposal, it will provide a copy of that draft Voluntary Management Proposal to the Developer for its review.

(d) Within 20 Business Days of receipt of any draft Voluntary Management Proposal from the Authority (other than the Draft Voluntary Management Proposal in Annexure T), the Developer must either:

(i) confirm to the Authority that it is satisfied with the terms of that draft Voluntary Management Proposal; or

(ii) confirm to the Authority any concerns it has in relation to the terms of that draft Voluntary Management Proposal (to the extent that it varies from the Draft Voluntary Management Proposal, the Developer's Draft RWP and/or the [redacted]), including any concerns that is likely to have a material adverse effect on:

[redacted]

B. the timing of the delivery of relevant Works Portion affected by the Remediation Works or the Project as a whole or the timing for undertaking the VMP Investigation Works; and

C. any additional costs required to comply with the timing for the implementation of the Remediation Works, in order to comply with clause 16.7(a)(vi),

[redacted] together with confirmation of any changes to this deed that the Developer requests the Authority (acting reasonably) consider in good faith if the draft Voluntary Management Proposal were to be entered into with OEH.

(e) The Authority will act reasonably in considering any suggestions and recommendations received in writing from the Developer in connection with any draft Voluntary Management Proposal and must not amend the Developer's draft

Voluntary Management Proposal in way which materially prejudices the reasonable expectation that at completion of all of the proposed works:

(i) an Acceptable Investigation Works (VMP) Site Audit Statement and an Acceptable VMP Section B Site Audit Statement will issue; and

(ii) there is no requirement for a Long-term Environmental Management Plan to address Significant Contamination.

(f) The Authority must promptly provide to the Developer a copy of any Approved Voluntary Management Proposal.

(g) The Developer acknowledges that the Authority must provide the identified Responsible Persons a reasonable opportunity to participate in the formulation and carrying out of a Voluntary Management Proposal on reasonable terms.

(h) Subject to the other provisions of this deed, the Developer must act reasonably and comply with any directions given by the Authority from time to time in connection with its compliance with any obligations of the Authority under any Approved Voluntary Management Proposal.

16.23 Consultation with the Developer

While applying to OEH for confirmation that it has no objections to the use of the relevant Methodology, the Authority must:

(a) regularly liaise and consult with the Developer;

(b) keep the Developer regularly informed in respect of any written or electronic communications with OEH, and give the Developer copies of all such correspondence as soon as reasonably practicable after communicating to and receiving communications from OEH; and

(c) to the extent practicable, give the Developer no less than 5 Business Days' notice of any meeting scheduled between the Authority (or its agent or representative) and OEH, and allow the Developer to attend any such meeting and where there is less than 5 Business Days' notice of a meeting, provide the Developer as much notice as it is able of the relevant meeting.

16.24 Notify Developer

The Authority must notify the Developer as soon as reasonably practicable in writing of receipt of OEH's confirmation that OEH has no objection to the carrying out the VMP Remediation Works using the Methodology selected in accordance with clause 16.9, including by way of providing a copy of that confirmation to the Developer.

16.25 Compliance by Developer

In carrying out the VMP Investigation Works, the VMP Remediation Works and the PDA Remediation Works, the Developer will:

(a) comply fully with all obligations imposed or assumed by the Authority under or pursuant to any Approved Voluntary Management Proposal which the Authority enters into with OEH, except for any such obligations which the Authority certifies in writing will not be the responsibility of the Developer and for any obligations which relate to matters beyond the control of the Developer;

(b) comply fully with all obligations imposed by OEH or other Public Authorities (other than the Authority) in respect of carrying out the Remediation Works, including (without limitation):

(i) re-diverting any Services; and

(ii) relocating any businesses which front Hickson Road.

16.26 Remediation Works Portions

Clauses 1, 2, 7, 8, 9, 10, 11, 12.2, 12.3, 12.4, 12.5, 13, 14, 20.2, 24, 25.3 to 25.8, 25.14, 25.15, 30 to 38, 39.3, 47, 45, 48, 49, 50 to 58 which relate or apply to a Works Portion also apply to the VMP Investigation Works, Remediation Works, Other Remediation Works and Other Remaining Remediation Works, except to the extent that there is an inconsistency between the provisions of this clause 16 or clause 17 and those clauses listed above. In the event of any such inconsistency or replication of processes, the provisions of this clause 16 and clause 17 prevail to the extent of the inconsistency (unless there is an express provision to the contrary in this clause 16 or clause 17).

16.27 Requesting Site Audit Statement for investigation Works

(a) When the Developer is of the opinion that the VMP Investigation Works Plan have been completed in accordance with this deed, the Developer must:

(i) request the Accredited Site Auditor to prepare in respect of the VMP Investigation Works, a Site Audit Report and an Investigation Works (VMP) Section B Site Audit Statement; and:

(ii) at the same time give the Authority a copy of those requests.

(b) When the Developer is of the opinion that the PDA Remedial Action Plan has been completed in accordance with this deed, the Developer must:

(i) request the Accredited Site Auditor to prepare in respect of the PDA Remedial Action Plan, a Site Audit Report and an Investigation Works (PDA) Section B Site Audit Statement; and

(ii) at the same time give the Authority a copy of those requests.

16.28 Accredited Site Auditor to provide Section B Site Audit Statement

The Developer must use reasonable endeavours to procure that the Accredited Site Auditor gives the Developer (with a copy to the Authority at the same time), its Site Audit Reports, and either:

(a) the Investigation Works Section B Site Audit Statements contemplated by clause 16.27; or

(b) the reasons for not issuing the Investigation Works Section B Site Audit Statement contemplated by clause 16.27, and provide a detailed list of work required to be completed in order for that Investigation Works Section B Site Audit Statement to be issued.

16.29 Developer to carry out work

On receipt of the detailed list referred to in clause 16.28(b), the Developer must carry out the work referred to in that list, and on completion of that work, request the Accredited Site Auditor to issue the relevant Investigation Works Section B Site Audit Statement contemplated by clause 16.27, and clauses 16.27 to 16.29 will re-apply.

16.30 Acceptable Section B Site Audit Statement

(a) Within 10 Business Days of receipt of the Site Audit Report and the Investigation Works Section B Site Audit Statements contemplated by clause 16.27 from the Accredited Site Auditor, the Authority must notify the Developer whether it is of the reasonable opinion that the Investigation Works Section B Site Audit Statement is either an Acceptable Investigation Works (VMP) Section B Site Audit Statement or an Acceptable Investigation Works (PDA) Section B Site Audit Statement.

(b) Where the Authority notifies the Developer that it is not of the opinion that one or more of the Investigation Works Section B Site Audit Statements are either an Acceptable Investigation Works (VMP) Section B Site Audit Statement or an Acceptable Investigation Works (PDA) Section B Site Audit Statement as the case may be:

(i) the Authority must give the Developer reasons for its opinion;

(ii) the Developer must do all things necessary (including the carrying out of any Works) in order to procure the Accredited Site Auditor to issue a new Site Audit Report and the relevant Investigation Works Section B Site Audit Statement (which take the Authority's reasons into account), and which satisfies the requirements of clauses 16.27(a); and

(iii) this clause 16.30 will re-apply.

16.31 Requesting Site Audit Statements relating to Remediation Works

(a) The Developer must:

(i) request the Accredited Site Auditor to prepare in respect of the VMP Remediation Works, a Site Audit Report, and one or more VMP Remediation Works Section B Site Audit Statements which certify that:

A. the Significant Contamination on the Declaration Area has been addressed, and the terms of the Approved Voluntary Management Proposal have been complied with; and

B. the Declaration Area is not subject to an on-going Long-term Environmental Management Plan to address the Significant Contamination, except in relation to Hickson Road Declaration Area;

(ii) if requested to do so by the Authority, request the Accredited Site Auditor to prepare in respect of the Hickson Road Declaration Area, a Site Audit Report and Section A Site Audit Statement which certifies that the Hickson Road Declaration Area is suitable for its intended uses as a road; and

(iii) at the same time give the Authority and the Developer a copy of that request or requests.

(b) The Developer must:

(i) request the Accredited Site Auditor to prepare in respect of the PDA Remediation Works, a Site Audit Report, and one or more PDA Remediation Works Section A Site Audit Statements which certify that the Block 4 Declaration Area is suitable for its intended uses (as contemplated in this deed) and is not subject to an on-going Long-term Environmental Management Plan; and

(ii) at the same time, give the Authority a copy of that request.

16.32 Accredited Site Auditor to provide Site Audit Statement

The Developer must use reasonable endeavours to procure and provide to the Authority a Site Audit Report from the Accredited Site Auditor, and either:

(a) the relevant Site Audit Statement(s) contemplated by clause 16.31; or

(b) the reasons for not issuing the relevant Site Audit Statement(s) contemplated by clause 16.31, and provide a detailed list of work required to be completed in order for those Section A Site Audit Statement(s) or Section B Site Audit Statement(s) to be issued.

16.33 Requirement to carry out work

On receipt of the detailed list referred to in clause 16.32(b), the Developer must carry out the work referred to in that list, and on completion of that work, request the Accredited Site Auditor to issue the relevant Site Audit Statement(s) contemplated by clause 16.31, and clauses 16.27 to 16.33 will re-apply.

16.34 Acceptable Site Audit Statement

(a) Within 10 Business Days of receipt of the Site Audit Report and the relevant Site Audit Statement(s) contemplated by clause 16.31 from the Accredited Site Auditor, the Authority must notify the Developer whether it is of the reasonable opinion that the relevant Site Audit Statement(s) are Acceptable VMP Remediation Works Section B Site Audit Statement(s), Acceptable Hickson Road Remediation Works Section A Site Audit Statement and Acceptable PDA Remediation Works Section A Site Audit Statement(s) (as the case may be).

(b) Where the Authority provides notification that it is not of the opinion that one or more of the relevant Site Audit Statement(s) are Acceptable VMP Remediation Works Section B Site Audit Statement(s), Acceptable Hickson Road Remediation Works Section A Site Audit Statement and Acceptable PDA Remediation Works Section A Site Audit Statement(s) (as the case may be):

(i) the Authority must give the Developer reasons for its opinion;

(ii) the Developer must do all things necessary (including the carrying out of any Works) in order to procure the Accredited Site Auditor to issue a new Site Audit Report and relevant Site Audit Statement(s) (which take the Authority's reasons into account), and which satisfies the requirements of clause 16.31; and

(iii) this clause 16.34 will re-apply.

16.35 Indemnities

Subject to clause 16.36 and clause 16.37, [redacted], from:

(a) (for that part of the Developer Secured Area on which the Remediation Works were carried out) the date that the Remediation Works are completed in accordance with this deed;

(b) (for that part of the Developer Secured Area on which the Other Remediation Works and Other Remaining Remediation Works are carried out) the date by which both the Other Remediation Works and Other Remaining Remediation Works are completed in accordance with this deed; or

(c) (for that part of the Developer Secured Area on which it is determined that it will not be the subject of any Other Remaining Remediation Works or the Other Remediation Works), the date on which it is determined that it will not be the subject of any Other Remediation Works or Other Remaining Remediation Works;

(**Relevant Date**) then in respect of the relevant part of the Developer Secured Area, the Developer is liable for, releases the Authority from and indemnifies the Authority against any liability or loss arising from, and any Costs incurred in connection with:

(i) undertaking any Cleanup ordered or required by any Public Authority after the Relevant Date;

(ii) any Environmental Notice given or made after the Relevant Date;

(iii) any compensation or other monies that a Public Authority requires to be paid to any person under an Environmental Law for any reason after the Relevant Date;

(iv) any fines or penalties incurred after the Relevant Date under an Environmental Law;

(v) all Costs incurred after the Relevant Date in complying with an Environmental Law;

(vi) all other claims, demand, suits, proceedings, causes of action, losses (including consequential losses), damages, Costs and interest, payable under an Environmental Law after the Relevant Date;

(vii) the existence of any underground tanks; and

(viii) any claim in respect of any Contaminant present in, on, over or under, emanating from or migrating to or from the Developer Secured Area after the Relevant Date,

except to the extent caused by any wrongful or reckless act of the Authority or the Authority's Employees.

16.36 Limitation of liability

(a) Notwithstanding anything contained in clause 16.35, the liability of the Developer under or in connection with clause 16.35 is limited to:

(i) $10,000,000 (ten million dollars) (**Environmental Limit**); and

(ii) claims which are made by the Authority no later than the earlier of:

A. 5 years following termination of this deed; and

B. 5 years following Practical Completion of the last Works Portion.

(b) For the purposes of clause 16.36(a), the Developer must give the Authority notice in writing as soon as it becomes aware that the liability under or in connection with clause 16.35 and clause 32 is likely to exceed the Environmental Limit.

16.37 Pier acknowledgements

The parties acknowledge and agree that:

(a) the Developer anticipates that it will not be required (as part of any Approval necessary for the construction of the Pier) to Remediate any part of the Site (to the extent that that part of the Site is located within Sydney Harbour) on which the Pier is to be located;

(b) both the Developer's Community Facility Proposal and the Authority's decision in relation to such Community Facility Proposal will be influenced by any Remediation requirements imposed or sought to be imposed by any Public Authority as contemplated by this clause;

(c) the Authority and the Developer will work together to encourage the relevant Public Authorities (including OEH and Roads and Maritime Services) not to impose any Remediation requirements as part of any Approval necessary for the construction of the Pier to the extent those requirements relate to that part of the Site which is located within the Sydney Harbour as at the Commencement Date;

(d) if the Developer is required to Remediate any part of the Site located within Sydney Harbour as part of any Approval necessary for the construction of the Pier, then the construction of the Pier and the Community Facility will not proceed within Sydney Harbour and the provisions of clause 19 will otherwise apply;

(e) the Developer remains responsible, in all respects for the construction methodology it chooses to adopt in relation to the Pier or any Remediation in relation to it; and

(f) the Developer acknowledges and agrees that it is reasonable for the Authority, in making its determination to consent or refuse consent to any Application or plans and specifications for the Pier or the Remediation of it on the grounds that the Authority considers, acting reasonably, that:

(i) the costs of Remediation to which the Authority is obliged by this deed to contribute are in excess of competitive market rates; or

(ii) the proposed Application or plans and specifications will result in increased maintenance costs disproportionate to the savings in construction costs.

16.38 Not used

16.39 Payment [redacted]

[redacted]

[redacted]

16.40 Environmental Site Representative

(a) The Authority may (at its cost) appoint an appropriately qualified environmental site representative to request information from the Developer, collect samples and analyse material and carry out such investigations as are necessary on the Site:

(i) to monitor the Remediation Works and the Other Remaining Remediation Works including to take a photographic record of gasworks

structures as they are excavated and take and obtain any other records relating to the Remediation Works or Other Remaining Remediation Works; and

(ii) to measure material being Remediated by the Developer as part of the VMP Remediation Works in order to assess whether and to what extent costs associated with Significant Contamination may be claimed from any original polluter or other third parties.

(b) The Developer must:

(i) grant the Environmental Site Representative access to the Site, for the purposes of carrying out the functions set out in clause 16.40(a);

(ii) act reasonably and co-operate with the Environmental Site Representative;

(iii) promptly provide to the Environmental Site Representative all information and promptly answer any questions reasonably requested by it in connection with that representative's performance of its functions as contemplated by clause 16.40(a); and

(iv) do such other things reasonably required by the Environmental Site Representative to enable that representative to perform its functions as contemplated by clause 16.40(a).

(c) The Environmental Site Representative is the agent of the Authority and shall report to the Authority only.

(d) No later than 5 Business Days before Remediation Works commence, the Developer must provide to the Authority a remediation works timetable which outlines the Developer's proposed program for undertaking the Remediation Works within the Declaration Area (which is also to include the proposed excavation program). Not less than once a month during the period of those Works, the Developer must provide a revised timetable to the Authority taking into account any comments or requests from the Authority and the Environmental Site Representative.

16.41 Remediation QS

(a) WT Partnership has been appointed as the Remediation QS as at the Date of the Fifth Deed of Amendment.

(b) The Developer and the Authority agree to work in good faith to amend the scope of the Remediation QS to include the certification functions of the superintendent under the Relevant Contracts under which Works comprised in the Remediation Works and Other Remaining Remediation Works to be performed, including such tasks as:

(i) assessing and, to the extent there is an entitlement, granting extensions of time for delay claimed by Relevant Persons under those Relevant Contracts;

(ii) certifying payments; and

(iii) engaging any expert advisers or consultants to assist the Remediation QS to fulfil its role under the amended scope.

(c) If the scope of the Remediation QS cannot be amended as described in clause 16.41(b) above, the Developer and the Authority agree to work in good faith to consider the appointment of a different and suitably qualified person to that role.

(d) If the appointment of the Remediation QS is terminated for any reason or otherwise expires, then the following provisions apply:

(i) prior to submitting the next Progress Claim, the Developer must request the Authority to appoint one of the Nominated Remediation QS as the Remediation QS; and

(ii) within 10 Business Days of receiving the Developer's request pursuant to clause 16.41(d)(i), the Authority must appoint (at its cost) one of the Nominated QS as the Remediation QS on such terms as the Authority agrees with the Remediation QS. The Authority and the Developer will then enter into legally binding documentation with the Remediation QS so appointed confirming the terms of the Remediation QS's appointment and also confirming the roles and functions of the Remediation QS.

(e) The parties must:

(i) grant the Remediation QS access to the Site, for the purposes of carrying out the roles and functions of the Remediation QS;

(ii) act reasonably and co-operate with the Remediation QS;

(iii) promptly provide to the Remediation QS all information and promptly answer any questions reasonably requested by it in connection with that person's performance of its roles and functions; and

(iv) do such other things reasonably required by the Remediation QS to enable that person to perform its roles and functions.

[redacted]

[redacted]

17. Other Remediation Works

17.1 Remediation of the Non-Declaration Area

(a) The Developer must:

(i) in accordance with clause 16.21, obtain all Approvals required in respect of any Other Investigation Works and any Other Remediation Works;

(ii) appoint an Accredited Site Auditor (and any replacement) in respect of the Other Investigation Works and any Other Remediation Works;

(iii) prepare:

A. firstly, subject to clause 17.1(b), a draft Other Remedial Action Plan (having reasonable regard to the remedial action plan prepared by ERM Australia Pty Limited dated September 2008) consistent with the Developer's Draft RWP in consultation with the Authority; and

B. secondly, subject to clause 17.1(b), a draft Other Remedial Works Plan (which is consistent with and fully addresses the requirements of the Other Remedial Action Plan (once finalised)), and

(iv) procure, in respect of the plans referred to in clause 17.1(a)(iii) (assuming that they are required to be prepared):

A. the Authority's approval of such plans, which must not be unreasonably withheld or delayed;

B. either:

1) endorsement by the Accredited Site Auditor of; or

2) confirmation from the Accredited Site Auditor that he has no objection to

such plans, including procuring from the Accredited Site Auditor a Section B Site Audit Statement which certifies that the Other Remedial Action Plan is appropriate for the stated purposes and/or that the Non-Declaration Area the subject of the Other Remedial Action Plan can be made suitable for its intended uses (as contemplated by this deed), subject to implementation of the Other Remedial Action Plan; and

C. confirmation from OEH that it has no objections to such plans (if applicable);

(v) carry out any Other Investigation Works, in accordance with:

A. all relevant Approvals;

B. a scope of works approved by the Authority, and if required by Law, confirmed by OEH (in relation to it having no objections to such plans);

C. any requirements imposed from time to time by OEH or any other Public Authority (not being the Authority);

D. any requirements of the Accredited Site Auditor; and

E. any requirements of any Law;

(vi) carry out any Other Remediation Works, in accordance with:

A. all relevant Approvals;

B. the Other Remedial Action Plan(s);

C. the Other Remedial Works Plan (subject to clause 17.1(b));

D. any requirements imposed from time to time by OEH or any other Public Authority (not being the Authority);

E. any requirements of the Accredited Site Auditor; and

F. any requirements of any Law;

(b) in relation to Other Remediation Works, do all that is required to obtain from the Accredited Site Auditor one or more Acceptable Other Remediation Works Section A Site Audit Statement(s), which certifies that the land on which any Other Remediation Works are carried out is suitable for its intended purposes (as contemplated by this deed) and is not subject to an on-going Long-term Environmental Management Plan.

(c) The Developer is not required to prepare a revised draft Other Remedial Action Plan OR Other Remedial Works Plan under clause 17.1(a)(iii) nor comply with either or both of those plans (as applicable), if either or both those plans (as applicable) are not required as a condition of any Approval obtained in connection with the Other Remediation Works.

17.2 Appointment of Accredited Site Auditor

(a) The Authority and the Developer agree that either Graeme Nyland (being a person accredited under Part 4 of the CLM Act) or such other person agreed between the Authority and the Developer is to be appointed by the Developer within 20 Business Days of the Commencement Date as the Accredited Site Auditor for the purposes of the Other Investigation Works and the Other Remediation Works.

(b) If the Developer proposes to terminate the appointment of the Accredited Site Auditor (or otherwise that appointment comes to an end), it must first (prior to such termination or otherwise promptly after that appointment coming to an end) provide a notice to the Authority providing details of those proposed arrangements and agree with the Authority (both acting reasonably) the person to be appointed as the replacement Accredited Site Auditor for the purposes of the relevant Other Investigation Works and Other Remediation Works.

(c) In the event the Developer and the Authority have not agreed on the person to be appointed as the replacement Accredited Site Auditor for the purposes of the relevant Other Investigation Works and Other Remediation Works within 20 Business Days of the date the Authority receives the notice from the Developer under clause 17.2(b), either the Authority or the Developer may notify a dispute in accordance with clause 45.

(d) Prior to the appointment of the Accredited Site Auditor (or replacement Accredited Site Auditor), the Developer must prepare an Instruction Brief (ORW) to the

Accredited Site Auditor, and request the Authority to approve that Instruction Brief (ORW). The Developer must amend the Instruction Brief (ORW) taking the reasonable comments of the Authority into account, and procure the Authority's approval of the Instruction Brief (ORW), such approval not to be unreasonably withheld.

(e) The Developer's appointment of the Accredited Site Auditor must be substantially in the form of the Instruction Brief (ORW) approved by the Authority.

(f) The Developer must co-operate with the Accredited Site Auditor at all times during the Accredited Site Auditor's appointment, and provide to the Accredited Site Auditor any documents, information or reports the Accredited Site Auditor requires.

(g) Each of the Developer and the Authority (subject to clause 17.2(h)) must provide to the other of them copies of all written or electronic communications between them (or their respective agents or representatives) and the Accredited Site Auditor, as soon as reasonably practicable after communicating to and receiving communications from the Accredited Site Auditor.

(h) The Authority is not required to provide to the Developer any written or electronic communications pursuant to clause 17.2(g) if the Chief Executive Officer of the Authority determines that the provision of such communications would be inappropriate for the Authority to provide for legal or other proper reasons.

(i) The parties acknowledge that the Accredited Site Auditor:

(i) must comply with the requirements of the CLM Act or other Law; and

(ii) must be able to demonstrate that in conducting the Site Audit the Accredited Site Auditor has exercised his/her own professional judgement and that the opinions expressed in the audit documentation have been reached independently.

17.3 Approval or Confirmation

When the Developer applies to OEH for any approval or confirmation pursuant to clause 17.1(a)(v)C or clause 17.1(a)(vi)C, the Developer must:

(a) regularly liaise and consult with the Authority throughout the period of applying for OEH's approval or confirmation;

(b) keep the Authority regularly informed in respect of any written or electronic communications with OEH, and give the Authority copies of all such correspondence as soon as reasonably practicable after communicating to and receiving such communications from OEH;

(c) to the extent practicable, give the Authority no less than 2 Business Days' notice of any meeting scheduled between the Developer (or its agent or representative) and OEH, and allow the Authority to attend any such meeting and where there is less than 2 Business Days' notice of a meeting, provide the Authority as much notice as it is able of the relevant meeting;

(d) provide to the Authority all information reasonably requested by the Authority; and

(e) answer any questions reasonably asked by the Authority in relation to any communications to or from OEH.

17.4 Site Audit Report and Site Audit Statement

(a) Within 10 Business Days of the Authority receiving a Site Audit Report and an Other Investigation Works Section B Site Audit Statement (which certifies that the Other Remedial Action Plan is appropriate for intended uses (as contemplated by this deed), and/or that the Non-Declaration Area can be made suitable for intended uses (as contemplated by this deed) if Remediated in accordance with the Other Remedial Action Plan)), the Authority must notify the Developer whether it is of the opinion (acting reasonably) that the Other Investigation Works Section B Site Audit Statement is an Acceptable Other Investigation Works Section B Site Audit Statement.

(b) Where the Authority notifies the Developer that it is not of the opinion that the Other Investigation Works Section B Site Audit Statement referred to in clause 17.4(a) is an Acceptable Other Investigation Works Section B Site Audit Statement:

(i) the Authority must give the Developer reasons for its opinion; and

(ii) the Developer must do all things necessary (including the carrying out of any Works) in order to procure the Accredited Site Auditor to issue a new Site Audit Report and Section B Site Audit Statement, which addresses the Authority's concerns, and which certifies that the Other Remedial Action Plan is appropriate for intended uses (as contemplated by this deed) and/or that the Non-Declaration Area can be made suitable for intended uses (as contemplated by this deed).

(c) Within 10 Business Days of the Authority receiving a Site Audit Report and Other Remediation Works Section A Site Audit Statement(s) (which certifies that the land on which any Other Remediation Works are carried out is suitable for its intended uses (as contemplated by this deed) and is not subject to an on-going Long-term Environmental Management Plan, the Authority must notify the Developer whether it is of the opinion (acting reasonably) that that Other Remediation Works Section A Site Audit Statement(s) is an Acceptable Other Remediation Works Section A Site Audit Statement(s).

(d) Where the Authority notifies the Developer that it is not of the opinion that the Other Remediation Works Section A Site Audit Statement(s) is an Acceptable Other Remediation Works Section A Site Audit Statement(s):

(i) the Authority must give the Developer reasons for its opinion; and

(ii) the Developer must do all things necessary (including the carrying out of any Works) in order to procure the Accredited Site Auditor to issue a new Site Audit Report and Other Remediation Works Section A Site Audit Statement(s) which addresses the Authority's concerns, and which certifies that the land on which any Other Remediation Works are carried out is suitable for its intended uses (as contemplated by this deed) and is not subject to an on-going Long-term Environmental Management Plan.

(e) The Developer acknowledges that Practical Completion (of a Works Portion comprising any Other Remediation Works) will not be achieved until (amongst other things) an Acceptable Other Remediation Works Section A Site Audit Statement(s) is procured. If clause 17.4(d) applies and the Developer issues to the Authority a new Site Audit Report and a new Section A Site Audit Statement, clauses 17.4(a) and 17.4(c) apply mutatis mutandis until an Acceptable Other Remediation Works Section A Site Audit Statement is procured.

17.5 Other Remaining Remediation Works

In relation to the Other Remaining Remediation Works:

(a) the parties acknowledge and agree that to the extent that the provisions of this clause 17 (excluding clause 17.6) apply to the Other Remediation Works and the Non-Declaration Area, those provisions, including as they relate to any documentation to be provided or procured by any person, shall also apply to the Other Remaining Remediation Works and the Non-Declaration Area Remaining;

(b) the Developer must comply with Schedule 10;

(c) the Developer must prepare a HHERA in relation to the Other Remaining Remediation Works and procure the approval of the Authority to that HHERA (the Authority acknowledges that the Developer has, at the date of the Fifth Deed of Amendment, provided a HHERA for part of the Other Remaining Remediation Works). Prior to making an amendment to any HHERA, the Developer must first procure the approval of the Authority to that amendment. Any request for approval to a HHERA or HHERA amendment from the Developer to the Authority must be accompanied by a summary of the HHERA or the changes to it (in the case of a HHERA amendment). The Authority must respond to any such request within 15 Business Days. The Developer must carry out the Other Remaining Remediation Works in accordance with the HHERA; and

(d) [redacted]

17.6 Non-Declaration Area

The parties acknowledge and agree that notwithstanding any other provision of this deed, the Authority is not liable to pay the Developer under this deed any amount in respect of any Other Investigation Works or Other Remediation Works.

[redacted]

[redacted]

[redacted]

[redacted]

18. Ferry Facility

18.1 No warranty by the Authority

The Authority provides no warranties to the Developer in relation to the development, use or operation of the Ferry Facility and in particular provides no warranties:

(a) that a ferry facility or service will be further developed (following Practical Completion of the Ferry Facility); or

(b) in relation to the extent, nature or regularity of ferry services to Barangaroo.

18.2 Preparation of Barangaroo Works Detailed Design - Ferry Facility

(a) The provisions of clause 15 will apply to the preparation of the Barangaroo Works Detailed Design relevant to the Ferry Facility by the Developer. In addition to complying with those obligations, the Developer must also:

(i) consult with Transport for NSW; and

(ii) pay all due regard to any reasonable comments or suggestions of Transport for NSW in respect of the design of those Works.

(b) Prior to lodging the draft Barangaroo Works Detailed Design relevant to the Ferry Facility with the Authority for its approval pursuant to clause 15.7, the Developer must lodge that draft Barangaroo Works Detailed Design with Transport for NSW for its approval.

(c) The Developer acknowledges that the Authority is not required to give its approval to the draft Barangaroo Works Detailed Design relevant to the Ferry Facility until Transport for NSW has given its approval to that draft Barangaroo Works Detailed Design.

18.3 Approval of design for Construction Certificate - Ferry Facility

If the level of design necessary for the issue of a Construction Certificate for that component of Barangaroo Works relevant to the Ferry Facility, is materially more detailed than the Barangaroo Works Detailed Design relevant to the Ferry Facility approved by the Authority pursuant to clause 15.7, then clause 18.2 applies to that part of the detailed design necessary for the issue of a Construction Certificate as if the references in those clauses to 'Barangaroo Works Detailed Design relevant to the Ferry Facility' were references to the Application for the issue of a Construction Certificate for 'Barangaroo Works relevant to the Ferry Facility '.

18.4 Completion of Ferry Facility

The Developer must achieve Practical Completion of the Works for the Ferry Facility by the date that the Authority notifies the Developer, such date to be not less than 18 months from the date of the notice.

19. Community Facility and Pier

19.1 Community Facility Proposal

(a) Prior to the Fifth Deed of Amendment, the parties contemplated constructing a building to be known as the “Barangaroo Innovation Centre” but as a result of

changes in the Concept Plan Approval the parties have instead agreed to consider developing a Community Facility.

(b) The Community Facility will be located in a position to be agreed by the parties, which may be:

(i) on the site currently provided for the Barangaroo Innovation Centre on the document titled "RSHP Masterplan" dated September 2013 being at the end of the Pier;

(ii) on public domain adjacent to Southern Cove; or

(iii) at a position in another part of Barangaroo South.

(c) The Authority and the Developer will act reasonably and cooperate with each other to endeavour to agree a mutually agreeable solution for the Community Facility, having regard to the provisions of this clause 19, within 3 months from the date of the Mod 8 Approval, or such other date as the Authority and the Developer may agree.

(d) The Authority and the Developer agree that an objective for the Community Facility is to activate the Barangaroo South precinct. The Authority and the Developer agree that the Community Facility will not be delivered without commercially based uses that generate the necessary revenue to pay for both the cost of design and construction of the Works and the cost of operation, maintenance and repair of the Community Facility.

(e) The Authority and the Developer agree that the Community Facility may comprise more than one built element and include the following uses:

(i) cultural/artistic;

(ii) retail floor/beverage or other commercial uses;

(iii) visitor information/innovation; and

(iv) function/community venue.

19.2 Design of Community Facility

(a) The design of the Community Facility is initially proposed to include:

(i) up to 3,000m^2 GFA, allocated to one or two buildings;

(ii) built form height up to 3 levels; and

(iii) if located at the end of the Pier in Sydney Harbour, public access to the end of the Pier without needing to enter the Community Facility.

(b) The parties will use reasonable endeavours to design the Community Facility so that it achieves design excellence in its built form.

(c) The Authority will consider the use of FJMT, architects of Anadarra as the preferred designers for the Community Facility and not unreasonably refuse or delay its consent to the identity of the architect for the Community Facility.

19.3 Construction of Community Facility

(a) LLB will be appointed by the Developer as the Builder of the Pier and associated infrastructure to the buildings associated with the Community Facility in accordance with the terms of this deed.

(b) The costs of delivery and operation of the Community Facility will be agreed in the Community Facility Proposal (which will be agreed taking into consideration the matters referred to in clause 19.7).

(c) The costs of the construction of the Pier will be borne by the Developer in accordance with clause 15.2(k), and any Remediation in relation to the Pier will be dealt with in accordance with clause 16.37.

19.4 Timing of Community Facility

If the Authority and the Developer agree on a Community Facility Proposal in accordance with clause 19.1, and subject to:

(a) receipt of Approvals for the development, construction and use of the Community Facility being obtained no later than [redacted] (unless any such delay is due to the acts or omissions of the Developer or the Developer's Employees and Agents or the Authority or the Authority's Employees and Agents);

(b) issue of Construction Zone Licence and access related approvals from other Public Authorities for the Pier, associated infrastructure and the Community Facility being granted no later than December 2015; and

(c) the Developer not being delayed in commencing construction of the Community Facility by 1 December 2015 due to reasons beyond its control,

and the Developer must use reasonable endeavours to achieve Practical Completion of the Pier and the Community Facility (if it proceeds) during 2017, but in any event no later than 31 December 2018.

19.5 Lease of Community Facility

(a) In nominating an Acceptable Tenant for a Lease of premises comprising the Community Facility, the Developer will have regard to the:

(i) final location of the Community Facility;

(ii) length of tenure; and

(iii) primary use of the Community Facility.

(b) The term of the Lease of the Community Facility will be at least 15 years and may be up to 99 years.

(c) Notwithstanding clause 19.5(a), if the Community Facility is located on the Pier in Sydney harbour, the parties acknowledge that Roads and Maritime Services is the owner for the purposes of the grant of the licence or lease and in such case:

(i) the Authority must, in a timely manner use its reasonable endeavours to either grant, or otherwise procure the grant by Roads and Maritime Services to the Developer, or its nominee, a lease or licence over the Community Facility;

(ii) subject to clause 11.3, the Developer must procure all necessary consents and approvals from Roads and Maritime Services to allow for

the construction of the Community Facility and the Pier structure and associated infrastructure upon which it is to be supported; and

(iii) it is acknowledged that Roads and Maritime Services may not agree to a lease of the Community Facility and may not agree to a term of the length referred to in clause 19.5(b).

19.6 Sublease to the Authority (or its nominee)

(a) In replacement for the Authority's rights in relation to the Barangaroo Innovation Centre which has been superseded as referred to in clause 19.1(a), the Authority is to be granted a sublease of part of the Community Facility if the Community Facility Proposal is agreed.

(b) The Developer and Authority agree that within 30 Business Days after the grant of any Lease of Premises comprising the Community Facility, the Developer will, if the Authority so requests, procure the grant of a sublease of part of the Community Facility to the Authority (or its nominee).

(c) If the Authority or its nominee does not enter into the sublease, the Authority must contribute $[redacted] to the cost of funding the Community Facility in accordance with clause 19.7(c)(ii).

(d) The sublease to the Authority (or its nominee) will include the following commercial terms:

(i) it will be for an initial term of 10 years;

(ii) subject to there being sufficient term remaining under the relevant Lease, there will be an option for the Authority to renew the sublease for a further 5 years;

(iii) the Premises specified in the sublease will be an area of 1,000 m^2 in a position within the Community Facility approved by the Authority acting reasonably;

(iv) rent for the first year of the term will be determined at the rate of $500 per m^2 of the GFA of the sublease premises per annum;

(v) the Authority (or its nominee) will be liable for its share of outgoings and levies, including the Estate Levy on a pro rata area basis; and

(vi) rent will increase annually in accordance with movement in the CPI, or 3% per annum whichever is the lesser.

19.7 Funding of the Community Facility

(a) Funding for the delivery and operation of the Community Facility will be dependent on the final ownership structure and usage.

(b) The Community Facility is intended to include commercial uses to generate revenue to pay for the cost of the design and construction capital works and the costs of the ongoing maintenance of the Community Facility, and the Developer need not agree to any Community Facility Proposal that, in its reasonable opinion, is not likely to satisfy this requirement (but must agree if the Community Facility Proposal proceeds to a sublease to the Authority in accordance with clause 19.6).

(c) The following possible sources of funding may be allocated to cover any costs incurred by the Developer in the development of the Community Facility:

(i) $[redacted] Barangaroo Works Allocated Cost for the Community Facility specified in the 'Preferred Scheme Cost Plan' in Schedule 6;

(ii) $[redacted] contributed by the Authority if it or its nominee does not take a sublease of part of the Community Facility in accordance with clause 19.6; and

(iii) any rent or other income received from commercial users of the Community Facility.

19.8 Agreement on Community Facility Proposal

(a) If the Authority and the Developer agree on a Community Facility Proposal in accordance with clause 19.1, the Developer will design and construct the Community Facility in accordance with the terms of this deed and such Commercial Facility Proposal.

(b) Unless otherwise agreed, if the Developer and the Authority do not agree on a Community Facility Proposal within 3 months following the date of Mod 8 Approval (or such other date as may be agreed by the parties):

(i) the $[redacted] Barangaroo Works Allocated Cost for the Community Facility specified in the 'Preferred Scheme Cost Plan' in Schedule 6 will be generally allocated to the Public Domain;

(ii) the Authority will be released from its obligation to take a sublease of part of the Community Facility under clause 19.5; and

(iii) the Developer will be released from any obligation to deliver the Community Facility under this deed but will remain obliged to deliver the Pier at its cost in accordance with this deed.

19.9 Management and Operation of the Community Facility

(a) The Community Facility Proposal will set out the operation and management arrangements to apply to the Community Facility.

(b) The Authority and the Developer will consider in good faith the operation and management arrangements for the Community Facility which may include (without limiting consideration of other potential arrangements) appointment of:

(i) an entity related to the Developer;

(ii) a third party Nominee of the Developer with specialist experience in the relevant proposed usage of the Community Facility contemplated by the Community Facility Proposal; or

(iii) a precinct management body responsible for management of the balance of the Public Domain.

20. Metro Line 1 (Stage 1)

20.1 NSW Government Metro Line 1 (Stage 1) proposal

(a) The parties acknowledge and agree that:

(i) up until 21 February 2010, the NSW Government had proposed to deliver the Metro Line 1 (Stage 1) which would have, if delivered, serviced Barangaroo (amongst other areas). Up until that time, the

Authority had anticipated that the Barangaroo Metro Line 1 (Stage 1) station would have been operational from December 2015;

(ii) on 21 February 2010, the NSW Government disclosed that it had decided not to proceed as previously announced with Metro Line 1 (Stage 1); and

(iii) it may be that the NSW Government will proceed to deliver the Metro Line 1 (Stage 1) within Barangaroo.

(b) Despite clause 20.1(a), the Authority provides no warranty to the Developer in relation to the Metro Line 1 (Stage 1), and in particular provides no warranties:

(i) that the Metro Line 1 (Stage 1) will or will not be delivered;

(ii) in relation to the timing of delivery (if at all) of the Metro Line 1 (Stage 1);

(iii) as to whether the Metro Line 1 (Stage 1) (if delivered) will service Barangaroo or the frequency or timing of any service to Barangaroo; or

(iv) in relation to the location of the Metro Line 1 (Stage 1) railway corridors, tunnels and infrastructure.

20.2 Proposed location of Metro Line 1 (Stage 1) (in relation to Barangaroo)

(a) As at the Commencement Date, the Metro Line 1 (Stage 1) rail alignment has been determined by the NSW Government and the Metro Line 1 (Stage 1) railway corridors, tunnels and infrastructure will (if the Metro Line 1 (Stage 1) is delivered) pass beneath and adjoin the southern boundary of Barangaroo.

(b) To the extent a proposed Metro Line 1 (Stage 1) station or station portals, railway corridor, tunnel or other Metro Line 1 (Stage 1) infrastructure (including stacks and exhaust outlets) (as has been, or is, determined by the NSW Government) passes under or affects any part of the Site relevant to a Works Portion, the Developer must take into account such station, station portals, corridors, tunnels and other infrastructure in designing that Works Portion. Subject to any other provision of this deed, any costs and all risk associated with accommodating these matters is at the sole cost and risk of the Developer.

(c) To the extent any Works may interfere with, or otherwise may be affected by, the Metro Line 1 (Stage 1), including in relation to any Metro Line 1 (Stage 1) zone of influence:

(i) the Developer agrees to consult with Sydney Metro and the Authority in connection with the design and construction of that part of the Works; and

(ii) the Developer acknowledges that the Authority will not give approval to any Part 3A Application unless the Authority is satisfied (acting reasonably) that any consultation with or approval by Sydney Metro in relation to those Works has been undertaken or given, or otherwise the Authority is satisfied that arrangements have or will be put in place to ensure that those Works appropriately interface with and do not adversely affect, the Metro Line 1 (Stage 1) arrangements.

20.3 Building and the Metro Line 1 (Stage 1) railway corridor

(a) The Developer must at its cost:

(i) before any Works are carried out on the Site which, in the Authority's reasonable opinion, may impact the Metro Line 1 (Stage 1), notify Sydney Metro of its proposal to conduct the Works;

(ii) obtain any consent from Sydney Metro required under the Transport Administration Act 1988 (NSW); and

(iii) comply with any notices issued by Sydney Metro under the Transport Administration Act 1988 (NSW).

(b) The Developer indemnifies the Authority as owner of the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6) against any liability or loss arising from, and any Costs incurred in connection with the Works impacting the Metro Line 1 (Stage 1) railway corridor in any respect.

20.4 Authority to consult and inform

When information becomes available to it from time to time in relation to the Metro Line 1 (Stage 1), the Authority must consult with, and provide all relevant information to, the Developer subject to any constraints or restrictions on the Authority in relation to confidential or proprietary information and subject also to restrictions in relation to 'commercial in confidence' and politically sensitive information.

21. Cruise Terminal

21.1 Construction of Temporary Cruise Terminal

The Developer and the Authority agree that all liabilities and obligations of the parties in relation to the project management, construction and completion of the Temporary Cruise Terminal Works (including the works contemplated by clause 15.22) have been discharged and satisfied in full.

21.2 Relocation of Cruise Terminal

(a) In Sydney Ports Corporation relocating from the Existing Cruise Terminal Site to the Temporary Cruise Terminal Site, the Authority (and Sydney Ports Corporation) may remove such items from, and do anything to, the Cruise Terminal as it desires, but is under no obligation to remove any item from, or do anything to (including undertaking any demolition of any part of), the Cruise Terminal.

(b) The Authority makes no warranty to the Developer regarding the state or condition of the Existing Cruise Terminal Site following its relocation and the Developer must accept the Existing Cruise Terminal Site in the condition it is in at that time, except that the Authority must leave the Existing Cruise Terminal Site in a safe condition at completion of Sydney Ports Corporation's relocation.

(c) The Authority must give the Developer a notice once Sydney Ports Corporation has completed its relocation to the Temporary Cruise Terminal Site. Such notice will include confirmation that on and from the date of the notice:

(i) no more vessels will utilise the Cruise Terminal at the Existing Cruise Terminal Site; and

(ii) the Developer may request the Authority to grant a Construction Zone Licence over that part of the Site which includes the Existing Cruise Terminal Site in accordance with the provisions of this deed.

21.3 No warranty by the Authority

Without prejudice to the Developer's rights under clause 25, the Authority provides no warranties to the Developer in relation to the development, use or operation of the Cruise Terminal (whether at the Existing Cruise Terminal Site or the Temporary Cruise Terminal Site) and in particular provides no warranties:

(a) that the Temporary Cruise Terminal will be further developed; or

(b) in relation to how many or what vessels will utilise the Temporary Cruise Terminal.

22. Wynyard Walk and other pedestrian connections

22.1 Status of Wynyard Walk and City Walk Bridge

(a) As at the Commencement Date, planning of Wynyard Walk is being progressed primarily by Sydney Metro with input by the Authority and other relevant stakeholders.

(b) The Authority understands that it is the intention of Sydney Metro that the design of Wynyard Walk will provide safe, direct, attractive and accessible pedestrian connectivity between Barangaroo and Wynyard Station. As at the date of the Fifth Deed of Amendment, Transport for NSW is constructing Wynyard Walk.

(c) The Developer is constructing the City Walk Bridge and acknowledges that there may be other Nominated Pedestrian Connections (which may or may not be constructed by it or others).

22.2 Other Pedestrian Connections

(a) As at the Commencement Date, the Authority, in conjunction with Sydney Metro, intends to undertake further studies to explore all of the available pedestrian enhancements that may connect Barangaroo to Wynyard Station. Those studies will test the maximum "at surface" pedestrian capacity and the extent to which Wynyard Walk is necessary. Those studies will also consider what surface upgrade works are appropriate for Margaret Street to improve the capacity and amenity of the pedestrian network.

(b) Despite clauses 22.1(a) to 22.1(c), the Developer acknowledges that all matters related to Wynyard Walk (including the design, development and construction of Wynyard Walk) are outside the control of the Authority.

(c) The Authority provides no warranty to the Developer in relation to Wynyard Walk and in particular provides no warranties:

(i) that Wynyard Walk will be constructed;

(ii) in relation to the timing of construction (if at all) of Wynyard Walk; or

(iii) in relation to the nature or location of Wynyard Walk.

22.3 Authority to consult and inform

When information becomes available to it from time to time in relation to Wynyard Walk, the Authority agrees to consult with, and provide information to, the Developer subject to any

constraints or restrictions on the Authority in relation to confidential or proprietary information relating to Wynyard Walk and subject to restrictions in relation to 'commercial in confidence' and politically sensitive information.

22.4 Developer's Nominated Pedestrian Connection

The Developer's obligation with respect to the design and construction of the City Walk Bridge is subject to and conditional on:

(a) the Authority obtaining, at no cost to the Developer:

(i) relevant air and support rights;

(ii) relevant land owner approvals;

(iii) surface rights;

(iv) approvals of the Roads and traffic Authority to narrow Napoleon Street;

(v) all relevant easements; and

(vi) all relevant approvals associated with erecting a bridge adjacent to a heritage building,

(and the Authority must use its reasonable endeavours to obtain such right, approvals and easements promptly); and

(b) the Developer not being required to incur:

(i) any costs arising from the Developer complying with a works authorisation deed entered into with the relevant roads authority, to the extent that the Developer can demonstrate to the Authority's satisfaction (acting reasonably) that these are costs which:

A. are additional to the costs which the Developer has reasonably anticipated would be incurred by it in connection with the construction of Wynyard Walk had it not been erected over a road; or

B. arise from modifications which are required to be made to the manner in which the Developer undertakes the relevant Works;

(ii) any additional costs associated with working out of hours;

(iii) any costs associated with all modifications which are needed to Moreton's Beer Garden to accommodate delivery access;

(iv) any costs associated with the reconfiguration of Westpac Place;

(v) any costs of business interruption to adjoining owners resulting from these works;

(vi) any liability in respect of loss of revenue suffered by the landlord and/or occupier of Moreton's Hotel arising from the closing of any part of those premises;

(vii) any cost of stabilisation anchors;

(viii) any costs incurred by the Developer in meeting any additional requirements or variations required by Metro Line 1 (Stage 1);

(ix) any costs associated with any restrictions imposed by the Roads and Traffic Authority relating to the Harbour Bridge approach support requirements;

(x) any costs associated in obtaining tree removal approvals; and

(xi) any liability in respect of lost car parking revenue from Hickson Road and Napoleon Street arising from these works.

22A. Hickson Road Upgrade Works

22A.1 Scope

(a) The scope of the proposed work to upgrade Hickson Road is to be carried out in three stages as follows:

(i) Stage 1 – Shelley to Napoleon Streets

(ii) Stage 2 – Napoleon to Globe Street

(iii) Stage 3 – Globe Street to final northern boundary

as generally set out in Schedule 14.

(b) This clause 22A will apply to all three stages, but currently only the detailed drawings for Stage 1 are set out in Schedule 14.

(c) The parties will work collaboratively together and negotiate in good faith and in a timely manner to develop the designs and contract pricing for the subsequent two stages of the Upgrade Works.

22A.2 Approvals

(a) The Developer will prepare and submit a Review of Environmental Factors (**REF**) required for determination of the Upgrade Works under Part 5 of the EP&A Act.

(b) Subject to the REF being duly prepared and containing all material reasonably necessary to enable the Authority to make a determination in respect of the REF, the Authority will, in a timely manner (and at its own cost) review the REF and provide its determination in its capacity as the relevant roads authority under the Roads Act 1993.

(c) The Developer must prepare or procure all documents needed in order for a determination to be made in respect of the REF.

(d) The Authority will use reasonable endeavours to assist the Developer in procuring any additional submissions required by, or Approvals required from, the City of Sydney, Roads and Maritime Services or other government authorities in respect of the Upgrade Works.

(e) The Authority and the Developer will share all costs (except internal Authority and the Developer management costs) incurred to procure all necessary Approvals in equal proportions.

22A.3 Design

(a) The Developer has engaged LLB under a Managing Services Agreement to prepare the design of the Upgrade Works up to the REF stage.

(b) Within 10 Business Days after the date on which the REF is submitted to the Authority for determination, the Developer must:

(i) vary the Managing Services Agreement to include the scope of progressing the Upgrade Works to detailed design stage; and

(ii) submit the draft Upgrade Works scope to the Authority for the Authority's approval (acting reasonably).

(c) The Authority must give or refuse its approval to the variation of the Managing Services Agreement and the draft Upgrade Works scope within 10 Business Days of receipt.

(d) Within 10 Business Days after the date on which the Authority gives its approval in respect of the variation of the Upgrade Works scope and the variation of the Managing Services Agreement, the Developer must execute the variation to the Managing Services Agreement and instruct LLB to prepare the detailed design of the Upgrade Works based on the varied Upgrade Works scope (as approved by the Authority).

(e) The Authority and the Developer will share all costs incurred under the Managing Services Agreement in equal proportions.

22A.4 Developer Hickson Road Works

(a) The Developer and the Authority acknowledge that the Developer must undertake certain works in Hickson Road in order to satisfy existing conditions of Approvals.

(b) The Upgrade Works shall not be extended to include any of the Developer Hickson Road Works, but to the extent that the Upgrade Works materially duplicate any Works within the scope of the Developer Hickson Road Works, the scope of the Upgrade Works will be reduced accordingly.

22A.5 Contract Sum

(a) The Developer must, once the relevant information is provided by LLB under the Managing Services Agreement, provide the Authority with a detailed estimate to carry out the Upgrade Works on a fixed sum contract price basis (**Contract Sum**) together with a draft of the Upgrade Works Contract to be entered into by the Developer with LLB.

(b) In preparing the estimate, the Developer must provide a genuine market-competitive proposal which does not include any fees, margins or premiums which would not ordinarily be charged in a competitive third party arm's length contract for civil works (either at all, or to the extent proposed in the estimate).

(c) Any external third party costs involved in administering the Upgrade Works Contract with LLB will be shared between the Developer and the Authority. The Developer and the Authority will agree a reasonable contingency amount to be included in the Contract Sum to cover any matter for which the Contract Sum will adjust.

(d) The Developer must submit the Contract Sum together with the draft Upgrade Works Contract, all supporting evidence and limitations or exclusions substantiating the calculation of the Contract Sum to the Authority for the Authority's approval, not to be unreasonably withheld or delayed.

(e) The Authority, the Developer and LLB must meet, and discuss in good faith, the Contract Sum with the aim of agreeing the fixed sum and, if requested by the Authority, a revised scope of Upgrade Works. This process is the Preferred Procurement Approach.

(f) If the Authority, the Developer and LLB cannot agree on a fixed sum representing the Contract Sum, or if the Authority considers that the estimate provided by the Developer does not represent a market competitive proposal (whether in terms of time, cost, risk, quality or any other conditions required by the Authority), the Authority may put the Upgrade Works to an open tender process which will be carried out in accordance with the NSW Government Procurement Guidelines, and allow for reasonable consultation with the Developer at all stages of the tender process. In this circumstance the Developer will contribute 50% towards the fixed lump sum of the successful tenderer and the Authority will enter into the construction contract with the successful tenderer and administer the procurement and delivery of the Upgrade Works. The Developer and the Authority will equally share the cost of approved variations of the contractor as agreed by an independent Quantity Surveyor administering the works.

22A.6 Procurement and Delivery

(a) If the Preferred Procurement Approach is successful, as soon as is practicable, following approval of the Contract Sum by the Authority, the Developer must:

(i) prepare and negotiate a contract for the procurement and delivery of the Upgrade Works on terms agreed between the Developer, the Authority and LLB and which must include:

A. a fixed sum contract price for the Upgrade Works in accordance with the approved Contract Sum; and

B. a requirement for LLB to comply with the NSW Government Code of Practice for Procurement in carrying out the Upgrade Works; and

C. a requirement for LLB to submit progress claims in a manner consistent with clause 22A.7;

(ii) provide a copy of the proposed contract to the Authority for its review and approval; and

(iii) once approved by the Authority (or amended as directed by the Authority), engage LLB to carry out the Upgrade Works on the terms of contract as approved (or as required) by the Authority,

(**Upgrade Works Contract**).

(b) Except as specified above, the Developer must not enter into any contract, agree any programme, let any tender, submit any contractor recommendation or make any material arrangement in respect of the Upgrade Works without the prior written approval of the Authority.

22A.7 Payment terms

(a) If the Preferred Procurement Approach is successful, the Developer must procure that LLB submits monthly progress claims to the Developer and the Authority for the cost of all design and construction work and services carried out in the previous month under the Upgrade Works Contract on the basis that each of the Authority and the Developer pays 50% of the total claim (**Progress Claim**).

(b) Each Progress Claim must include reasonable supporting documentation, including (but not limited to):

(i) a certificate provided by an external independent quantity surveyor confirming that:

A. all works, materials, services and other supplies specified in the Progress Claim have been carried out, provided or conducted in accordance with the scope of the Upgrade Works Contract; and

B. the amount claimed reflects the costs legitimately and reasonably incurred in respect of those works, materials, services or other supplies;

(ii) confirmation that all subcontractors engaged in respect of the Upgrade Works have been paid; and

(iii) valid tax invoices for the amount payable by each party specifying the amount of GST payable.

(c) The Authority and the Developer will jointly agree and appoint a suitably qualified external independent quantity surveyor for the purposes of reviewing the Progress Claims and providing the certification contemplated above.

(d) The Developer must satisfy itself (acting reasonably) that each Progress Claim is legitimate and appropriate, having regard to the supporting information provided by LLB and notify the Authority to this effect. If the Developer cannot satisfy itself in this regard, the Developer must reject or dispute the Progress Claim and provide notice to the Authority confirming the reasons for rejecting or disputing the Progress Claim.

(e) In respect of a Progress Claim (as certified by the Quantity Surveyor), the Developer and the Authority must pay the amount in the tax invoice in full to LLB within 30 days of receipt.

22A.8 Date for Commencement and Completion

The Developer and the Authority will use reasonable endeavours to carry out their obligations in a manner that will allow the Upgrade Works to be commenced as soon as practicable after the date of the Fifth Deed of Amendment and completed by 30 December 2015, with the intention of completing the component of Upgrade Works between Napoleon Street and the Wynyard Walk bridge by July 2015.

23. Headland Park

23.1 Intention to deliver Headland Park

(a) As at the Commencement Date, it is the intention of the Authority to design and construct the Headland Park with a view to commencing physical construction by 31 December 2011 and completing it by 31 December 2015.

(b) Despite clause 23.1(a) but without prejudice to the Developer's right to claim an extension of time as contemplated by clause 25 the Authority provides no warranty to the Developer in relation to the Headland Park, and in particular provides no warranties:

(i) that the Headland Park will be constructed;

(ii) in relation to the timing of construction (if at all) of the Headland Park; or

(iii) in relation to the use, nature or location of the Headland Park.

23.2 Authority to consult and inform

When information becomes available to it from time to time in relation to the Headland Park, the Authority agrees to consult with, and provide information to, the Developer subject to any constraints or restrictions on the Authority in relation to confidential or proprietary information relating to Headland Park and subject to restrictions in relation to 'commercial in confidence' and politically sensitive information.

23.3 Relocation and storage of excavated material to other areas of Barangaroo

(a) If requested by the Developer before 30 June 2014, the Authority will consider any written proposal by the Developer to relocate or store material excavated from the Site to other areas of Barangaroo.

(b) If the Authority accepts the Developer's proposal to relocate or store material excavated from the Site to other areas of Barangaroo, then the Authority will provide to the Developer all terms and conditions that the Developer must comply with in connection with that relocation or storage, including the Authority's reasonable requirements in relation to:

(i) the location of any proposed unloading point of excavated material;

(ii) transport and delivery;

(iii) prior written notice of delivery;

(iv) dust (and other environmental quality) controls;

(v) compaction methodology;

(vi) relocation of material which is temporarily stored at other areas of Barangaroo;

(vii) standards of quality restrictions, which cannot be more than a requirement that the material be Remediated to a standard which the Accredited Site Auditor certifies is suitable for use within Barangaroo (other than the Site);

(viii) required certifications consistent with the standards contemplated by clause 23.3(b)(vii); and

(ix) warranties and indemnities to be provided by the Developer,

and where the Developer accepts the Authority's terms, the Developer must comply with such requirements.

23A. Consequences of Termination of Crown Development Agreement

23A.1 Application of clause

(a) This clause 23A applies if the Crown Development Agreement is terminated prior to practical completion (in accordance with the Crown Development Agreement) of the Hotel Resort and not otherwise. It contemplates the Developer submitting to the Authority concept designs for an alternative development of Stage 1 and the utilisation of Developable GFA which may be available as a result of the termination

of the Crown Development Agreement on either Stage 1C or the remainder of the Site.

(b) Until the earlier of:

(i) 12 months after the date of termination of the Crown Development Agreement; and

(ii) the date the negotiations in relation to the Alternative Development Proposal are terminated in accordance with clause 23A.2,

the Developer is only entitled to submit Applications for development in respect of Stage 1C or any other part of the Site as it relates to an Alternative Development Proposal in accordance with this clause 23A.

(c) Despite the termination of the Crown Development Agreement, the Developer is permitted to develop the shared basement proposed in Mod 8 if it has been approved by the Authority and the Consent Authority.

23A.2 Alternative Development Proposal

(a) The Developer may submit a proposal, or a combination of proposals, to utilise Developable GFA of up to 33,000m^2 to the Authority within 6 months after the date of termination of the Crown Development Agreement (as that period may be extended in accordance with this clause).

(b) If the Developer submits an Alternative Development Proposal, the Developer and the Authority must negotiate and consider that Alternative Development Proposal in good faith.

(c) If the Developer is diligently pursuing an Alternative Development Proposal, the time period in which the Developer may submit the Alternative Development Proposal is automatically extended by 3 months on each of the dates which are 6 months and 9 months after the date of termination of the Crown Development Agreement so that the Developer is entitled to pursue an Alternative Development Proposal with the Authority for a maximum period of 12 months from the date of termination of the Crown Development Agreement (subject to any extension agreed by the parties or pending resolution of a dispute in respect of this clause).

(d) If following:

(i) the date which is 6 months after the date of termination of the Crown Development Agreement; or

(ii) the date which is 9 months after the date of termination of the Crown Development Agreement,

the Authority forms the view, acting reasonably, that:

(iii) the Developer is not diligently pursuing the Alternative Development Proposal; or

(iv) the Authority is unlikely to approve the Alternative Development Proposal in its then current form,

the Authority may notify the Developer within 10 Business Days of forming that view and the Developer must diligently pursue or revise the Alternative Development Proposal by the earlier of:

(v) 45 Business Days from the date of the Authority's notice under this clause 23A.2(d); and

(vi) the expiry of 12 months from the date of termination of the Crown Development Agreement.

23A.3 Alternative Development Proposal Scenarios

(a) An Alternative Development Proposal may consist of a proposal, or a combination of proposals, to utilise Developable GFA of up to 33,000m^2:

(i) for a hotel or other building on Stage 1C, in which case the Authority may approve or refuse the Alternative Development Proposal in its sole and unfettered discretion and, if approved as an Alternative Development Proposal, any Significant Application in respect of that Alternative Development Proposal will be a Significant Project Issue;

(ii) for a hotel or other building or additional Developable GFA in another building on a part of the Site which is not Stage 1C, in which case the Authority may approve or refuse the Alternative Development Proposal in its reasonable discretion and it will be reasonable for the Authority to refuse an Alternative Development Proposal if it gives rise to a Significant Project Issue, but if approved as an Alternative Development Proposal, any Significant Application in respect of that Alternative Development Proposal will be deemed not to give rise to a Significant Project Issue.; and

(b) If an Alternative Development Proposal comprises a combination of the scenarios described in this clause 23A.3(a), the relevant level of Authority discretion to approve the Alternative Development Proposal will apply to the extent of each relevant scenario.

(c) Without prejudice to the Authority's rights under clause 23A.3(a), if the Authority approves an Alternative Development Proposal, in considering the Application or Applications relating to the Alternative Development Proposal, the Authority must act reasonably to the extent to which the Application or relevant element of the Application is consistent with, or is reasonably contemplated by, the Alternative Development Proposal.

23A.4 Developer no longer wishes to pursue Alternative Development Proposal

If the Developer no longer wishes to pursue an Alternative Development Proposal, it must notify the Authority within 21 Business Days of reaching the decision not to pursue that Alternative Development Proposal.

23A.5 Approval of Alternative Development Proposal

If the Developer has submitted an Alternative Development Proposal to the Authority in accordance with this clause, the Authority must notify the Developer within 40 Business Days of submission of the Alternative Development Proposal whether it approves or refuses its consent to the Alternative Development Proposal.

23A.6 Developer to diligently pursue Alternative Development Proposal

(a) If:

(i) the Developer does not diligently pursue or revise the Alternative Development Proposal following notice from the Authority under clause 23A.2(d);

(ii) the Developer notifies the Authority under clause 23A.4; or

(iii) the Alternative Development Proposal is not submitted by the date being 12 months after the termination of the Crown Development Agreement (subject to any extension agreed by the parties or any pending resolution of a dispute in respect of this clause),

the Authority may:

(i) notify Crown that the Developer is not carrying out an Alternative Development Proposal and direct Crown to carry out its obligations under clause 39.1(a) of the Crown Development Agreement; or

(ii) require the Developer to temporarily landscape Stage 1C to the standard reasonably applying from time to time to other vacant parts of the Site pending further development of it under this deed;

(b) The Developer may notify a dispute in respect of this clause under clause 45:

(i) if the Developer disagrees with the Authority's view that the Developer is not diligently pursuing an Alternative Development Proposal;

(ii) if the Authority does not notify whether it approves or refuses its consent to any Alternative Development Proposal (within the time period specified in clause 23A.5); or

(iii) as to whether the Authority has exercised reasonable discretion in refusing to approve an Alternative Development Proposal or component of an Alternative Development Approval to which clause 23A.3(a)(ii) applies.

(c) If the Developer has notified a dispute in respect of this clause:

(i) the timeframe for the Developer to submit an Alternative Development Proposal is extended pending resolution of the dispute under clause 45; and

(ii) the Authority is not permitted to give a notice referred to in clause 23A.6(b) pending resolution of the dispute.

23A.7 Further Modifications

If the Authority has approved an Alternative Development Proposal in accordance with clause 23A.5, the Developer may apply to the Authority, and once approved by it, to the Consent Authority, to modify the Concept Plan Approval, if required, or to obtain an Approval for the development contemplated by that approved Alternative Development Proposal in accordance with the provisions of this deed (as an Alternative Modification Application) and at its sole cost.

23A.8 Significant Project Issue – GFA

Other than in connection with the Mod 8 Application and the Mod 8 Approval, the parties agree that the Authority is entitled to consider any Application by the Developer which would have the effect of increasing the Developable GFA to an amount of 525,127m^2 or more on the basis that the Application gives rise to a Significant Project Issue.

24. Achieving Practical Completion

24.1 Developer must progress

(a) Subject to clause 25, in respect of each Works Portion or Separable Portion, the Developer must:

(i) carry out that Works Portion or Separable Portion in an expeditious, proper and workmanlike manner under adequate and competent supervision, and in accordance with the best practices of the various trades involved, using good quality new materials;

(ii) carry out the Works in respect of that Works Portion or Separable Portion with due skill, care and diligence;

(iii) comply with the Public Domain Works Design Brief in relation to any Works Portion relating to the Barangaroo Works;

(iv) ensure that that Works Portion and every Separable Portion within that Works Portion reaches Practical Completion by the Last Date for Practical Completion;

(v) ensure that Vacation of BDA Development Block 5 occurs by the Date for Vacation of BDA Development Block 5;

(vi) ensure that Vacation of BDA Development Block 6 occurs by the Date for Vacation of BDA Development Block 6;

(vii) ensure that Vacation of BDA Development Block 7 occurs by the Date for Vacation of BDA Development Block 7; and

(viii) ensure that Vacation of the Hickson Road Declaration Area occurs by the Date for Vacation of Hickson Road Declaration Area.

(b) For the avoidance of doubt, the parties agree that this clause 24 does not apply to Practical Completion of the Investigation Works.

24.2 Notice of anticipated Practical Completion

In respect of each Works Portion or Separable Portion as the case may be:

(a) the Developer must:

(i) at least 4 months prior to the date on which it reasonably anticipates Practical Completion of that Works Portion; or

(ii) at least 2 months prior to the date on which it reasonably anticipates Practical Completion of a Separable Portion,

will be achieved, and at any other time the Authority may, request the Independent Certifier to assess the likely date for Practical Completion of that Works Portion or the Separable Portion, as the case may be, and following such assessment, the

Independent Certifier must by notice to both the Authority and the Developer, certify the Anticipated Date of Practical Completion of that Works Portion or the Separable Portion as the case may be; and

(b) the Developer must give the Authority and the Independent Certifier at least 20 Business Days' notice of the date on which the Developer anticipates that Practical Completion of that Works Portion or Separable Portion, as the case may be, will be reached.

24.3 Requesting Certificate of Practical Completion

When the Developer is of the opinion that Practical Completion of a Works Portion or a Separable Portion, as the case may be, has been reached, the Developer must:

(a) request the Independent Certifier to issue a Certificate of Practical Completion in relation to that Works Portion or the Separable Portion; and

(b) at the same time give the Authority a copy of that request.

24.4 Independent Certifier to certify

In respect of a Works Portion or a Separable Portion, within 5 Business Days after the receipt of the Developer's request, the Independent Certifier must give the Developer (with a copy to the Authority at the same time) either:

(a) a Certificate of Practical Completion certifying the Date of Practical Completion of that Works Portion or Separable Portion as the case may be; or

(b) the reasons for not issuing that certificate, and provide a detailed list of work required to be completed in order for that certificate to be issued.

24.5 Carrying out required work

On receipt of the detailed list referred to in clause 24.4(b), the Developer must carry out the work referred to in that list and, on completion of that work, request the Independent Certifier to issue a Certificate of Practical Completion for the relevant Works Portion or the Separable Portion, as the case may be or, and clauses 24.4, and this clause 24.5 will re-apply.

24.6 Effect of Certificate

The issue of a Certificate of Practical Completion of a Works Portion or Separable Portion is evidence that Practical Completion of that Works Portion or Separable Portion has been achieved, but not an acknowledgment that otherwise the Developer has complied with its obligations under this deed.

24.7 Prerequisites for issue of Certificate of Practical Completion

A Certificate of Practical Completion for each Works Portion or Separable Portion may not issue unless and until:

(a) the Developer has given to the Authority a copy of a survey prepared by a Surveyor showing that the Works the subject of that Works Portion or Separable Portion other than agreed overhangs and encroachments are within the intended area for those Works or Separable Portion (as contemplated by this deed and the Proposed Premises Plan);

(b) the Developer has procured from the Independent Certifier the issue of a certificate addressed to the Authority stating that the Works the subject of that Works Portion or Separable Portion (except for minor omissions or defects or variations which the Independent Certifier determines do not adversely impact on the use and

enjoyment of the relevant Works Portion or Separable Portion as the case may be) have been completed in accordance with the Works Documents; and

(c) the Developer has delivered to the Authority copies of all other certificates (including any Part 4A Certificate and any Complying Development Certificate), consents and Approvals required of any relevant Public Authority, whose certificate, consent or approval is required for the erection, use or occupancy of each part of the Works Portion or Separable Portion.

24.8 Requirements following issue of Certificate of Practical Completion

Within 60 Business Days after the Certificate of Practical Completion for each Works Portion or Separable Portion issues, the Developer must:

(a) deliver to the relevant Consent Authority all compliance reports required to be delivered to that Consent Authority in relation to that Works Portion or Separable Portion; and

(b) deliver to the Authority copies of all documents and Approvals issued by the relevant Public Authority acknowledging completion of the works the subject of that Works Portion or Separable Portion, and permitting use and occupation of the development the subject of that Works Portion or Separable Portion (including a Compliance Certificate and an Occupation Certificate).

24.9 Providing documents to the Authority

Promptly, and in any event within 4 months after Practical Completion of a Works Portion or Separable Portion, the Developer must do all things required to procure the issue and delivery to the Authority of copies of the following items in relation to that Works Portion or Separable Portion:

(a) as-built drawings of the Works the subject of that Works Portion or Separable Portion;

(b) all surveys of the Premises the subject of that Works Portion or Separable Portion in the possession or control of the Developer which have not previously been delivered to the Authority, including a copy of any survey of the completed Development by a Surveyor in form and substance satisfactory to the Authority; and

(c) all certificates issued by any Public Authority in relation to any part of the Works the subject of that Works Portion or Separable Portion which have not previously been delivered to the Authority.

24.10 Separable Works Portions

(a) The Developer may propose that a separable portion of a Works Portion be created so as to achieve Practical Completion of a Works Portion on a progressive basis with the approval of the Authority, not to be unreasonably withheld or delayed.

(b) It is a condition precedent to Approval of a part of a Works Portion to be capable of being a Separable Portion for the purposes of this deed, that part of the Works comprising the Separable Portion must:

(i) be capable of use, operation and occupation on a standalone basis;

(ii) be capable at Law of separate use, operation and occupation;

(iii) where relevant:

A. have reasonable and safe access and fully completed access to a public road or a road which is accessible to the public except where the Separable Portion comprises infrastructure only, in which case the Separable Portion must have reasonable and safe access; and

B. include necessary common areas, shared facilities and services which are designed for use with that part of the Works,

and the Works the subject of a Works Portion must remain capable of achieving Practical Completion by the Last Date for Practical Completion of that Works Portion despite being divided into Separable Portions.

(c) An application to the Authority for Approval of a proposed Separable Portion must be accompanied by:

(i) a certificate signed by the Project Director or a director of the Developer certifying:

A. how the proposed Separable Portion complies with the requirements of clause 24.10(b); and

B. that the Works the subject of the Works Portion remain capable of achieving Practical Completion by the Last Date for Practical Completion of that Works Portion despite being divided into Separable Portions;

(ii) the details of all other proposed Separable Portions within the Works Portion of which the proposed Separable Portion forms part;

(iii) details of the proposed apportionment among the proposed Separable Portions of the liquidated damages referred to in clause 25.10 in respect of the relevant Works Portion which shall be apportioned equitably between the Separable Portions and in such a way that when the proposed Separable Portions are aggregated, the total of the rates of liquidated damages payable in relation the Separable Portions shall not exceed the rate of liquidated damages applicable to the relevant Works Portion to be determined, in the event of dispute, by the Independent Certifier);

(iv) details of the proposed apportionment among the proposed Separable Portions of the liquidated damages referred to in clause 25.11 in respect of the relevant Works Portion, which shall be apportioned equitably between the Separable Portions and in such a way that, when the proposed Separable Portions are aggregated, the total of the rates of liquidated damages payable in relation the Separable Portions shall not exceed the rate of liquidated damages applicable to the relevant Works Portion to be determined, in the event of dispute, by the Independent Certifier);

(v) a statement from the Independent Certifier confirming its approval of the creation of the Separable Portions, and the terms proposed in subparagraphs (i) to (iv) of this clause, both inclusive.

(d) The Authority may within 5 Business Days after receipt of the application for a Separable Portion request further information in relation to the Developer's application for the creation of a Separable Portion acting reasonably and the Developer must provide that information to the Authority.

(e) The Authority must approve or refuse to approve the proposed Separable Portion within 15 Business Days after the later of receipt of the application and receipt of any further information requested in accordance with clause 24.10(d). For the avoidance of doubt, no refusal of Approval by the Authority will be deemed to be unreasonable where any one or more of the requirements of clause 24.10(b) or 24.10(c) has not been satisfied.

(f) The Developer acknowledges and agrees that no Separable Portion will be occupied by the Developer an Acceptable Tenant or any other party claiming through either of them, before the Long Term Lease of the Building of which the Separable Portion forms part has commenced.

(g) In the event that there is a dispute between the Authority and the Developer in relation to the apportionment of liquidated damages payable in relation to a Works Portion for each Separate Portion comprising that Works Portion, either party may refer the dispute for determination by the Independent Certifier.

25. Extensions of time

25.1 Milestones

(a) The Developer must in respect of each Milestone Date shown in the first column of the Development Program:

(i) achieve Substantial Commencement of Works Portions comprising not less than the cumulative GFA shown opposite each such Milestone Date in the third column of the Development Program; and

(ii) achieve Practical Completion of Works Portions comprising not less than the cumulative GFA for each such Milestone Date shown in the fifth column of the Development Program; and

(iii) have spent in respect of Unscoped Barangaroo Works which have become Scoped Barangaroo Works pursuant to the terms of this deed, not less than the cumulative amounts shown in the sixth column of the Development Program by the Milestone Date shown opposite to the relevant cumulative amount.

(b) Where Substantial Commencement or Practical Completion of a Works Portion is not achieved so as to achieve the cumulative GFA shown opposite the relevant Milestone Date, by the Milestone Date for that Milestone the Developer must pay liquidated damages to the Authority in accordance with clause 25.10.

(c) The Developer must:

(i) Vacate BDA Development Block 5 by the Date for Vacation of BDA Development Block 5;

(ii) Vacate BDA Development Block 5 Foreshore by the Date for Vacation of BDA Development Block 5 Foreshore;

(iii) Vacate BDA Development Block 6 by the Date for Vacation of BDA Development Block 6;

(iv) Vacate BDA Development Block 6 Foreshore by the Date for Vacation of BDA Development Block 6 Foreshore;

(v) Vacate BDA Development Block 7 by the Date for Vacation of BDA Development Block 7;

(vi) Vacate BDA Development Block 7 Foreshore by the Date for Vacation of BDA Development Block 7 Foreshore; and

(vii) Vacate the Hickson Road Declaration Area by the Date for Vacation of Hickson Road.

(d) Where Vacation of a BDA Development Block referred to in clause 25.1(c) is not achieved by the relevant Vacation Date, the Developer must pay liquidated damages to the Authority in accordance with clauses 25.14.

25.2 Claims for extension of time – Milestone Dates

(a) The Milestone Dates and any dates or events in the Barangaroo Works Program will be subject to extensions of time for delays in the achievement of a Milestone resulting from the following:

(i) [redacted]

(ii) Force Majeure;

(iii) an act and omission of the Authority or the Authority's Employees resulting in a breach of this deed by the Authority or because of the wrongful or reckless act of the Authority or the Authority's Employees;

(iv) the Authority exercising its rights under clause 37.7;

(v) a delay in the Authority giving access to the Site in accordance with this deed;

(vi) Changed Market Conditions (but no extension of time for a Changed Market Condition will apply for the first Substantial Commencement Milestone of the Development Program);

(vii) the Developer suspending or ceasing to perform the Works (in compliance with the provisions of this deed) by reason of a Native Title Application or Threatened Species Claim;

(viii) delays due to the discovery of Relics;

(ix) a Discriminatory Law coming into effect;

(x) an event occurs which:

A. is outside the control of the Developer, the Developer's Employee's and Agents and the Builder;

B. causes damage to or destruction of that Works Portion; and

C. entitles the Developer to make a proper insurance claim under an insurance policy effected by or on behalf of the Developer in accordance with clause 35;

(xi) the Independent Certifier unreasonably withholds or delays the granting of a Certificate of Practical Completion in relation to that Works Portion;

(xii) the Authority has not completed the design and construction of Headland Park, as contemplated by clause 23.1(a), by 31 December 2015;

(xiii) the Authority has not executed a binding Phase 2 VMP by the later of:

A. 31 December 2012; and

B. the date which is 6 months after the last final report required to be completed under the Phase 1 VMP has been issued to the Environment Protection Authority;

(xiv) in respect of the Works for the Ferry Facility only, any approval of Transport for NSW required under clause 18.3 in relation to the detailed design necessary for the issue of a Construction Certificate is not obtained within 20 Business Days of the Developer lodging all relevant and necessary documentation with Transport for NSW for its approval; or

(xv) in respect of the works comprising the construction of the Southern Cove in the Barangaroo Works Program, those Works will be subject to extensions of time for delays resulting from:

A. any of the matters referred to in clause 25.2(a)(i) – (xiv);

B. any legal challenge to the Approval for Mod 8.

(b) For the purposes of this clause 25, **Changed Market Conditions** are conditions that significantly affect the ability to:

(i) sell residential or lease non-residential Premises on the Site on reasonable commercial terms; or

(ii) obtain a reasonable level of pre-commitment from buyers or tenants to purchase or lease the whole or any part of any Premises before commencing a Works Portion; or

(iii) secure a developer's IRR of not less than [redacted]%,

and which are beyond the reasonable control of the Developer.

(c) The Developer acknowledges and agrees that it has been given access to Stage 1 and Central Barangaroo prior to the date of the Fifth Deed of Amendment.

25.3 Claims for Extensions of time –Vacation Dates

Each of:

(a) the Date for Vacation of BDA Development Block 5;

(b) the Date for Vacation of BDA Development Block 5 Foreshore;

(c) the Date for Vacation of BDA Development Block 6;

(d) the Date for Vacation of BDA Development Block 6 Foreshore;

(e) the Date for Vacation of BDA Development Block 7;

(f) the Date for Vacation of BDA Development Block 7 Foreshore; and

(g) the Date for Vacation of the Hickson Road Declaration Area,

will be separately subject to extensions for time for delays in the achievement of the relevant Vacation Date resulting from the following:

(h) [redacted];

(i) any direction of the Authority in respect of the Remediation Works (including under clauses 16.9 and 16.10);

(j) Force Majeure;

(k) an act and omission of the Authority or the Authority's Employees resulting in a breach of this deed by the Authority or because of the wrongful or reckless act of the Authority or the Authority's Employees;

(l) the Authority exercising its rights under clause 37.7;

(m) a delay in the Authority giving access to the BDA Development Block in accordance with this deed;

(n) the Developer suspending or ceasing to perform the Works (in compliance with the provisions of this deed) by reason of a Native Title Application or Threatened Species Claim;

(o) delays due to the discovery of Relics;

(p) a Discriminatory Law coming into effect;

(q) an event occurs which:

(i) is outside the control of the Developer, the Developer's Employees and Agents and the Builder;

(ii) causes damage to or destruction of Works on that BDA Development Block; and

(iii) entitles the Developer to make a proper insurance claim under an insurance policy effected by or on behalf of the Developer in accordance with clause 35;

(r) the Authority has not executed a binding Phase 2 VMP by the later of:

(i) 31 December 2012; and

(ii) the date which is 6 months after the last final report required to be completed under the Phase 1 VMP has been issued to the Environment Protection Authority;

(s) any act, direction or omission of the Environment Protection Authority or the Site Auditor, including any direction which alters the sequence of conduct of the VMP Remediation Works or the VMP Investigation Works or components of any of the VMP Remediation Works or the VMP Investigation Works;

(t) any act or omission by owners or occupiers of land adjacent to the Site, other than Crown or the owners or occupiers of Block 4, except where due to the act or omission of the Developer or the Developer's Employees and Agents;

(u) the occurrence of an Insolvency Event to a Relevant Person (or a member of a Relevant Person group) who is or is to undertake VMP Remediation Works or VMP Investigation Works on the relevant BDA Development Block, where that Insolvency

Event impacts on the Relevant Person's ability to carry out the VMP Remediation Works or the VMP Investigation Works;

(v) the suspension of the relevant VMP Remediation Works or the VMP Investigation Works by a Relevant Person who is undertaking the VMP Remediation Works or the VMP Investigation Works on the relevant BDA Development Block for non-payment where it is entitled to do so under the Relevant Contract or it is entitled to do so at law, except where that non-payment is due to the act or omission of the Developer or the Developer's Employees and Agents in breach of the Relevant Contract;

(w) the termination of a Relevant Person engaged in relation to the VMP Remediation Works or the VMP Investigation Works on the relevant BDA Development Block due to safety issues; or

(x) any other event occurs which entitles a Relevant Person to an extension of time under a Relevant Contract to carry out the Remediation Works on Block 4 or the VMP Remediation Works or the VMP Investigation Works on the relevant BDA Development Block.

25.4 Conditions precedent to extensions of time

(a) Subject to clause 25.4(b), the Developer may only claim an extension of time if:

(i) the Developer gives to the Authority details of the number of days claimed, the date the cause of the delay first arose, and the date the delay ceased within 60 Business Days after the earlier of the day the Developer became aware, and the day the Developer ought reasonably to have become aware, of the cause of the delay ceasing;

(ii) (and to the extent) the delay has not been caused or contributed to by the Developer or the Developer's Employees and Agents (including any subcontractor);

(iii) the Developer has used its reasonable endeavours to remedy the cause of the delay and to minimise the delay provided the Developer is not obliged to incur any Costs in doing so;

(iv) the Developer:

A. has actually been delayed;

B. will be delayed; or

C. is reasonably likely to be delayed,

in achieving the relevant Milestone or the Vacation of the relevant BDA Development Block; and

(v) where the Developer's relevant claim relates to a Changed Market Condition, simultaneously with the lodgement of that claim with the Authority, the Developer must also provide to the Authority a report prepared by the Developer (accompanied by a Changed Market Conditions Report from an Approved Valuer which supports the Developer's assertion that a Changed Market Condition has occurred).

(b) The Developer is entitled to an extension of time in connection with the event referred to in clause 25.3(x) for an equivalent number of days to that to which the Relevant Person is entitled under the Relevant Contract in relation to the relevant BDA Development Block or Block 4 (as the case requires).

(c) Despite any other provision of this deed, but subject to the Developer's right to an extension of time in the circumstances set out in clause 25.3(x) and the occurrence of any of the events, which would give rise to an extension of time under clause 25.3 had they related to a BDA Development Block occurring in relation to Stage 1C and Block 4, or the carrying out of activities or works on Stage 1C or Block 4, the Developer will not have an extension of time under this deed, unless the same event occurred, not just in relation to Stage 1C or Block 4, but also occurred in relation to a BDA Development Block.

(d) The Vacation Dates will be automatically adjusted as follows (without the need for further compliance with clause 25.3):

(i) if the Hotel Approval Date occurs before [redacted], the Vacation Dates will be brought forward by the same number of days as the period between the Hotel Approval Date and [redacted]; and

(ii) if the Hotel Approval Date occurs after [redacted], the Vacation Dates will be extended by:

A. the same number of days as the period between [redacted] and the Hotel Approval Date; plus

B. the number of days after the Hotel Approval Date until the issue of a Construction Certificate under the Approval for the Early Works (as defined in the Crown Development Agreement) or the Approval to the Hotel Resort DA (as defined in the Crown Development Agreement) (whichever was granted first), up to a maximum of 42 days.

25.5 Concurrent delays

(a) If, in respect of a Works Portion, more than one event set out in clause 25.2 (the occurrence of which entitles the Developer to claim an extension of time) causes concurrent delays to the achievement of a Milestone, then to the extent that the delays are concurrent the Developer is not entitled to an additional extension of time.

(b) If, in respect of the VMP Remediation Works and the VMP Investigation Works, more than one event set out in clause 25.3 (the occurrence of which entitles the Developer to claim an extension of time) causes concurrent delays to the achievement of a Vacation Date, then to the extent that the delays are concurrent the Developer is not entitled to an additional extension of time.

25.6 Matters for consideration

In determining whether the Developer is or is likely to be delayed in achieving a required event, the Independent Certifier:

(a) (only in respect of a Milestone Date) the Independent Certifier may take into account whether the Developer has taken all reasonable steps to preclude the occurrence of the cause and minimise the consequences of the delay provided the Developer is not obliged to incur any Costs in doing so;

(b) (in respect of both a Milestone Date and a Vacation Date) the Independent Certifier or the Remediation QS respectively may not take into account whether the Developer can satisfy the relevant Milestone or achieve Practical Completion of the relevant Works Portion by the Milestone Date or Last Date for Practical Completion of that Works Portion or achieve a Vacation Date without an extension of time; and

(c) (only in respect of a Vacation Date) the Remediation QS must take the Remediation and Vacation Plan into account; and

(d) (only in respect of a Vacation Date) the Remediation QS in relation to extensions of time in relation to Vacation Dates, must assess delay in relation to delay to individual BDA Development Blocks and not to the Staging Area as a whole.

25.7 Determination of extensions of time

(a) The Developer will be entitled to an extension of time if, with respect to all claims other than a claim as a result of a Changed Market Condition, in relation to Milestones under clause 25.2, the Independent Certifier, and in relation to Vacation Dates under clause 25.3, the Remediation QS, determines that the Developer is entitled to an extension of time. In respect of any claim as a result of a Changed Market Condition, the Authority will determine whether the Developer is entitled to an extension of time.

(b) The Authority and the Developer acknowledge and agree that, subject to clause 25.7(g), the Developer will be entitled to an extension of time in respect of:

(i) a Substantial Commencement Milestone Date and a Practical Completion Milestone Date (and consequential amendments to subsequent Milestone Dates); and

(ii) the Deferred Part of amounts for a Public Domain Milestone,

where there have been Changed Market Conditions that relate to a Works Portion, where the Developer reasonably demonstrates that that Works Portion is relevant to the GFA for the Substantial Commencement Milestone or Practical Completion Milestone or the Deferred Part of amounts for a Public Domain Milestone, relative to that Milestone Date. For the purposes of this clause, the **Deferred Part** equals the GFA of the Works Portion for which an extension is granted multiplied by $[redacted] per m^2.

(c) If as a result of the application of clause 25.7(b), the Development Program needs to change to reflect the different Milestone Dates for certain GFA, then the Developer must prepare a revised draft Development Program and submit that draft program to the Authority for its review and approval (acting reasonably). If the Authority does not approve such revised program, either the Authority or the Developer may notify a dispute in accordance with clause 45.

(d) The Developer acknowledges that it is not entitled to an extension of time for Changed Market Conditions where that extension of time would exceed:

(i) 12 months for a single claim; or

(ii) 5 years in aggregate for all extensions of time granted as a result of Changed Market Conditions relevant to a Milestone Date in relation to a particular Works Portion,

and in determining the 5 years in aggregate, any period in between any 12 month extension of time for a single claim and the next 12 month extension of time for a single claim during which no material Works are carried out in respect of that Works Portion, will be included in determining the 5 year period, (collectively the **Changed Market Conditions Caps**).

(e) If the Authority does not agree with the Developer that there has been a Changed Market Condition, then either the Authority or the Developer may notify a dispute in accordance with clause 45.

(f) Subject to clause 25.7(g), nothing in this clause prevents the Developer from making a submission to the Authority for its approval to an extension of time in excess of the Changed Market Conditions Caps, provided that the Authority will be under no obligation to accept the Developer's submission or grant the extension of time where the Changed Market Conditions Caps have been exceeded. Any decision by the Authority (in its reasonable discretion) on any matter referred to in this clause 25.7(f) is final and binding on the parties and is not capable of being referred to dispute resolution under clause 45.

(g) The Developer acknowledges and agrees that no Changed Market Conditions exist as at the date of the Fifth Deed of Amendment and the Developer will not make any claim for an extension of time due to Changed Market Conditions occurring prior to the date of the Fifth Deed of Amendment.

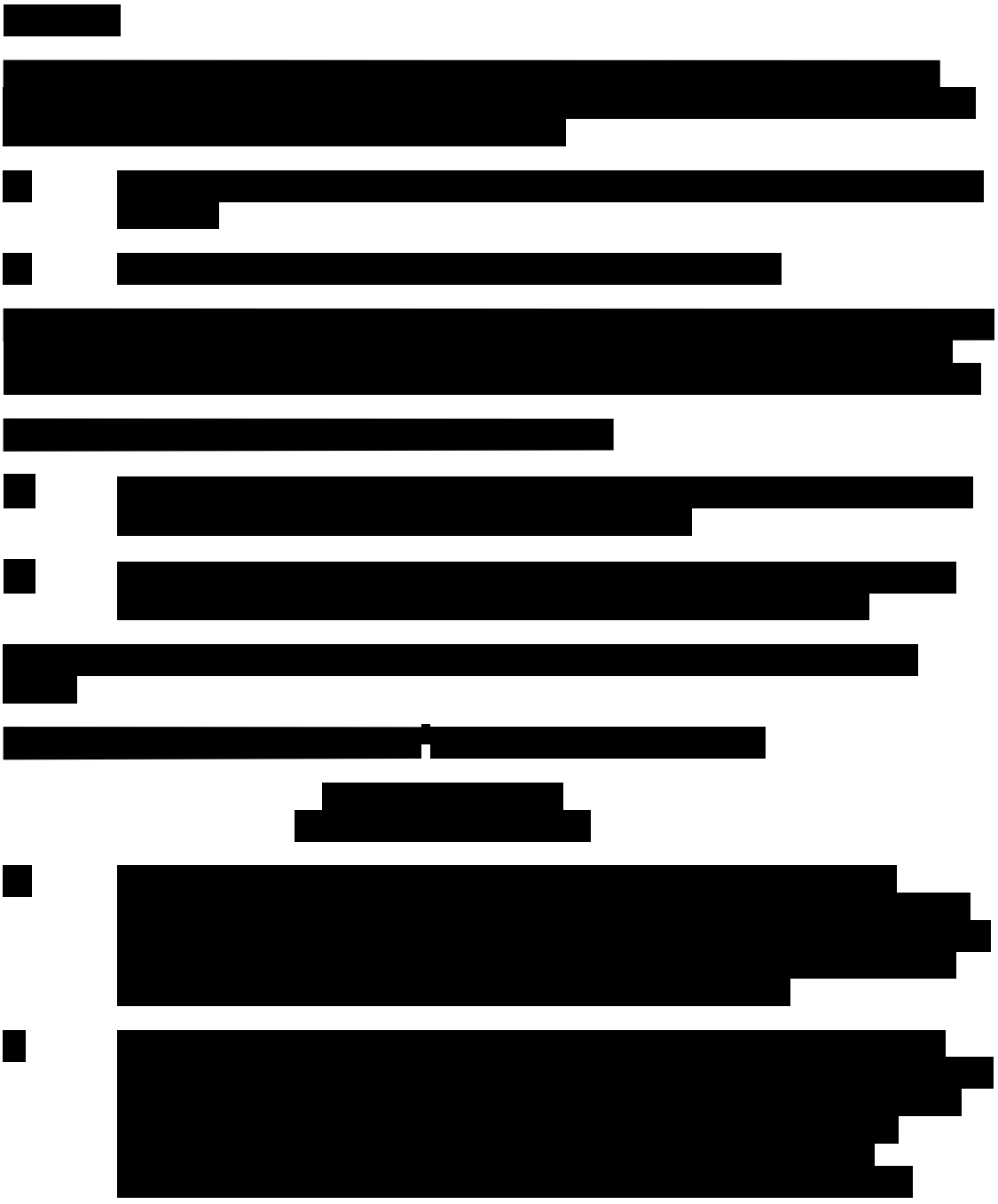
25.8 Dispute over extensions of time

If in the reasonable opinion of the Developer either the Independent Certifier or the Remediation QS fails to make its determination in accordance with clause 25.6 or fails to give sufficient reason for refusing to grant an extension of time, the Developer may notify a dispute in accordance with clause 45.

25.9 Changes to the Development Program – extensions of time

If the Developer obtains an extension of time under this clause 25 then within 30 Business Days of being granted that extension of time, the Developer must update the Development Program and the Remediation and Vacation Program to reflect the impact of the extension of time on the anticipated timing for achieving Practical Completion of the relevant Works Portion or Vacation of a BDA Development Block and provide a copy of the revised Development Program and the Remediation and Vacation Program (having complied with clause 7.12) to the Authority.

25.10 Liquidated damages for GFA Milestones



25.11 Other GFA liquidated damages

25.12 Cap on GFA liquidated damages

The Developer's liability for liquidated damages under clauses 25.10 and 25.11 is not to exceed $[redacted] in aggregate.

25.13 Not used

25.14 Vacation Liquidated Damages

(a) The Developer must pay liquidated damages to the Authority monthly in arrears in relation to the failure to Vacate each of:

(i) BDA Development Block 5 by the Date for Vacation of BDA Development Block 5 at the rate of $[redacted] per day for the period commencing on the day after the Date for Vacation of BDA Development Block 5 until the date when the Developer Vacates BDA Development Block 5, provided that the Developer is not obliged to pay such liquidated damages in relation to failure to Vacate BDA Development Block 5 during the same period it is already paying liquidated damages due to the failure to Vacate BDA Development Block 5 Foreshore (so that the Developer is only liable to pay an aggregate amount of $[redacted] per day in relation to BDA Development Block 5 and BDA Development Block 5 Foreshore);

(ii) BDA Development Block 5 Foreshore by the Date for Vacation of BDA Development Block 5 Foreshore at the rate of $[redacted] per day for the period commencing on the day after the Date for Vacation of BDA Development Block 5 Foreshore until the Date when the Developer Vacates BDA Development Block 5 Foreshore, provided that the Developer is not obliged to pay such liquidated damages in relation to failure to Vacate BDA Development Block 5 during the same period it is already paying liquidated damages due to the failure to Vacate BDA Development Block 5 Foreshore (so that the Developer is only liable to pay an aggregate amount of $[redacted] per day in relation to BDA Development Block 5 and BDA Development Block 5 Foreshore);

(iii) BDA Development Block 6 by the Date for Vacation of BDA Development Block 6 at the rate of $[redacted] per day for the period commencing on the day after the Date for Vacation of BDA Development Block 6 until the date when the Developer Vacates BDA Development Block 6, provided that the Developer is not obliged to pay such liquidated damages in relation to failure to Vacate BDA Development Block 6 during the same period it is already paying liquidated damages due to the failure to Vacate BDA Development Block 6 Foreshore (so that the Developer is only liable to pay an aggregate amount of $[redacted] per day in relation to BDA Development Block 6 and BDA Development Block 6 Foreshore);

(iv) BDA Development Block 6 Foreshore by the Date for Vacation of BDA Development Block 6 Foreshore at the rate of $[redacted] per day for the period commencing on the day after the Date for Vacation of BDA Development Block 6 Foreshore until the Date when the Developer Vacates BDA Development Block 6 Foreshore, provided that the Developer is not obliged to pay such liquidated damages in relation to failure to Vacate BDA Development Block 6 during the same period it is already paying liquidated damages due to the failure to Vacate BDA Development Block 6 Foreshore (so that the Developer is only liable to pay an aggregate amount of $[redacted] per day in relation to BDA Development Block 6 and BDA Development Block 6 Foreshore);

(v) BDA Development Block 7 by the Date for Vacation of BDA Development Block 7 at the rate of $[redacted] per day for the period commencing on the day after the Date for Vacation of BDA Development Block 7 until the date when the Developer Vacates Block 7, provided that the Developer is not obliged to pay such liquidated damages in relation to failure to Vacate BDA Development Block 7 during the same period it

is already paying liquidated damages due to the failure to Vacate BDA Development Block 7 Foreshore (so that the Developer is only liable to pay an aggregate amount of $[redacted] per day in relation to BDA Development Block 7 and BDA Development Block 7 Foreshore); and

(vi) BDA Development Block 7 Foreshore by the Date for Vacation of BDA Development Block 7 Foreshore at the rate of $[redacted] per day for the period commencing on the day after the Date for Vacation of BDA Development Block 7 Foreshore until the Date when the Developer Vacates BDA Development Block 7 Foreshore, provided that the Developer is not obliged to pay such liquidated damages in relation to failure to Vacate BDA Development Block 7 during the same period it is already paying liquidated damages due to the failure to Vacate BDA Development Block 7 Foreshore (so that the Developer is only liable to pay an aggregate amount of $[redacted] per day in relation to BDA Development Block 7 and BDA Development Block 7 Foreshore).

(b) The Developer's liability under this clause 25.14 is not to exceed $[redacted] in aggregate.

25.15 Amount is genuine pre-estimate

The Developer and the Guarantor:

(a) acknowledge and agree that in relation to a Milestone or a Vacation:

(i) the amounts specified in:

A. clauses 25.10, 25.11 and 25.14 are a genuine pre-estimate of the damages which will be suffered by the Authority if a Milestone of Vacation, as applicable, is not achieved;

B. clauses 9.13 and 9.14 are a genuine pre-estimate of the damages which will be suffered by the Authority if the Developer fails to achieve the Climate Positive Benchmarks and sustainability initiatives by the Climate Positive Relevant Dates; and

C. clause 9.18 is a genuine pre-estimate of the damages which will be suffered by the Authority if the Developer fails to deliver the community learning and skilling programs by the date specified in that clause; and

(ii) in calculating the amount for liquidated damages the Authority has:

A. carefully considered the amount of liquidated damages, relying on the agreement of the Developer and the Guarantor that it is a genuine pre-estimate of those damages; and

B. taken into account the damage which will be suffered by the Authority, the Government and the State of New South Wales if those relevant obligations are not achieved by the relevant date specified in this deed; and

(b) agree to irrevocably waive, and forever surrender, give up and release, any right they may have, whether at Law or in equity, to challenge any demand the Authority makes for payment of any such amounts upon the basis that payment of those amounts constitutes a penalty, or is invalid, or unenforceable for any reason whatever.

25.16 Occurrence of event for which Developer has Insurance

(a) If in respect of a Milestone:

(i) the Works the subject of that Works Portion are damaged;

(ii) the Authority is reasonably satisfied it or the Developer is entitled to receive proceeds from the Developer's Insurance sufficient to reinstate the Works the subject of that Milestone; and

(iii) the time required to obtain the Insurance proceeds and reinstate the Works the subject of that Milestone is likely to prevent the Developer achieving that Milestone by the Milestone Date for that Milestone,

the Authority must, if requested by the Developer, meet with the Developer and discuss in good faith any proposals advanced by the Developer to deal with such circumstances and the potential delay to achievement of that Milestone.

(b) The Developer acknowledges and agrees that nothing in clause 25.16(a) imposes any obligation on the Authority to contribute to Costs or other liabilities incurred or suffered by the Developer by reason of the occurrence of any such circumstances, except to the extent that that such Costs or other liabilities are not covered by the Insurance proceeds and the relevant damage was caused by the acts or omissions of the Authority,

25.17 Additional termination right

(a) If the Developer fails to achieve a Substantial Commencement Milestone by a relevant Substantial Commencement Milestone Date, then the Authority has the right to serve notice on the Developer, requiring the Developer to Substantially Commence the relevant Works Portion. For the avoidance of doubt, the obligation to achieve Substantial Commencement by the relevant Substantial Commencement Milestone is not diminished or otherwise impacted by the Developer having created Separable Portions in relation to that Works Portion in accordance with this deed.

(b) Promptly on receipt of a notice under clause 25.17(a), the Developer must discuss with the Authority the measures that the Developer proposes to take so that it can Substantially Commence the relevant Works Portion as soon as reasonably practicable.

(c) Despite clause 25.12, if the Authority is not satisfied with the Developer's proposals under clause 25.17(b) or the Developer fails to promptly implement those measures, the Authority may by service of a further 5 Business Days' notice on the Developer, but subject to clause 25.17(c), terminate this deed with respect to, and the Developer loses its rights to develop, the Relevant Site Portion.

(d) In the circumstances contemplated by clause 25.17(c), this deed will cease to apply to and be partially terminated in respect of the Relevant Site Portion subject to the following provisions:

(i) the Total Payment Amount is reduced to the extent that it relates to the GFA the subject of the Relevant Site Portion, determined by multiplying the GFA the subject of the Relevant Site Portion by the Payment Rate (General) (**Relevant Amount**);

(ii) to the extent that there are future Payment Amount Instalments which are:

A. equal to or exceeds the Relevant Amount, the Relevant Amount will be set off against future Payment Amount

Instalments as they fall due until all of the Relevant Amount has been set off; or

B. less than the Relevant Amount, the aggregate of all unpaid Payment Amount Instalments will be deemed to have been paid by way of set off against the Relevant Amount and the Authority must refund to the Developer the amount by which the Relevant Amount exceeds the aggregate of the following amounts:

1) the aggregate of the unpaid Payment Amount Instalments; and

2) any entitlement to damages which the Authority may have against the Developer under this deed arising from its failure to achieve the Substantial Commencement Milestone by the Substantial Commencement Milestone Date; and

(iii) for the avoidance of doubt, the exercise of rights by the Authority under this clause will not be a Trigger Event.

25.18 Relevant Site Portion

(a) If at any time:

(i) in respect of a Substantial Commencement Milestone Date, the Developer has not achieved the relevant Substantial Commencement Milestone; or

(ii) the Developer loses rights to develop any part of the Site (resulting in a partial termination of this deed) pursuant to clause 25.17 or 25.20,

(each a **Partial Termination Event**), the Relevant Site Portion is to be determined as follows:

A. within 60 Business Days after the Partial Termination Event, the Authority will notify the Developer of that part of the Site (in respect of which no Construction Zone Licence has been granted, or otherwise remains current) on which a Works Portion may be developed having GFA of not greater than the amount of GFA which is the subject of that Partial Termination Event. If the Authority forms the view, acting reasonably, that in order for a Works Portion to be commercially viable, it needs an area of the Site which carries with it development rights having a GFA which is greater than the amount of GFA which is the subject of that Partial Termination Event, then the Authority may require the Relevant Site Portion to be determined so that the relevant GFA for that Relevant Site Portion includes up to an additional 30% of that GFA in its notice served under this clause 25.18(a)(ii)A;

B. if the Developer disagrees with the part of the Site (or GFA) nominated in the Authority's notice issued pursuant to clause 25.18(a)(ii)A, then it must notify the Authority promptly after receipt of the Authority notice that it disagrees with the Authority's nomination and the Developer and the Authority must meet to discuss and agree in good faith which part of the Site the Developer should lose rights to develop (and be

the subject of a partial termination of this deed) having regard to the Partial Termination Event; and

C. if the Developer and the Authority fail to reach a resolution on the matters contemplated in clause 25.18(a)(ii)B, either the Developer or the Authority may notify a dispute in accordance with clause 45.

(b) If a Partial Termination Event occurs and this deed partially terminates in respect of a Relevant Site Portion, the Developer agrees to give the Authority (or any third party nominated by the Authority) such rights of access and other rights over such parts of the Developer Secured Area as is reasonably required to enable that Relevant Site Portion to be developed.

25.19 Consequences of termination

(a) The Authority must procure that anyone to whom the Authority gives the right to develop all or part of the Relevant Site Portion (**Alternate Party**) must either:

(i) comply with and procure the compliance of their tenant with the Barangaroo Management Plan; or

(ii) agree that neither they nor their tenants will be entitled to the benefit of any of the infrastructure or facilities which are funded, operated and/or maintained pursuant to the Barangaroo Management Plan (other than to the extent of rights enjoyed by the general public). To assist in the interpretation of this clause, but without limiting its meaning, the parties agree that if an Alternate Party has made the election contemplated by this clause 25.19(a)(ii), neither they nor their tenants will be entitled to any of the re-cycled or cooled water produced by that infrastructure or facilities.

(b) The Developer agrees that any Alternate Party will have a royalty free licence of any Intellectual Property Rights which are held by the Developer referable to the Relevant Site Portion and agrees to sign such documents as the Authority and the party reasonably require in relation to the grant of that licence.

25.20 Sunset Date

The Developer loses the right to develop (and this deed terminates to the extent that) any part of the Site in relation to which the Construction Zone Licence has not been granted by that date which is 21 years after the Commencement Date.

26. Subdivision and Building Management

26.1 Obligation to Subdivide

(a) Before the earlier of:

(i) the Date of Practical Completion of a Works Portion; and

(ii) if applicable, the date the relevant Call Offer is accepted,

the Developer must procure a subdivision of the Land relevant to that Works Portion in accordance with this clause 26 and consistent with the Proposed Premises Plan (relevant to the Land the subject of that Works Portion) approved by the Authority pursuant to clause 10.5. or as otherwise agreed by the Authority (in its sole and unfettered discretion).

(b) The Authority must promptly do all things necessary on its part to facilitate the Developer's compliance with clause 26.1(a). The Developer will pay the cost of any action that the Authority is required to take as a result of a request for subdivision by the Developer.

26.2 Fundamental Requirements

(a) In respect of a Works Portion, the Developer acknowledges that the Authority requires as a necessary condition of subdividing the Land relevant to that Works Portion (where such subdivision involves a strata subdivision of the Site or part of it under the Strata Leasehold Act) that a single management body be created to manage and administer the Premises the subject of that Works Portion (including without limitation, common areas or facilities, building use and other standards, cost apportionments for common areas and facilities and insurances).

(b) The Developer will be taken to have satisfied its obligations under clause 26.2(a) upon the registration of the Building Management Statement and execution and delivery of the Deed Poll by the Owners Corporation of the strata scheme.

26.3 Notice by Developer

(a) At least 4 months before the earlier of:

(i) the Anticipated Date of Practical Completion of a Works Portion; and

(ii) if applicable, the date the Developer reasonably anticipates that the relevant Call Offer will be accepted,

the Developer must give a notice to the Authority, outlining the manner in which the Land relevant to that Works Portion will be subdivided for that Works Portion and the Premises applicable to that Works Portion.

(b) The Developer must in any notice given under clause 26.3(a) also notify the Authority, if the Developer proposes to carry out a subdivision option which:

(i) relates to a strata subdivision of any part of the Site, of the general nature of the strata leasehold scheme the Developer proposes to create;

(ii) relates to a stratum subdivision of the whole or any part of the Site, of the general nature of the stratum lots to be created and which parts of the Improvements they will comprise; or

(iii) relates to a strata subdivision and a stratum subdivision of the whole or any part of the Site, of the general nature of the strata leasehold scheme the Developer proposes to create, the general nature of the stratum lots to be created and which parts of the Improvements they will comprise.

(c) If the Works Portion includes Improvements which will be subject to a Plan of Subdivision under the Strata Leasehold Act, the Developer must, no later than 20 Business Days prior to the Anticipated Date of Practical Completion, provide to the Authority such draft Strata Documents as may be required, the terms of which must be reasonable (having regard to the nature of the development) to the extent that the provisions of the instrument relate to risk to, or liabilities of, the Authority, and in such instance, those provisions may be determined by the Authority acting reasonably.

(d) In relation to any stratum subdivision the Developer must, no later than 5 Business Days after receipt by the Authority of the Developer's notice under clause 26.3(a) provide draft Stratum Documents to the Authority.

26.4 Preparation of Plan

Subject to clause 26.6, the Developer must:

(a) engage the Surveyor to prepare any Plan of Subdivision;

(b) keep the Authority informed as to progress in preparing drafts of a Plan of Subdivision and submit drafts of them (or any documents to be registered with them) on a regular basis with amendments clearly identified;

(c) consult with the Authority and take into account any comments, suggestions or objections which the Authority may make (acting reasonably) in respect of the draft plans or documents;

(d) in consultation with the Authority, prepare, and obtain the Authority's approval (which may not be unreasonably withheld or delayed) to:

(i) the Strata Documents (with all applicable Leases being based on the documents provided by the Developer to the Authority under clause 26.3(c)); or

(ii) in the case of subdivision which will not involve subdivision under the Strata Leasehold Act, but which will involve a stratum subdivision, the Stratum Documents, which, without limitation, must address the following matters:

A. by-laws or rules for the use of the Improvements (which will in the first instance be provided by the Developer (acting reasonably) to the Authority for its information);

B. any sinking fund or management fund;

C. management of Improvements;

D. garbage disposal;

E. maintenance of Improvements (including the appearance and presentation of the Improvements in relation to the interface of the Improvements with the public domain);

F. use and protection of public domain areas;

G. signage;

H. landscape and architectural standards; and

I. any modifications and alterations to the relevant Buildings,

in each case, having regard to the terms of the Lease, the nature of the Improvements and the use to which those Improvements will be put;

(e) amend the documents provided under clause 26.4(c) as requested by the Authority, acting reasonably, having regard to the nature and effect of the subdivision proposed and the Authority's requirements (if any) as set out in the Leases provided under clause 26.3(c);

(f) finalise the necessary Plans of Subdivision (and other documents referred to in this clause) having taken into account any reasonable comments, suggestions or objections which the Authority has made; and

(g) submit the final draft of the relevant Plans of Subdivision (and other documents referred to in this clause) to the Authority for its approval at least 10 Business Days prior to the Developer submitting the relevant Plans of Subdivision to the Consent Authority for its approval. The Authority must approve the final drafts of the Plans of Subdivision if they are consistent with the drafts previously submitted by the Developer to the Authority, amended only to the extent needed to accommodate the reasonable comments, suggestions or objections which the Authority has made and are otherwise consistent with the Proposed Premises Plan (relevant to that draft Plan of Subdivision). If the Authority does not approve the final drafts of the relevant Plans of Subdivision (or other documents referred to in this clause) within 10 Business Days of receipt of such plan or other documents (as applicable), then the matter will be deemed to be a dispute for the purposes of clause 45 and the provisions of that clause will apply.

26.5 Consent to Plans

Subject to clause 26.6, the Developer must obtain the consent of the Authority to each Plan of Subdivision of the Site. The Authority may only refuse its consent, acting reasonably, if:

(a) the boundaries of the lots described in the relevant draft Plan of Subdivision are not the same as those in the Proposed Premises Plan approved by the Authority pursuant to clause 10.5 (allowing for a reasonable margin for the exigencies of the construction process);

(b) a Plan of Subdivision for strata subdivision under the Strata Leasehold Act is not accompanied by the Strata Documents approved by the Authority;

(c) a Plan of Subdivision for a stratum subdivision is not accompanied by the Stratum Documents approved by the Authority;

(d) a Plan of Subdivision is not accompanied by an easement instrument setting out appropriate easements, covenants or restrictions having regard to the nature and effect of the particular subdivision and requirements of the Authority or any Public Authorities; or

(e) the proposed subdivision will not satisfy the requirements of clause 26.1 or the Developer has failed to comply with clauses 26.2 or 26.3.

26.6 Subdivision before completion of Works Portion

(a) The Authority acknowledges that at the time the Developer must prepare and obtain the Authority's consent to the Plan of Subdivision, the Improvements comprising the relevant Works Portion may not be sufficiently advanced to allow the Developer to determine the nature, extent or detail of the matters contemplated by clauses 26.3 or 26.5.

(b) This clause 26.6(a) applies where the Developer intends to accept the Call Offer prior to Practical Completion of a Works Portion. In those circumstances, the Authority agrees that despite anything to the contrary in this clause 26:

(i) the Developer is obliged to fulfil its obligations under clause 26.3 only to an extent and level of detail commensurate with the level of advancement of the relevant Works Portion at that time, provided that the Developer notifies the Authority of the expected boundaries of the Improvements to be included within the Premises, by reference to the boundaries of the Premises and that those boundaries are substantially consistent with those depicted in the Proposed Premises Plan (relevant to that Works Portion) approved by the Authority pursuant to clause 10.5 or as otherwise agreed by the Authority (in its reasonable discretion);

(ii) the Authority must not refuse its consent under clause 26.5 if the Developer has satisfied its obligations under clause 26.6(b)(i), provided that the final draft of the relevant Plan of Subdivision (and other documents) contemplated by clause 26.4(g) is in a form and a level of detail which would be acceptable for registration at the LPI and is otherwise consistent with the Proposed Premises Plan (relevant to that Works Portion) approved by the Authority pursuant to clause 10.5; and

(iii) A. the Authority will execute any Strata Documents which can only be executed by the registered proprietor of the land pursuant to the Strata Leasehold Act to enable registration of the relevant Plan of Subdivision;

B. the Developer must sign all Strata Documents which that legislation allows to be signed by the developer as agent of the Owners Corporation;

C. if the Developer requests the Authority to execute any Strata Documents as the agent of the Owners Corporation and the Authority agrees to do so, the Developer indemnifies the Authority against any liability or loss arising from, and any Costs incurred by the Authority in connection with its execution of those Strata Documents or the fact that those Strata Documents have been entered into.

26.7 Registration of Plan

If the Developer has complied with this clause 26, on approval of the relevant Plan of Subdivision by the Consent Authority, the Authority must (at its Cost) within 5 Business Days produce, at LPI, the certificates of title for the land to be subdivided to enable the Developer to lodge and register that Plan of Subdivision (and other documents referred to in this clause) at LPI.

26.8 Boundary adjustments

(a) The Authority acknowledges that at the time of registration of the Plan of Subdivision the Improvements comprising the relevant Works Portion may not be sufficiently advanced to achieve accurate boundary definitions of those Improvements.

(b) If upon Practical Completion of a Works Portion, the boundaries of a lot created by subdivision do not follow the external vertical and/or horizontal planes of the Improvements designated for that lot, the Authority agrees (at the Developer's cost and risk) to do all things necessary to assist the Developer in the adjustment of the boundaries of that lot so that, if appropriate, those boundaries follow the external vertical and/or horizontal planes of the Improvements designated for that lot. Without limitation:

(i) the Authority agrees (at the Developer's cost and risk) to and the Developer agrees to procure the Tenant to accept the grant of a further Lease to the Tenant or to respectively accept a surrender and re-grant a Lease to the Tenant, where the boundary adjustment has to extend to the external vertical and/or horizontal planes of the Improvement; or

(ii) the Authority agrees (at the Developer's cost and risk) to accept and the Developer agrees to procure that the Tenant partially surrenders the Lease, where the boundary of the lot extends beyond the external vertical and/or horizontal planes of the Improvement.

26.9 Right to Grant Easements

Without limiting the generality of clause 40.1, the parties agree that:

(a) comprehensive easements including easements for support, services and access may be required between and within the various lots created by subdivision under this clause 26, the terms of which are, subject to clause 26.9(b), to be determined by the Developer acting reasonably; and

(b) the Authority must promptly, at the request and the Cost of the Developer, grant the easements referred to in clause 26.9(a) on terms and conditions approved by the Authority acting reasonably.

26.10 Particular Easements

Without limiting the generality of clauses 26.9 or 40.1 the parties agree that:

(a) to the extent that the relevant easements have then been identified, the easements must be created on registration of the Plan of Subdivision creating the lots the subject of the easements; and

(b) to the extent that the relevant easements have not been identified as at the time of lodgement of the Plan of Subdivision creating the lots the subject of the easements, the easements may be created by registration of such other instruments as are acceptable to the LPI.

26.11 Registration of Easements

The Authority and the Developer must at the Cost of the Developer co-operate with each other and do all things necessary on their respective parts, to cause the easements referred to in clauses 26.9, 26.10 and 40.1 to be registered on the folio of the register for the Premises as soon as reasonably practicable on or after the registration of the relevant Plans of Subdivision.

26.12 Binding Nature of Easements

Subject to the relevant Call Offer or the Put Offer being accepted, the Developer acknowledges and agrees that the relevant Tenant, licensee or occupier will be bound (or will be bound on registration of the easements) by the terms of the easements and any lease, licence or other right of occupation granted by the Developer in respect of the Premises and the Improvements must contain an acknowledgment from the Tenant, licensee or occupier that it is bound by the terms of the easements to be granted under clauses 26.9, 26.10 and 40.1.

26.13 Staged Subdivision

If the Developer subdivides part of the Site under the Strata Leasehold Act, it must do all things reasonably necessary to ensure that any further subdivision under that Act in relation to the Site can be effected, including without limitation procuring from each Owners Corporation created under the Strata Leasehold Act a certificate of support under section 57E(1)(a) of the Strata Leasehold Act for registration of a short form strata management statement as contemplated by approved Form 28 under sections 57A-57F of the Strata Leasehold Act.

26.14 Ongoing Management - governance arrangement

(a) The ongoing long term management of Stage 1 will be governed by the Barangaroo Management Plan and the Building Management Statement, which will be developed by the Authority and the Developer in accordance with the principles outlined in Annexure P and Annexure P2.

(b) If as at the date of the Fifth Deed of Amendment, the Authority and the Developer have not agreed upon the terms of the Barangaroo Management Plan and the

Building Management Statement, the Deed Poll and any consequential amendments to the Pro Forma Lease, as contemplated by Annexure P and Annexure P2, the Authority and the Developer agree that it is their mutual intention to have agreed the form of the Barangaroo Management Plan, the Deed Poll and the Building Management Statement and any consequential amendments to the Barangaroo Management Plan and the Pro Forma Lease, by 30 June 2015.

26.15 Strata leasehold title

At the request and at the cost of the Developer, the Authority will do all things reasonably required of it by the Developer to enable the Developer to register a strata leasehold plan of subdivision.

27. Call Offer

27.1 Call Offer granted

(a) None of the provisions of this clause 27 apply to any Works Portions which relate to any one or more of the following:

(i) VMP Remediation Works, VMP Investigation Works, the PDA Remediation Works or the PDA Investigation Works;

(ii) Other Remaining Remediation Works, Other Remediation Works or the Other Investigation Works; or

(iii) the Barangaroo Works excluding those Barangaroo Works which comprise:

A. subject to clause 19.5, the Community Facility; and

B. car parks (and associated facilities) as shown in the Agreed Design Documents proposed to be constructed below the Public Domain.

(b) In respect of each Works Portion (providing that Works Portion does not comprise in whole or in part any Temporary Building), the Authority makes an offer to any relevant Nominee to lease the Premises applicable to that Works Portion to that Nominee, which cannot be the Developer.

(c) Each Call Offer is an irrevocable offer by the Authority to the Nominee to enter into a binding lease of the relevant Premises with that Nominee in the form of the Pro Forma Lease and may only be accepted in accordance with the provisions of this deed.

(d) If a Call Offer is not accepted by the expiry of the Call Offer Period applicable to that Call Offer, that Call Offer lapses.

27.2 Accepting the Call Offer

Each Call Offer may be accepted only:

(a) during the Call Offer Period applicable to that Call Offer;

(b) if the Developer is not in breach of any of its obligations:

(i) to pay the Development Rights Fee or the Developer Contributions; or

(ii) to provide Bank Guarantees under clause 39;

(c) if this deed has not terminated with respect to the relevant Works Portion;

(d) by delivering to the Authority at the Authority's Solicitors' address:

(i) the Notice of Acceptance of Call Offer signed by the Nominee;

(ii) a copy (and duplicate copy) of the relevant Lease executed by the Nominee as lessee completed by the insertion of:

A. the date of execution of the Lease;

B. the up to date particulars of title in any Lease cover sheet for the Premises (or part of the Premises) (as applicable);

C. the commencing date of the Lease;

D. the term of the Lease (having regard to the operation of clause 29.1);

E. the current amount of the Estate Levy;

F. the details of the Nominee's name, ABN, address and facsimile number for service of notices;

G. the details referred to in clause 29.8; and

H. such other details, additions or alterations as may be necessary to complete and (if applicable) stamp the Lease and comply with any requisition of LPI; and

(iii) any agreements necessary to remove the Authority as agent for the owners corporation in relation to any documents signed by the Authority as agent of the Owners Corporation in accordance with clause 26.6(b)(iii);

(iv) a certification addressed to the Authority by the Developer's solicitor that the Lease is in accordance with the terms of this deed;

(v) anything else the Lease requires the lessee to deliver to the lessor on or before the execution date of the Lease; and

(vi) cheques for the payment of all registration fees and (if applicable) any stamp duty in respect of the Lease.

27.3 Lease Binding if Call Offer accepted

If the Call Offer is accepted in accordance with clause 27.2, then at the time the items set out in that clause are delivered to the Authority, the Lease or Leases applicable to that Call Offer are deemed to have come into existence and are binding on the Authority (as lessor) and the Tenant (as lessee) from the relevant Lease Commencement Date, as if both the Authority and the Tenant had executed the Lease at that time.

27.4 Counterpart Lease

The Authority must deliver to the Tenant at the address given for the lessee in the Lease, within 5 Business Days after the relevant Call Offer is accepted, a counterpart of that Lease executed by the Authority. The relevant Lease comes into existence and is binding on the Authority and the Developer even if the Authority does not comply with this clause 27.4 or does not comply with it on time.

28. Put Offer

28.1 Put Offer granted

(a) None of the provisions of this clause 28 apply to any Works Portions which relate to any one or more of the following:

(i) VMP Remediation Works, VMP Investigation Works, the PDA Remediation Works or the PDA Investigation Works;

(ii) Other Remaining Remediation Works, Other Remediation Works or the Other Investigation Works; or

(iii) the Barangaroo Works excluding those Barangaroo Works which comprise:

A. the Community Facility; and

B. car parks (and associated facilities) as shown in the Agreed Design Documents proposed to be constructed below the Public Domain.

(b) In respect of each Works Portion, the Developer makes an offer to the Authority to require the Developer to lease the Premises applicable to that Works Portion.

(c) Each Put Offer is an irrevocable offer by the Developer to enter into a binding lease of the relevant Premises with the Authority in the form of the Pro Forma Lease and may only be accepted by the Authority in accordance with the provisions of this deed.

(d) If a Put Offer is not accepted by the expiry of the Put Offer Period applicable to that Put Offer, that Put Offer lapses.

28.2 Accepting the Put Offer

Each Put Offer may be accepted only:

(a) during the Put Offer Period applicable to that Put Offer;

(b) if this deed has not been terminated with respect to the relevant Works Portion;

(c) if the Call Offer relating to the Works Portion the subject of that Put Offer has not been accepted;

(d) by the Authority delivering to the Developer in accordance with clause 57:

(i) the Notice of Acceptance of Put Offer signed by the Authority;

(ii) a copy (and duplicate copy) of the relevant Lease executed by the Authority as lessor completed by the insertion of:

A. the date of execution of the Lease;

B. the up to date particulars of title in any Lease cover sheet for the Premises (or part of the Premises) (as applicable);

C. the commencing date of the Lease;

D. the term of the Lease (having regard to the operation of clause 29.1);

E. the current amount of the Estate Levy;

F. the details of the Tenant's name, ABN, address and facsimile number for service of notices; and

G. such other details, additions or alterations as may be necessary to complete and (if applicable) stamp the Lease and comply with any requisition of LPI;

H. the details referred to in clause 29.8; and

(iii) anything else the Lease requires the lessor to deliver to the lessee on or before the execution date of the Lease.

28.3 Lease Binding if Put Offer accepted

If the Authority accepts a Put Offer in accordance with clause 28.2, then at the time the items set out in that clause are delivered, the Lease or Leases applicable to that Put Offer are deemed to have come into existence and is binding on the Tenant (as lessee) and the Authority (as lessor) from the relevant Lease Commencement Date, as if both the Authority and Developer had executed that Lease at that time.

28.4 Counterpart Lease

The Developer must deliver to the Authority within 5 Business Days after a Put Offer is accepted, a counterpart of the relevant Lease executed by the Developer and cheques for the payment of all registration fees and (if applicable) stamp duty. The relevant Lease comes into existence and is binding on the Developer and the Authority even if the Developer does not comply with this clause 28.4 or does not comply with it on time.

29. Offer acceptance – miscellaneous

29.1 Lease term

(a) Provided either the relevant Call Offer or the relevant Put Offer is accepted, the Lease or Leases applicable to that Call Offer or Put Offer commence on the Lease Commencement Date and expire on the date which is 99 years from the Lease Commencement Date or as otherwise provided for in this deed.

(b) The Authority elects that any Lease or Leases granted by it as a result of the acceptance of the Call Offer or the Put Offer, as the case may be, will be a long-term lease to which s 104-115 of the *Income Tax Assessment Act 1997* applies except for any Leases having a term of 50 years or less.

29.2 Ongoing obligations

Except as otherwise provided in this deed, the Authority's and the Developer's obligations under this deed continue, and do not merge, after a Lease or Leases are granted.

29.3 Rights of the Authority to vary Lease

Provided either Call Offer or the Put Offer is accepted, the Authority may make any necessary alterations to the relevant Lease or Leases (as applicable) in form or layout to comply with any requirements of LPI.

29.4 Registration of Lease

The Authority and the Developer agree that within 20 Business Days after a Call Offer or the Put Offer is accepted, the Authority must execute the relevant Lease or Leases (as applicable), cause those Leases to be stamped (if applicable) (at the Developer's Cost but subject to clause 54.7), lodge those Leases with LPI (at the Developer's Cost) for registration and do all things necessary (at the Developer's Cost) to procure LPI to register those Leases.

29.5 No agreement for lease

(a) For the avoidance of doubt the parties acknowledge that this deed does not constitute an agreement for lease, lease, sub lease or licence of the Site or the Premises (other than the Construction Zone Licence). Notwithstanding the rights and obligations of the parties which arise under the provisions of this deed, there will be no obligation on either the Authority or the Developer to enter into the Lease (or Leases) unless and until each Call Offer or the Put Offer as the case may be, is accepted.

(b) If a Call Offer and the Put Offer lapses without being accepted by either a Nominee or the Authority, as the case may be, then neither the Authority nor the Nominee or the Developer (as the case may be) will be bound by the Lease applicable to that Call Offer and Put Offer and this deed will terminate in respect of that Call Offer and Put Offer only.

29.6 Nominee for Call Offer

(a) Subject to paragraph (b) below, this deed has not ended or been rescinded or terminated with respect to the relevant Works Portion, the relevant Call Offer has not lapsed and the relevant Lease has not yet commenced, then the Developer may give written notice to the Authority nominating a Nominee as being entitled to accept a Call Offer. The Developer must:

(i) comply with clause 10.2 of the Pro Forma Lease as if the Developer were requesting the Authority's consent to assign that lease to the Nominee; and

(ii) when giving such a notice to the Authority provide sufficient information to enable the Authority to determine whether the Nominee is an Acceptable Tenant.

The Tenant and the Nominee are not to be taken to have complied with this clause until a notice to that effect is given by the Authority to the Developer (which notice must not be unreasonably delayed or withheld).

(b) The Authority agrees that a Related Entity of the Developer or the Guarantor is an Acceptable Tenant, and that such Related Entity may enter into Strata Leases for Residential Purposes without the further consent of the Authority.

29.7 Nominee rights to accept the Call Offer

(a) Provided:

(i) the Nominee is an Acceptable Tenant; and

(ii) the Guarantor provides its written consent to the exercise by the Developer of its rights under or by virtue of this clause 29,

on and from the date the Authority receives the notice referred to in clause 29.6:

A. the Nominee has the full benefit of all rights given by the Authority under clause 27 to accept the Call Offer in accordance with clause 27.2; and

B. the Developer is not entitled to accept the Call Offer.

(b) For the avoidance of doubt, the Nominee has no proprietary interest in the Premises unless and until it accepts the Call Offer.

(c) The Authority acknowledges that if for any reason the Nominee requests the Developer to enforce any of its rights under this deed (and the Developer provides evidence of such request to the Authority), the Developer may exercise the Nominee's rights to enforce obligations which are in favour of the Nominee under this deed.

29.8 Completion of the Lease

(a) At the time that the Developer prepares the form of Lease proposed for a Works Portion, the Developer must prepare that draft Lease (i.e. amend the Pro Forma Lease) to accommodate the matters referred to below in paragraphs (i), (ii), (iii), (iv) and (v), and obtain the Authority's approval to that draft Lease (which will not be unreasonably delayed or withheld):

(i) how any requirement or commitment in the Climate Positive Work Plan or Barangaroo Management Plan (including any Deed Poll requirements) relating to that Works Portion (as is relevant to the Premises the subject of that Lease) is to be incorporated into the Lease (assuming that such requirements or commitments arise or continue following Practical Completion of that Works Portion);

(ii) how the ratings referred to in clause 8 of the Pro Forma Lease are to be completed so that they apply to that Lease, it being agreed that as a minimum the following ratings should apply:

A. in respect of NABERS Energy: 5 stars;

B. in respect of NABERS Indoor Environment Quality: 5 stars;

C. in respect of NABERS Water: 5 stars; and

D. in respect of NABERS Waste: 5 stars; and

(iii) if, as at the date proposed for the grant of the relevant Lease, Practical Completion of the Works Portion relevant to the Premises the subject of that Lease will have been achieved, then clause 6.10 and Attachment 1 of the Pro Forma Lease must be removed; and

(iv) where the Lease is for a Building or a retail stratum lot in respect of which any Retail Public Domain may be licensed in accordance with clause 29A, to provide for an offer to be made by the Authority (as Lessor) to the Owner (as Tenant) of a licence in respect of the Retail Public Domain on equivalent terms to the offer to grant a Head Licence made by the Authority under clause 29A, save that:

A. the offer shall be a continuing offer throughout the term of the Lease; and

B. the term of the licence shall (irrespective of when the offer is accepted by the Tenant) not exceed the term of the Lease remaining at the time the offer is accepted.

(b) If the Authority does not approve the draft Lease submitted to it pursuant to clause 29.8(a) within 10 Business Days of receipt of that draft Lease (and the Developer and the Authority otherwise cannot reach a satisfactory compromise on the matter), then either the Authority or the Developer may notify a dispute under clause 45.

(c) Once approved by the Authority (or determined pursuant to clause 45), the Developer must complete the Lease by inserting the details so approved or determined as contemplated by this clause 29.8.

29.9 Authority to consider other requested leasing arrangements

(a) At any time prior to the acceptance of a Call Offer by a Nominee and before the expiry of the Call Offer Period applicable to that Call Offer, the Authority agrees to act reasonably in considering any request by the Developer for the Authority to enter into a put offer and call offer to lease or agreement to lease (**Alternate Lease Arrangement**) with a Nominee in respect of a proposed Lease of the Premises that would have otherwise been the subject of a Call Offer.

(b) The Authority agrees to act reasonably when negotiating the terms of any such Alternate Lease Arrangement providing that:

(i) such arrangement does not give the relevant Nominee any greater rights that the Developer or the Nominee has under or by virtue of this deed;

(ii) if the Authority does agree to, and is bound by, such arrangement, then the Authority's obligations and the Developer's (or its Nominee's) rights under this deed in relation clauses 27 or 28 (so far as those clauses relate to the Premises the subject of the Alternate Lease Arrangement) will be suspended and cannot be enforced (for example, the Nominee would not be able to accept the Call Offer in relation to that Premises) for so long as the 'offer or agreement to lease' in the relevant Alternate Lease Arrangement remains capable of acceptance or is otherwise enforceable; and

(iii) once the 'offer or agreement to lease' in the relevant Alternate Lease Arrangement is accepted in respect of a Premises, then the Call Offer and Put Offer made in relation to that Premises the subject of this deed will expire and be no longer capable of acceptance.

29A. Retail Public Domain

29A.1 Acknowledgments

The Authority and the Developer acknowledge and agree the following:

(a) **Nature of the Public Domain**

(i) The Public Domain (including the Retail Public Domain) is owned by the Authority.

(ii) The Public Domain is provided for the amenity of Barangaroo as an urban precinct, and for the benefit of the community as a whole (including business owners, workers, residents, visitors and the general public at Barangaroo).

(b) **Long term and retail tenancies**

(i) Pursuant to clause 29.6, the Developer is entitled to give a notice specifying the Nominee who will become the Tenant under a Long Term Lease of a Building (or retail stratum lot (or lots) within a Building as applicable) by accepting a Call Offer and thus become an Owner.

(ii) To the extent permitted under a Long Term Lease, the Owner may sublease parts of the Building (or retail stratum lot (or lots) within a Building as applicable) to retail sub tenants in accordance with the Long Term Lease.

29A.2 Agreement to grant licences

(a) The Authority offers to grant a Head Licence:

(i) to each Owner of a Building (or retail stratum lot (or lots) within a Building as applicable);

(ii) in respect of that part of the Retail Public Domain which is related to the Building (or retail stratum lot (or lots) within a Building as applicable), as specified in the Retail Public Domain Plan; and

(iii) on the terms set out in the applicable Pro Forma Public Domain Licence as amended further to clause 29A.9.

(b) The Authority agrees that the terms of the Head Licence will permit an Owner to grant sub-licences of the Retail Public Domain (and any relevant Early Access Area) to Retail Tenants for use in connection with their retail operations without the prior consent of the Authority in accordance with the Head Licence.

(c) The parties acknowledge that further to the C4 Investor Side Deed and the C5 Investor Side Deed, Call Offers may be accepted in respect of leases which will apply to the T2 and T3 Buildings. The parties acknowledge that:

(i) where a Call Offer is accepted under either the C4 Investor Side Deed or the C5 Investor Side Deed; and

(ii) the resulting lease (including any 'Building Lease' (as that term is defined in the C4 Investor Side Deed and the C5 Investor Side Deed) is a lease in respect of a Building (or retail stratum lot (or lots)) to which any Retail Public Domain relates (as described in clause 29A.4(a)),

then, for the purposes of this clause 29A:

(iii) the acceptance of that Call Offer will be deemed to be acceptance of a Call Offer pursuant to clause 29;

(iv) the resulting lease will be deemed to be a Long Term Lease; and

(v) the tenant of that lease will be an Owner.

29A.3 Marketing interests of Lend Lease

(a) The Authority acknowledges that the Developer may enter into agreements with prospective Retail Tenants prior to the grant of a Long Term Lease and a Head Licence in respect of the relevant Building (or retail stratum lot (or lots) within a Building) which will include promises that the Owner of the Building will grant a sub-licence on the terms contemplated in the Pro Forma Public Domain Licences. The

Authority acknowledges this on the basis that the Owner will be bound to grant such a sub-licence (and the retail lease) to the Retail Tenant.

(b) The purpose of this clause 29A is to provide the parties, prospective investors and prospective Retail Tenants with certainty as to the terms on which the Authority will permit the Retail Public Domain to be used, and in this regard, is intended to facilitate the Developer's ability to market the Buildings.

(c) The Developer acknowledges that the Authority will prepare the 'Design Guidelines' which will be the 'Design Guidelines' for the purposes of (and as referred to in), the Pro Forma Public Domain Licence.

(d) Without limiting the Authority's right to determine scope, form and contents of the 'Design Guidelines', the Authority will:

(i) use reasonable endeavours to prepare the 'Design Guidelines' within the period of four weeks commencing on and from the date of the Fifth Deed of Amendment;

(ii) consult with the Developer when preparing the 'Design Guidelines' (and act reasonably in considering any comments received from the Developer in this regard); and

(iii) include a process (within the 'Design Guidelines') for updating the 'Design Guidelines' which recognises that licensees under the Head Licences may from time to time submit a request to the Authority proposing an amendment to the 'Design Guidelines' and providing that the Authority will act reasonably in considering any such requests.

29A.4 Retail Public Domain categories and amendment of plans

(a) The Retail Public Domain will comprise two categories of areas:

(i) 'Category 1' Retail Public Domain which relate to part of the area situated on the western side of Buildings R8 and R9, (marked yellow in the Retail Public Domain Plan) (**Category 1 RPD**); and

(ii) 'Category 2' Retail Public Domain which relate to Buildings C2, C8, R1, R7, R8, R9, T1, T2 and T3 (marked green in the Retail Public Domain Plan) (**Category 2 RPD**).

(b) The Retail Public Domain Plan is indicative only and may be amended by agreement between the Authority and the Developer:

(i) each acting reasonably and in good faith in respect of any request by either party for any parts of the Category 1 RPD or Category 2 RPD to be amended; and

(ii) subject to the rights of any Owners as licensees under any existing Head Licences.

(c) Each of the Category 1 RPD and Category 2 RPD may contain Early Access Areas which relate to particular Buildings as indicated on the Retail Public Domain (Early Access) Plan.

(d) The Early Access Areas may be utilised prior to 1 March 2016:

(i) by the relevant Owners of the Buildings (or retail stratum lot (or lots) within a Building as applicable) to which those Early Access Areas relate; and

(ii) pursuant to a Head Licence granted in accordance with this clause 29A.

(e) The Early Access Area in respect of a Building (or retail stratum lot (or lots) within a Building as applicable) may be amended before the commencement of a Head Licence that provides for that Early Access Area by agreement between the Authority and the Developer:

(i) each acting reasonably and in good faith in respect of any request by either party for any Early Access Area to be amended; and

(ii) subject to the rights of any Owners as licensees under any existing Head Licences.

29A.5 Offer to grant Head Licences

(a) **Category 1 RPD**

(i) The Authority offers to grant a Head Licence:

A. to the relevant Owners (from time to time) of the retail stratum lot (or lots) within Building R8 and Building R9;

B. in respect of the Category 1 RPD which is related to Building R8 and Building R9 (or the retail stratum lot (or lots) within those Buildings as applicable) (as relevant) as set out on the Retail Public Domain Plan.

(ii) The parties acknowledge that the relevant Owner of the retail stratum lot (or lots) within Building R8 and Building R9:

A. may only accept the offer in clause 29A.5(a):

1) on or after the date on which the Owner (as Nominee) accepts a Call Offer in respect of a Long Term Lease of the retail stratum lot (or lots) within Building R8 and Building R9 as applicable under clause 29; and

2) in accordance with clause 29A.8; and

B. is obliged to take a Head Licence of all of the Category 1 RPD related to the relevant Building if it accepts the Authority's offer in clause 29A.5(a).

(b) **Category 2 RPD**

(i) The Authority offers to grant a Head Licence:

A. to the relevant Owner (from time to time) of:

1) the retail stratum lot (or lots) within Building R8 and Building R9; and

2) Buildings C2, C8, R1, R7, T1, T2 and T3 (as relevant) (or each retail stratum lot (or lots) within each other Building);

B. in respect of that part of the Category 2 RPD which is related to Buildings C2, C8, R1, R7, R8, R9, T1, T2 and T3 (as relevant) as indicated on the Retail Public Domain Plan.

(ii) The parties acknowledge that:

A. the Owner may only accept the offer in clause 29A.5(b):

1) on or after the date on which the Owner (as Nominee) accepts a Call Offer in respect of a Long Term Lease the relevant Building (or retail stratum lot (or lots) within the relevant Building) under clause 29; and

2) in accordance with clause 29A.8; and

B. the Authority is only required to grant a Head Licence to an Owner over an area requested by an Owner which is wholly within the Category 2 RPD related to the relevant Building and as indicated on the Retail Public Domain Plan in respect of the relevant Building.

(iii) The Authority acknowledges and agrees that an Owner is not required to take the whole of the Category 2 RPD related to the relevant Building and as indicated on the Public Domain Plan in respect of that Owner's Building.

29A.6 Negotiation of licence terms

(a) The Authority will only enter into discussions with the Developer regarding the grant of a Head Licence in connection with a Building (or retail stratum lot (or lots) within a Building as applicable), where the relevant Building (or retail stratum lot (or lots) within a Building as applicable):

(i) is not leased to an Owner; or

(ii) has not yet been committed for lease to a prospective Owner (by the prospective Owner entering into binding agreements with the Developer for the acquisition of the long term leasehold interest in the relevant Building).

(b) Discussions between the Developer and the Authority regarding the grant of a Head Licence in connection with a Building (or retail stratum lot (or lots) within a Building as applicable) are for the purposes of enabling the Developer to provide information to prospective purchasers only and do not entitle the Developer to receive a Head Licence.

(c) To the extent that an Owner (or prospective Owner who has entered into binding agreements for the acquisition of the long term leasehold interest in a building with the Developer) wishes to discuss the potential use of any part of the Retail Public Domain, that party may approach the Authority directly.

(d) To the extent that the Developer has not secured an Owner for a Building (or retail stratum lot (or lots) within a Building as applicable) and wishes to discuss the use of the Retail Public Domain, the terms of this deed (including this clause 29A) will apply.

29A.7 Nomination of Guarantor

(a) Subject to clause 29A.7(f), at any time after the Developer gives a notice under clause 29.6 nominating a Nominee as being entitled to accept a Call Offer and prior to the Nominee accepting a Head Licence under clause 29A.8, the Authority may request the Nominee provide either (at the Nominee's election):

(i) a notice nominating the guarantor to provide the guarantee under the Head Licence, together with;

A. (if the proposed guarantor is a natural person) the name and address of the proposed guarantor under the Head Licence;

B. (if the proposed guarantor is a company) the names and addresses of its directors;

C. any information reasonably required by the Authority in order to be satisfied that the proposed guarantor is a respectable, responsible and solvent person capable of duly and punctually observing and performing the obligations of the Nominee (as licensee) under the Head Licence, or

(ii) details of alternative security arrangements proposed by the Nominee.

(b) As soon as is practicable after receiving all of the required information under clause 29A.7(a), the Authority must:

(i) (where a guarantor is nominated) if in the reasonable opinion of the Authority, the proposed guarantor is a respectable, responsible and solvent person capable of duly and punctually observing and performing the obligations of the Nominee (as licensee) under the Head Licence, give a notice to the Developer accepting the proposed guarantor; or

(ii) (where alternative security arrangements are proposed by the Nominee) if in the reasonable opinion of the Authority, the proposed security arrangements are reasonably sufficient to protect the Authority in the event that the Nominee is not capable of duly and punctually observing the obligations of the Nominee (as licensee) under the Head Licence, give notice to the Developer accepting the proposed security arrangements.

(c) Where the Authority is not reasonably satisfied of the matters referred to in clauses 29A.7(b)(i) and (ii) above, the Authority may give a notice to the Developer rejecting (with reasons) the proposed guarantor or security arrangements (as applicable).

(d) If the Authority rejects a proposed guarantor, either the Authority or the Developer may notify a dispute under clause 45.

(e) Nothing in this clause 29A.7 affects the operation of clauses 27 and 29 and any request for information given under this clause 29A.7 (or the absence of any request) does not in any way demonstrate or represent the Authority's acceptance of a Nominee as an Acceptable Tenant for the purposes of clauses 27 and 29.

(f) This clause 29A.7 does not apply in relation to any Nominee being entitled to accept a Call Offer in respect of either Building T2 or Building T3 and the Authority will not require any Nominee being entitled to accept a Call Offer in respect of either Building T2 or Building T3 to nominate a guarantor or propose alternative security arrangements for the purposes of any Head Licence granted in respect of Building T2 or Building T3.

29A.8 Acceptance of Head Licence

(a) Each offer of a Head Licence may only be accepted by a Nominee who is an Acceptable Tenant and has accepted a Call Offer in accordance with clause 29.

(b) A Nominee may accept the grant of a Head Licence only:

(i) during the period:

A. commencing on the date the Nominee accepts the Call Offer in respect of a Long Term Lease under clause 29; and

B. ending on the expiry of the Call Offer Period in respect of that Call Offer; and

(ii) if the Developer is not in breach of any of its obligations:

A. to pay the Development Rights Fee or the Developer Contributions pursuant to this deed; or

B. to provide Bank Guarantees under clause 39.

(iii) (if the Authority has made a request under clause 29A.7(a)), the Nominee has provided all information required under clause 29A.7(a) and the Authority has accepted the proposed guarantor or alternative security arrangements as applicable (or has waived a requirement for either of them).

(c) A Nominee may accept the grant of a Head Licence by the Nominee delivering to the Authority at the Authority's solicitor's address:

(i) a notice of acceptance of the Authority's offer, which must:

A. be signed by the Nominee;

B. specify the address for service of documents on the Nominee;

C. specify the relevant Building (or retail stratum lot within a Building) in respect of which the Nominee has accepted the Call Offer in respect of a Long Term Lease, pursuant to clause 29;

D. specify the relevant part of the Retail Public Domain in respect of which the Nominee is accepting the Authority's offer;

E. include a statement as to whether the relevant licensed area is located within the Category 1 RPD or the Category 2 RPD;

F. include a statement from the Nominee to the Authority, confirming that the nominated licensed area (identified in the plan attached to the licence submitted with the notice of acceptance of the Authority's offer) is situated wholly within the areas relevant to the Building in respect of which the Nominee has accepted the Call Offer for a Long Term Lease,

(**Notice of Acceptance**);

(ii) a copy (and duplicate copy) of the licence of the relevant licensed area:

A. executed by:

1) the Nominee as licensee;

2) (if a guarantor proposed by the Nominee has been accepted by the Authority in accordance with clause 29A.7(b)(i)), the guarantor accepted by the Authority;

B. prepared, if the relevant licensed area is located within:

1) the Category 1 RPD, using the Pro Forma Public Domain Licence applicable to Category 1 RPD;

2) the Category 2 RPD, using the Pro Forma Public Domain Licence applicable to Category 2 RPD; and

C. completed in accordance with clause 29A.9.

(iii) a certification addressed to the Authority by the Developer's solicitor that the licence referred to above is in accordance with the terms of this deed;

(iv) anything else the Head Licence requires the Developer or the Nominee to deliver to the Authority on or before the execution date of a Head Licence; and

(v) (where alternative security arrangements proposed by the Nominee in accordance with clause 29A.7(b)(ii) have been accepted by the Authority), anything required under those arrangements to be provided to the Authority prior to the commencement of the Head Licence.

(d) If the offer is accepted in accordance with this clause 29A.8, then at the time the items set out in this clause 29A.8 are delivered to the Authority the Head Licence over the relevant licensed area is deemed to have come into existence on the terms applicable to that offer and is binding on the Authority (as licensor) and the Nominee (as licensee) from the commencement date specified in the Head Licence, as if both the Authority and the Nominee had executed the Head Licence at that time.

(e) The parties acknowledge that the Pro Forma Public Domain Licences provide, at clause 19.2(b)(i) that a licence in respect of the Early Access Area will not commence earlier than 10 Business Days following notice under clause 19.2(a) of the Head Licence. The Authority acknowledges that a Nominee may, prior to acceptance of a Head Licence under this clause 29A.8, provide notice requesting the Licensor to grant to the Licensee a short term early access licence of all or part of the Early Access Area. The Authority acknowledges that such notice will be deemed to be notice under clause 19.2(a) of the Head Licence for the purposes of clause 19.2(b)(i) of the Head Licence. Nothing in this clause 29A.8(e) shall operate to create a licence in respect of the Early Access Area that commences prior to the date on which the Nominee accepts the relevant Head Licence in accordance with this clause 29A.8.

29A.9 Completion of Head Licence

For the purposes of clause 29A.8(c)(ii)(C), the Nominee must complete the Head Licence by:

(a) (in Item 1 of the reference schedule) inserting details of the land on which the relevant Building in respect of which the Nominee has accepted the Call Offer for a Long Term Lease is situated;

(b) (in Item 2 of the reference schedule) inserting a description of the Building (or retail stratum lot within a Building) in respect of which the Nominee has accepted the Call Offer for a Long Term Lease;

(c) (in Item 3 of the reference schedule) inserting the "Commencing Date" of the licence (as that term is defined in the Head Licence) being the last to occur of:

(i) the commencement date of the relevant Long Term Lease in respect of which the Nominee has accepted the Call Offer, pursuant to clause 29; and

(ii) the date on which the Nominee accepts the grant of licence in accordance with clause 29A.8; and

(iii) 1 March 2016;

(d) (in Item 4 of the reference schedule) inserting the expiration date and the term of the licence in the reference schedule (calculated in accordance with the instructions for completion of the licence contained in the reference schedule of the Pro Forma Public Domain Licence);

(e) (in Item 5 of the reference schedule) inserting the initial annual Licence Fee (determined in accordance with the instructions for completion of the licence contained in the reference schedule of the Pro Forma Public Domain Licence);

(f) (in Item 6 of the reference schedule) by striking out the details of any period of 'Licence Fee Relief' which has expired prior to the commencement date of the licence;

(g) (in Item 13 of the reference schedule) inserting the relevant dates for the particulars of the new licence (determined in accordance with the instructions for completion of the licence contained in the reference schedule of the Pro Forma Public Domain Licence);

(h) if relevant, inserting the details of the trust of which the Nominee is the trustee;

(i) inserting the details of the Nominee (as licensee) as required to complete the Pro Forma Public Domain Licence;

(j) where:

(i) a guarantor is required pursuant to clause 29A.7:

A. inserting the details of the guarantor (as applicable) in order to complete the Pro Forma Public Domain Licence in respect of that guarantor; and

B. deleting clause 16.8 of the Pro Forma Public Domain Licence; or

(ii) a guarantor is not required pursuant to clause 29A.7:

A. retaining clause 16.8 and inserting the name of the Nominee (as Licensee) in the clause; and

B. in Item 12 of the reference schedule (relating to the 'Guarantor') inserting the words "Not applicable - refer clause 16.8";

(k) by including in Annexure A:

(i) where the Head Licence relates to Category 1 Retail Public Domain, the plan from the Retail Public Domain Plan which shows the relevant Retail Public Domain relating to the relevant Building (or stratum lot (or lots) within that Building); or

(ii) where the Head Licence relates to Category 2 Retail Public Domain, a plan showing the part of the Retail Public Domain that will be the 'Licensed Area' for the purposes of the Pro-Forma Public Domain Licence (which must be in accordance with clause 29A.5(b)(ii)(B);

(l) where the Head Licence relates to Category 2 Retail Public Domain, by including in Annexure D the plan from the Retail Public Domain Plan which shows the relevant Retail Public Domain relating to the relevant Building (or stratum lot (or lots) within that Building);

(m) such other details, additions or alterations as may be necessary to complete and the licence as agreed by the Authority and the Developer (including any details, additions or alterations required further to any alternative security arrangements proposed by the Nominee in accordance with clause 29A.7(b)(ii) and accepted by the Authority);

(n) where the Head Licence is accepted prior to 1 March 2016 in respect of a Building (or stratum lot (or lots) within a Building) to which any Early Access Areas relate, by including in Annexure C the plan from the Retail Public Domain (Early Access) Plan which shows the relevant Early Access Areas relating to the relevant Building (or stratum lot (or lots) within that Building); and

(o) where clause 29A.9(n) does not apply, deleting clause 19 and Annexure C.

29A.10 Counterpart Head Licence

As soon as is practicable after the relevant offer is accepted in accordance with clause 29A.8, the Authority must deliver to the Nominee (at the address given for the Nominee in the Notice of Acceptance), a counterpart of that Head Licence executed by the Authority. The relevant Head Licence comes into existence and is binding on the Authority and the Nominee even if the Authority does not comply with this clause 29A.10 or does not comply with it on time.

30. General requirements for carrying out Works

30.1 Works to comply

(a) The Developer must carry out or procure the carrying out of each Works Portion and ensure that each Works Portion is carried out in accordance with:

(i) the Works Documents;

(ii) subject to clause 25, the dates stipulated in the Development Program for the achievement of the Milestones;

(iii) all applicable Laws;

(iv) the Code; and

(v) the Project Documents.

(b) The Developer and the Authority agree that should any requirement of the Project Documents be inconsistent with any requirement under clause 30.1(a)(i) to 30.1(a)(v) inclusive, then the latter will prevail over the Project Documents to the extent of the inconsistency.

(c) If after the Commencement Date, it becomes apparent to any party that this deed does not capture a commitment or requirement in the Final Proposal that was to be delivered by the Developer as part of the Project pursuant to this deed, then the parties agree to act reasonably and negotiate any changes required to this deed to incorporate that commitment within this deed provided that that this clause 30.1(c):

(i) does not apply:

A. to any commitment or requirement in the Final Proposal that was the subject of discussions or negotiations between the Developer and the Authority during the preparation of this deed (and which the Developer and the Authority chose not to provide for in this deed); and

B. to Returnable Schedules 5 (Sustainability) and 7 (Remediation) of the Final Proposal; and

(ii) only applies to those commitments or requirements which were genuinely and inadvertently overlooked when this deed was prepared.

30.2 Developer's obligation for care of Works

Except as otherwise provided in this deed, the Developer is responsible for the care of the Works at all times.

30.3 Developer to rectify damage to Works

The Developer must promptly notify the Authority of any material loss or material damage to or material defects of which it is aware, or ought reasonably to be aware, in the Works or the Site and without limiting its rights to make any claim or take any action in respect of such loss or damage or defects at its Cost, promptly rectify any loss or damage to or defects in the Works and the Site so that the Works conform in every respect with the requirements of this deed.

30.4 Securing of the Site

The Authority acknowledges that the Developer is not responsible nor liable in any manner whatsoever (excluding any responsibility or liability for which the Developer is responsible or liable because of the wrongful or reckless acts of the Developer or its officers, servants, agents or contractors) for security of or within the Site outside of the Developer Secured Area, or in respect of any unauthorised entry to or misdemeanour within the Site outside of the Developer Secured Area.

30.5 No noxious use

The Developer must not permit any illegal act, trade, business, occupation or calling at any time to be exercised carried on, permitted or suffered in or on the Developer Secured Area.

30.6 Works associated with Sydney Harbour

To the extent that the Works impact on, or are associated with, the waters of Sydney Harbour, the Developer acknowledges and agrees that, subject to clauses 11.2, 16 and 17 it is responsible for all risks of carrying out of those Works including without limitation any dredging and Remediation of any Contamination.

31. Condition of Site

31.1 No warranty as to purpose

The Authority does not warrant that the Site is suitable, or may be used, for any purpose. Subject to any provision of this deed, the Developer represents and warrants that*:*

(a) it has made its own appraisal of, and has satisfied itself in all respects in connection with, the suitability of the Site for the Project and Developer's proposed use of the Site;

(b) it has had the opportunity to investigate, and has entered into this deed with full knowledge of (other than in relation to any Approval) and subject to, all prohibitions and restrictions applying to the Site (including their use) under any Law and as disclosed by the Authority prior to the Developer entering into the deed;

(c) it has satisfied itself in all respects in connection with the timetable for the completion of the Project, including the requirements of the Development Program;

(d) the Encumbrances affecting the Site which are registered in the folios of the register as at the Commencement Date will not prejudice the Developer's ability to complete the Works;

(e) it will complete the Works with due skill, care and diligence; and

(f) it has reviewed the Barangaroo Approval Documents.

31.2 Site Condition

The Developer:

(a) represents and warrants to the Authority that, because of the Developer's own inspection and enquiries, the Developer:

(i) is satisfied as to the nature, quality, condition and state of repair of the Site; and

(ii) accepts the Site as it is and subject to all defects (latent or patent) and all dilapidation and infestation; and

(b) subject to clause 25 and subject to any other provision in this deed to the contrary, may not make any objection or claim for compensation against the Authority, delay the carrying out of any Works Portion (such that the Developer may not achieve a Milestone in accordance with the Development Program) or terminate this deed because of anything in connection with:

(i) any of the matters referred to in clause 31.2(a);

(ii) loss, damage, dilapidation, infestation, defect (latent or patent) or mechanical breakdown which may affect the Site except to the extent caused or contributed to by the Authority or the Authority's Employees after the Commencement Date;

(iii) [redacted] the presence in or on the property of Contamination except to the extent any Contamination was caused or contributed to by the Authority or the Authority's Employees after the Commencement Date;

(iv) subject to the Authority exercising its rights under clause 37.7 in accordance with clause 37.7, the condition or existence or non-existence of Services: or

(v) any action or non-action by any person.

31.3 Services

The Developer accepts all Costs and risks associated with procuring provision of Services to the Site. Except to the extent of any interruption or failure caused or contributed to by the wrongful or reckless acts of the Authority or its officers, servants, agents or contractors, the Developer agrees that the Authority is not liable for, and the Developer releases the Authority from, any liability for any loss, injury, damage or Cost incurred by the Developer or any other person at any time in connection with the existence of, interruption to, or the failure of, the Services.

31.4 Other activities at Barangaroo

The Developer acknowledges that it is aware that:

(a) the Site is within a major event, entertainment and exhibition precinct;

(b) entertainment and promotional events or activities and public festivals are or may be conducted at Barangaroo (including on adjoining land);

(c) occupiers of land in the vicinity of the Site may carry out other noisy activities;

(d) roads in the vicinity of the Site may be temporarily closed during periods when certain events or activities occur and for the purpose of carrying out maintenance and repair; and

(e) the events, activities or festivals may temporarily interfere with the Developer's quiet enjoyment of the Site.

31.5 Site co-ordination - other developments

(a) The Developer:

(i) acknowledges that:

A. land adjoining the Site or in the vicinity of the Site may be the subject of construction activities; and

B. the Authority may establish a process to manage site coordination issues during the construction phase of other developments within Barangaroo and during the long term operation of completed developments; and

(ii) agrees to liaise and co-operate with, and assist the Authority in that process.

(b) The Authority agrees to:

(i) use its reasonable endeavours to minimise any inconvenience to the Developer caused by any such processes; and

(ii) provide the Developer, where possible, with reasonable prior notice if the processes are likely to impact on the carrying out of the Works.

31.6 No claims by Developer

The Developer acknowledges and agrees that:

(a) the matters referred to in clauses 31.4 and 31.5 may have an effect on the conduct of the Works and the Project; and

(b) without prejudice to the Developer's rights under clause 25, it is not entitled to object to, or make a claim against the Authority because of, the occurrence of any of the matters referred to in clauses 31.4 or 31.5(a).

32. Environmental, native title and heritage obligations

32.1 Environmental Laws

Without limiting clause 34.1:

(a) subject to clause 32.1(c), the Developer must comply with and observe all Environmental Laws in carrying out the Project and complying with its obligations under this deed, except to the extent of any wrongful or reckless act by the Authority or any of the Authority's Employees;

(b) [redacted]

32.2 Environmental matters

In addition to the other requirements under this deed, the Developer agrees to keep the Authority informed in connection with all aspects of the Works which could have a material impact on the Environment.

32.3 Environmental risk

The Developer acknowledges and agrees that subject to the provisions of this deed, the Developer bears the risk of complying with all Environmental Laws and is not entitled to:

(a) make a claim, objection or requisition against the Authority or delay, rescind or terminate any Project Document; or

(b) request any extension of time to perform its obligations under any Project Document,

by reason of any of the matters disclosed or referred to in clause 32.1, excluding any compliance with Environmental Laws which is necessitated by Contamination to the Site caused or contributed to by any wrongful or reckless act by the Authority or the Authority's Employees after the Commencement Date.

32.4 Finding of Relics

The Developer:

(a) acknowledges and agrees that:

(i) Relics may be found on, in or under the surface of the Site; and

(ii) as between the Authority and the Developer, any such Relics are and will remain the property of the Authority; and

(b) must, upon the discovery of a Relic:

(i) promptly notify the Authority; and

(ii) comply with all Laws relating to the discovery of the Relic.

32.5 Native Title Applications and Threatened Species Claims

The Developer agrees that if:

(a) there is a Native Title Application; or

(b) a Threatened Species Claim is commenced,

affecting any part of the Site or the carrying out of the Works, the Developer must:

(c) continue to perform its obligations under this deed and the other Project Documents unless otherwise:

(i) ordered by any court or tribunal; or

(ii) required by Law; and

(d) take all reasonable steps to mitigate any loss or Cost to the Authority in complying with its obligations under clause 32.5(c).

32.6 No claim by Developer

Except as otherwise provided in this deed, the Developer may not make a claim against the Authority for any Costs, losses or damages incurred by the Developer arising from or in connection with any of the matters referred to in clauses 32.4 and 32.5.

33. Care of surrounding areas and safety

33.1 Developer bears risk

(a) The Developer agrees that except to the extent that such risk or Costs are caused by the Authority's or the Authority's Employees' breach of this deed or any wrongful or reckless act by the Authority or any of the Authority's Employees:

(i) from the earliest Works Portion Commencement Date, it is solely responsible for, and bears all risk and Cost in relation to, the protection of people and property on the Developer Secured Area;

(ii) it must, to the extent consistent with the execution of the Works in accordance with this deed, take reasonable steps to avoid unnecessary interference with the movement of people and vehicles in or around the vicinity of the Barangaroo precinct; and

(iii) it is solely responsible for, and bears all risk and Cost in relation to any nuisance or unreasonable noise and disturbance caused as a result of carrying out the Works.

(b) The Developer is entitled to take, at its Cost, such action as it considers reasonably necessary to ensure the safety of persons and property within the Developer Secured Area, including removing or modifying any improvements which exist on the Developer Secured Area as at the Commencement Date (other than services which are the responsibility of any Public Authority (not being the Authority) to maintain).

33.2 Surrounding areas

The Developer must:

(a) use all reasonable endeavours not to cause:

(i) the streets adjoining the Site to be in an unclean or untidy condition throughout construction of the Works; or

(ii) any damage to the existing streets, kerbs, services and public utilities and any property located in the vicinity of the Site, except as reasonably necessary for the purposes of the Works;

(b) not wash or permit the washing of concrete trucks or other vehicles or machinery employed in relation to the Works in the streets or areas surrounding the Site;

(c) promptly make good any damage, caused or contributed to by the Developer (or the Builder) carrying out the Works, to any part of Barangaroo, including public utilities and services owned or controlled by the Authority, as soon as practicable after the damage occurs or such longer time as the Authority permits in its discretion (acting reasonably); and

(d) on completion of each Works Portion, ensure that the access roads to the Site and any adjoining structures or infrastructure, fencing, footpaths or other roadways which have been damaged by the Developer or the Builder are repaired in a timely manner having regard to the future development of the Project, or if repair is not possible the relevant damaged part replaced to the satisfaction of any relevant Public Authority, in compliance with all Laws and otherwise to the reasonable satisfaction of the Authority.

33.3 Safety of persons

The Developer must:

(a) before commencing the Works ensure that appropriate safety measures including safety fencing, barriers, barricades, hoardings and protective coverings are in place to prevent public access to the Developer Secured Area; and

(b) if required as a result of the carrying out of the Works shore up, maintain, underpin and support adjoining structures (including the relevant access roads, buildings, fencing, footpaths and roadways) so as to ensure:

(i) stability and continued use of these structures; and

(ii) the safety of persons; and

(c) cause the Works to be carried out in a safe manner.

33.4 Noise

The Developer must use its reasonable endeavours, having regard to the nature of the Works, to:

(a) ensure that any person involved in the carrying out of the Works complies with any applicable Laws with respect to noise suppression methods for building or construction machinery used in carrying out the Works; and

(b) subject to the Developer's rights under any Law and this deed, minimise the inconvenience or interference to any owner or occupier of adjoining land.

33.5 Crane usage

(a) Subject to clause 33.5(b), the Developer must ensure that any site cranes used for construction of the Works remain fully on the Site and the Developer Secured Area. Nothing in this clause restricts the boom swing of any crane being above land outside the boundaries of the Site and the Developer Secured Area subject to all necessary approvals having been obtained from the relevant Public Authorities and any relevant adjoining lessees or occupiers of relevant land to permit same.

(b) If the Developer requires to operate cranes on or over any land within Barangaroo other than the Site or the Developer Secured Area, the Developer must apply to the Authority for approval. In giving or refusing its approval the Authority will take into account the Code, all other policies and regulations and the interests of the occupier of the land which may be affected and which it would be reasonable for the Authority to take into account.

(c) If, in accordance with ordinary construction practices, the Developer needs to locate any crane outside of the Land, the Developer must obtain all relevant Approvals before it may do so.

33.6 Rights of the Authority to protect persons and property

If the Developer fails to comply with its obligations under clause 33.3, then in addition to the Authority's other remedies, the Authority may after giving reasonable written notice to the Developer (except where the Authority determines that urgent action is required to protect persons or property), carry out or procure the carrying out of the necessary work. The Developer must pay to the Authority on demand a sum equal to all Costs incurred by the Authority.

34. Compliance with Laws

34.1 Obligations of the Developer

Subject to the terms of this deed (including clause 32.1(c), the Developer must on time comply with, and observe at the Developer's expense, all Laws (excluding any judgments issued by any Court or tribunal requiring any payment or action by the Authority) in connection with:

(a) the Site;

(b) the Works;

(c) the Developer's Property; and

(d) the use or occupation of the Site,

whether or not those Laws are imposed on the Authority or the Developer.

34.2 Effect of compliance

The Developer expressly acknowledges and agrees that in complying with the Laws referred to in clause 34.1, the Developer may be required to effect demolition, structural or capital works, alterations, additions and improvements to the Site (excluding that part of the Site comprising any part of Hickson Road or Block 5).

34.3 Copies of notices

(a) The Developer must give the Authority a copy of any notice relating to the Environment or public safety of the Site notified to, or served on, the Developer or any other notice relating to the Site which is materially relevant to the Authority.

(b) The Authority must give the Developer a copy of any notice relating to the Environment or public safety of the Site notified to, or served on, the Authority or any other notice relating to the Site which is materially relevant to the Developer.

34.4 Acceptance of risk

Except in respect of:

(a) a Discriminatory Law;

(b) any other provision of this deed imposing liabilities, responsibility or obligations on the Authority;

(c) any breach by the Authority of its obligations under the deed;

(d) any wrongful or reckless act by the Authority or any of the Authority's Employees; or

(e) the Authority exercising its rights under clause 37.7,

the effect of any Law (excluding any judgments or orders issued by any Court or tribunal requiring any payment, action or inaction by the Authority) on the Developer's use of the Site is at the sole risk of the Developer.

34.5 Discriminatory Laws

Despite any other clause to the contrary, the Authority agrees that it must bear all time and direct cost risk associated with:

(a) any Discriminatory Laws; and

(b) any changes to Discriminatory Laws,

including any increased levies, imposts or charges arising from the Discriminatory Law.

35. Insurances

35.1 Contract works insurance

Without limiting or affecting the Developer's other obligations under this deed, before commencement of any Works Portion the Developer must (at its own Cost) effect and maintain or cause to be effected and maintained a contract works insurance policy or procure that a contract works insurance policy is effected and maintained. The policy must cover the usual risks insured under a contract works insurance policy, and be subject to the usual terms and conditions that apply to such a policy. Subject to those limitations, the risks covered under the policy shall include loss, damage or destruction (including, without limitation, by earthquake, fire, flood, lightning, storm and tempest, theft, malicious damage) and resulting in loss or damage of:

(a) the relevant Works Portion (including any associated temporary works);

(b) all materials and things (including plant and equipment used in the execution of the relevant Works Portion) brought onto or in storage on the Site by the Developer, the Tenant, the Developer's Employees and Agents or the Tenant's employees and agents, for the purpose of the Project other than constructional plant and equipment of contractors and subcontractors unless it is to be incorporated into the relevant Works Portion;

(c) the Improvements (associated with the relevant Works Portion); and

(d) all materials and things associated with the relevant Works Portion in storage off site or in transit to the Site, occurring during the period when the Developer is responsible for their care including under the terms of any maintenance or defects liability conditions.

35.2 Amount of insurance

The insurance cover referred to in clause 35.1 must be for an amount not less than the full value of the relevant Works Portion and the Improvements (associated with that Works Portion) on a full reinstatement and replacement basis (including Costs of demolition and removal of debris and an amount necessary to cover fees to all consultants), which amount must be approved reasonably by the Authority.

35.3 Public liability insurance

Without limiting or affecting the Developer's other obligations under this deed, before the Developer first has access to the Site, the Developer must effect and maintain or cause to be effected and maintained, a policy of public liability insurance which covers:

(a) liabilities to third parties for destruction of, loss of or damage to property (other than property insured under clause 35.1 and the death of, disease or illness to (including mental illness) or injury to any person (other than liability which is required by Law to be insured under a workers' compensation policy of insurance);

(b) the Developer's and, if applicable, the Tenant's, liability to the Authority and the Authority's liability to the Developer and, if applicable, the Tenant, for destruction of, loss of or damage to property (other than property insured under clause 35.1, but including any property of the Authority in the care, custody or control of the Developer or the Tenant) and the death of, disease or illness to (including mental illness) or injury to any person; and

(c) subject to standard exclusions generally contained in policies of insurance, the Developer's liabilities under clauses 33.2(c) and 48.2(a), (b) and (c).

35.4 Amount for public liability insurance

The policy of public liability insurance must be written on an occurrence basis for an amount not less than $100,000,000 (or such other reasonable amount nominated from time to time by the Authority) in respect of any one occurrence arising out of or in the course of or caused by the execution of the relevant Works Portion.

35.5 Employees

Before commencing the relevant Works Portion, the Developer must insure against liability for death of, or any injury, damage, expense, loss or liability suffered or incurred by any person employed or deemed to be employed by the Developer including all liabilities required to be insured by the Workers Compensation Act 1987 (NSW), any other legislation relating to workers' or accident compensation in New South Wales (as well as each other state or territory where the Developer's employees normally reside or where their contract of employment was made) or imposed at common law. The insurance cover must be effected and maintained for a period ending when the relevant Works Portion (including rectification work) is completed. The Developer must ensure that the Builder also insures itself (and must require the Builder to require that subcontractors or contractors engaged by it in connection with, or arising out of, the relevant Works Portion insure themselves) against all liabilities which the Workers Compensation Act 1987 (NSW) (or any other relevant workers' or accident compensation legislation or imposed at common law) requires it to insure against.

35.6 Workers compensation indemnity

The Developer indemnifies the Authority against any liability or loss arising from, and any costs incurred by the Authority in connection with, the Developer failing to comply with the Developer's obligations under the Workers Compensation Act 1987 (NSW) (and all other relevant workers' or accident compensation legislation), including as a result of:

(a) any claim made against the Authority under section 20(1) of the Workers Compensation Act 1987 (NSW); or

(b) any increase in the premium payable by the Authority under the Authority's own workers' compensation insurance.

35.7 Professional indemnity insurance

(a) Before commencing any Works Portion, the Developer must supply the Authority with evidence that the Developer and each person retained by the Developer in relation to professional services work provided by:

(i) the lead design consultant, the structural engineer and the services engineer and the Builder, if the Builder designs any part of the relevant Works Portion, have effected professional indemnity insurance policies which are subject to the usual terms and conditions that apply to such a policy and which are at least (or no less than) $10,000,000 for any one claim or in the aggregate during any one period of insurance; and

(ii) other relevant service providers, for an amount which is reasonable having regard to the service they have provided;

(b) The policies effected by the persons referred to in clause 35.7(a) must be subject to the usual terms and conditions that apply to professional indemnity insurance policies and which:

(i) cover liability of the person providing advice or being retained by the Developer arising from breach of duty owed in a professional capacity, whether owed in contract or by reason of any act or omission of that person, its employees, subcontractors, consultants or agents; and

(ii) must have a definition of profession wide enough to include all services to be provided by the Developer in the performance of its obligations under this deed and by such other person contemplated by this clause as requiring Insurance, in both cases to the extent that the professional advice provided by the insured party is relied upon.

35.8 Other Insurance

If it becomes Australian insurance industry standard practice to require that Insurance other than the types of Insurance prescribed in this clause 35 be effected and maintained for activities substantially the same as any Works Portion, the Authority may (acting reasonably) require the Developer to effect, or cause to be effected and maintain such other policies as are consistent with industry practice at the time, having regard to the nature and scope of the relevant Works Portion.

35.9 Insurance requirements generally

(a) All insurances which the Developer effects and maintains or procures to be effected and maintained under this deed:

(i) must be with reputable insurers (reasonably acceptable to the Authority) with a rating, at the date of effecting cover and each anniversary of that date, of A- or better by Standard and Poors or the equivalent rating with another ratings agency (reasonably acceptable to the Authority) (or in the case of workers compensation insurance, WorkCover NSW) and who are reasonably approved by the Authority;

(ii) (other than statutory insurances) must be on terms and conditions (including deductible amounts) approved in writing by the Authority (acting reasonably);

(iii) must provide in respect of the Insurance specified in clause 35.3 that:

A. all insurance agreements name as insureds the Authority, the Developer (and the Developer's Employees and Agents) and the Tenant (and the Tenant's employees and agents) if any, and operate as if there was a separate policy of insurance covering the Authority and the Developer (and the Developer's Employees and Agents);

B. the commission of a vitiating act, omission, breach or default by any one of the insured does not prejudice the insurance of any other insured; and

C. the insurer waives all rights, remedies or relief to which it might become entitled by way of subrogation against insureds; and

(iv) must provide in respect of the Insurance specified in clause 35.1 that:

A. all insurance agreements name as insureds the Authority, the Financier and the Developer (and the Developer's Employees and Agents), and operate as if there was a separate policy of insurance covering the Authority, the Financier and the Developer (and the Developer's Employees and Agents) for their respective rights and interests;

B. the commission of a vitiating act, omission, breach or default by any one of the insured does not prejudice the insurance of any other insured; and

C. the insurer waives all rights, remedies or relief to which it might become entitled by way of subrogation against insureds.

(b) Once any insurance policy is approved by the Authority, the terms of that insurance policy must not be materially changed without the Authority's prior written approval (acting reasonably and without delay). The Developer must pay the Authority for its reasonable legal and other Costs (if any) associated with determining whether or not to approve any such change.

35.10 Cross liability

Any Insurance required to be effected in accordance with this deed by the Developer in joint names shall include a cross liability clause in which the insurer agrees:

(a) to waive all rights of subrogation or action against any of the persons comprising the insured;

(b) that the term "insured" applies to each of the persons comprising the insured as if a separate policy of insurance had been issued to each of them (subject to the overall sum insured not being increased as a result); and

(c) that any non-disclosure or misrepresentation by one insured does not prejudice the right of the other insured to claim under any Insurance.

35.11 Periods of Insurance

The Developer must maintain (in relation to any Works Portion):

(a) insurance policies that comply with clauses 35.1, 35.5 and 35.9 until the issue of the Final Certificate of the relevant Works Portion;

(b) an insurance policy that complies with clause 35.3 until the Date of Practical Completion of the relevant Works Portion; and

(c) an insurance policy that complies with clause 35.7 in the first instance until the issue of the Final Certificate for the relevant Works Portion and then for a further period of 6 years after the issue of the Final Certificate for the relevant Works Portion.

35.12 Premiums

The Developer must punctually pay or caused to be punctually paid, all premiums in respect of all Insurances that it is obliged to arrange under this clause 35 (including any increased premiums payable after claims) and all excesses it may be obliged to pay under the terms of those Insurances (except to the extent that the claim in respect of which the excess is payable,

arises out of the Authority's Employees' breach of this deed or wrongful or reckless act by the Authority or any of the Authority's Employees, which must be paid for by the Authority).

35.13 Payment of proceeds

If permitted by the insurance policy effected in accordance with clause 35.1 and agreed to by the insurer, the Authority and the Developer will be joint loss payees in respect of any benefit payable under that policy and all proceeds will be paid to an account in the names of the Developer, the Authority and the policy holder, which proceeds will then be used for the purpose of reinstatement.

35.14 Providing information to the Authority

Before the Developer commences any Works Portion and whenever requested in writing by the Authority (but no more frequently than twice each year), the Developer must, in respect of each Insurance required to be effected and maintained under this clause 35:

(a) give the Authority copies of all:

(i) cover notes and, other than policies that are effected under a global insurance program covering the primary insureds other business activities, policies (including schedules);

(ii) renewal certificates; and

(iii) endorsement slips,

as soon as the Developer receives them from the insurer or the party effecting the required Insurances and in any event within 5 Business Days of the Authority making a request (provided always that the Developer shall not be in breach of this clause if it is unable to give the Authority a document to which the Authority is entitled under this clause solely for reasons beyond the control of the Developer); and

(b) produce evidence satisfactory to the Authority (acting reasonably) that the Insurances have been effected and maintained prior to the cover being required.

35.15 Failure to produce proof of insurance

If after being requested in writing by the Authority to do so, the Developer fails to comply with its obligations to effect or cause to be effected any of the Insurances required to be effected and maintained pursuant to this clause 35 the Authority may (acting in good faith and reasonably) (after giving the Developer 20 Business Days' prior notice of its intention to do so) effect and maintain the Insurances and pay the premiums. The Developer must pay to the Authority on demand a sum equal to the amount paid by the Authority under this clause.

35.16 Notices of potential claims

In addition to the obligations to notify the insurer under any policy, the Developer must, as soon as practicable after it becomes aware of the relevant claim, inform the Authority in writing of any claim made under the Insurances referred to in clause 35.1 which is in excess of $[redacted], and must keep the Authority informed of subsequent developments concerning the claim. The Developer or the nominated party may not compromise, settle, prosecute or enforce a claim which is in excess of $[redacted], under Insurance taken out pursuant to clause 35.1 without the prior written consent of the Authority (not to be unreasonably withheld) or otherwise on such basis as the Authority and the Developer agree in writing from time to time.

35.17 Additional obligations of Developer

In relation to the insurance policies referred to in this clause 35, the Developer must:

(a) ensure that insurance premiums are paid on time, deductibles are paid promptly and the conditions of insurance are otherwise complied with;

(b) comply with the terms of each insurance policy and not do or omit to do anything which if done or not done might vitiate, impair, derogate or prejudice in any way the cover under any Insurance or which might prejudice any claim under any insurance policy;

(c) if necessary, rectify anything which might prejudice any insurance policy;

(d) subject to clause 35.11, reinstate an insurance policy if it lapses;

(e) not cancel, vary or allow an insurance policy to lapse without the prior consent of the Authority;

(f) promptly notify the Authority in writing if an insurer gives notice of cancellation, notice of avoidance or other notice in respect of any insurance policy;

(g) promptly notify the Authority of any event of which it is aware which results in:

(i) an insurance policy lapsing or being cancelled or avoided; or

(ii) the insurer's liability for a claim being able to be reduced (including to nil) or denied; and

(h) give full, true and particular information to the insurer of all matters and things the non-disclosure or misrepresentation of which might in any way prejudice or affect any such policy or the payment of all or any benefits under the insurance policy.

35.18 Liabilities of Developer not affected

The effecting of Insurances does not limit the liabilities or obligations of the Developer under this deed.

35.19 Application of insurance proceeds

(a) If all or any part of any Works Portion or the Improvements associated with the relevant Works Portion on the Site are damaged or destroyed and the Developer is obliged under this deed or elects to re-instate the relevant Works Portion or Improvement, the following provisions of this clause apply:

(i) all insurance proceeds, including any which are deposited in an account in the joint names of the Developer, the relevant Tenant (if any) and the Authority as required by clause 35.13, in respect of that damage or destruction must be applied to repair or reinstate the relevant Works Portion and the Improvements; and

(ii) if the insurance proceeds received under the insurance policies effected in accordance with this clause 35.19 in respect of the damage to or destruction of the relevant Works Portion or the Improvements are less than the Cost of repairing or replacing the relevant Works Portion or the Improvements (or those Insurances are void or unenforceable or in accordance with their terms do not cover the particular damage or destruction), the Developer must complete the repair and replacement of the relevant Works Portion or the Improvements at its own Cost except to the extent that the damage or destruction, arises out of the Authority's

Employees' breach of this deed or wrongful or reckless act by the Authority or any of the Authority's Employees, which must be paid for by the Authority.

(b) Upon settlement of a claim under the Insurance required under clause 35.1, if the Developer has not completed reinstatement of the relevant Works Portion or the Improvements, the insurance proceeds shall be paid into a bank nominated by the Authority in an account in the joint names of the Developer, the relevant Tenant and the Authority. As the Developer proceeds to reinstate the loss or damage, the Authority will consent to moneys being progressively withdrawn from the joint account for the purposes of satisfying the Costs of such reinstatement providing that the Authority is reasonably satisfied that the proceeds being withdrawn will be used by the Developer for such reinstatement.

(c) All Insurances required by this deed, except for the Insurance specified in clause 35.5 or clause 35.7, must be endorsed by the insurer to note and allow the Developer's obligations under this clause 35.19, to the effect that compliance with the provisions of this clause will not prejudice the Developer's or any other insured's right to indemnity under those Insurances.

35.20 Damage and destruction from uninsurable risk

(a) If there is damage or destruction resulting from an uninsurable risk (other than one which is attributable to the acts or omissions of the Developer or the Developer's Employees and Agents) the Developer is not required to immediately re-instate the Works Portion or Improvement which has been damaged or destroyed but without affecting the Developer's responsibilities or liabilities pursuant to any other provision of this deed.

(b) The Developer may deal with the re-building of that Works Portion as if this was a new Works Portion to which the balance of the provisions of this deed will apply, including the provisions of clause 25.

(c) Despite the foregoing, the Developer must clear the Site and make it safe as soon as reasonably practicable after the damage or destruction occurs.

35.21 Withdrawing money from joint account

The parties agree that amounts will not be withdrawn from the joint account referred to in clause 35.13 unless the Authority is reasonably satisfied that the moneys remaining in that joint account are not less than the amount which the Authority from time to time reasonably determines or otherwise accepts is sufficient to pay all Costs of completing all such reinstatement works, except to the extent that the damage or destruction, arises out of the Authority's Employees breach of this deed or wrongful or reckless act by the Authority or any of the Authority's Employees, which must be paid for by the Authority.

35.22 Change in Insured Risk

(a) If, after the date by which Insurance is to be effected in accordance with this deed, a Change in Insured Risk occurs, the Developer and the Authority will promptly meet to discuss, in good faith, the measures which should be undertaken to address the Change in Insured Risk, to place the parties, to the extent reasonably practicable, in the same positions that they would have been in had the relevant Change in Insured Risk not occurred.

(b) If, within 30 days, the parties are not able to agree on the relevant measures to be adopted, then the matter must be determined in accordance with clause 45.

(c) For the purposes this clause 35.22, **Change in Insured Risk** means any Insurance required to be effected and maintained under this clause 35 which:

(i) ceases to be available from insurers which satisfy clause 35.9(a)(i) (other than where due to any act or omission of the Developer, the Developer's Employees and Agents or any person on their behalf); or

(ii) is available, but the terms and conditions (including as to premiums and deductibles) on which the insurance is generally available from insurers which satisfy clause 35.9(a)(i), change such that the risk is not generally being insured against with such insurers by competent and experienced developers of developments such as the Project.

36. Workplace health and safety

36.1 Appointment of principal contractor

(a) For the purposes of Chapter 6 of the WH&S Regulation, the Developer must:

(i) engage the Builder as principal contractor in each Building Contract for the relevant Works or Works Portion; and

(ii) ensure all Works are carried out under a Building Contract.

(b) The Developer must authorise the Builder as principal contractor, to manage and control the workplace relevant to the Building Contract and discharge the duties imposed on a principal contractor under Chapter 6 of the WH&S Regulation with respect to the relevant Building Contract.

36.2 WH&S Plan

The Developer must provide to the Authority a copy of the WH&S Plan (relevant to that Works Portion) before commencement of the relevant Works or Works Portion under the Building Contract.

36.3 Discharge of obligations

The Developer must procure that the Builder as principal contractor must:

(a) use such workplace health and safety plans and systems as may be necessary to discharge its obligations as a principal contractor under Chapter 6 of the WH&S Regulation; and

(b) design and implement any such plans and systems in conformity with the general duties imposed on persons under Division 2 of Part 2 of the WH&S Act.

36.4 Workcover NSW WH&S audit

The Developer must:

(a) co-operate (and procure that the Builder co-operate) with any Workcover NSW WH&S management system audit process; and

(b) provide (or procure that the Builder provide) access to the Authority to attend the offices of the Developer to inspect a copy of any Workcover NSW WH&S audit report (at the Developer's election) within 5 Business Days of any such audit report being provided to the Developer or the Builder.

36.5 Compliance

(a) In addition to its other obligations under this deed, the Developer must comply with its obligations as a person conducting a business or undertaking that commissions

a construction project under Chapter 6 of the WH&S Regulation and procure that the Builder must:

(i) comply with, and ensure that all persons for whom it is responsible or over whom it is capable of exercising control while doing the relevant Works comply with, the WH&S Plan and all statutory obligations of the Developer or the Builder, as the case may be; and

(ii) comply with any reasonable direction of the Authority given following a perceived breach of the WH&S Regulation or the WH&S Plan.

(b) The Developer must procure that the Builder must take all measures required under any Law or by any relevant Public Authority to protect people and property on or adjacent to the Site and the relevant Works in connection with the execution of the relevant Works.

36.6 Authority may carry out obligations

If the Developer or the Builder, as the case may be, fails to comply with an obligation under this clause 36, the provisions of clause 37 apply.

37. Authority's rights to enter, inspect and carry out work

37.1 Authority's right to enter and inspect

(a) Subject to clause 37.1(b), provided the Authority (and invitees) complies with the site safety requirements referred to in clause 13.6, the Authority (and invitees) may, at its Cost, inspect the Works the subject of a Works Portion by entering onto that part of the Site which is being occupied by the Developer to carry out that Works Portion.

(b) Subject to clause 37.5, where no notice requirements or restrictions apply, the Authority (and invitees) may only exercise its right to enter onto the relevant part of the Site pursuant to clause 37.1(a) after giving not less than 2 Business Days' prior notice and then only in the presence of a representative of the Developer.

37.2 Authority's notice to remedy

(a) If at any time prior to Practical Completion of a Works Portion the Authority reasonably believes that any part of that Works Portion, or any materials for incorporation into the relevant Works Portion, are materially inconsistent with:

(i) the Final Plans and Specifications relevant to that Works Portion (as amended pursuant to this deed); or

(ii) the requirements of this deed,

then the Authority may provide the Developer with a notice containing full details of any such inconsistency to the extent of the information available to the Authority.

(b) Subject to clause 37.2(c) and (d) the Developer must upon receiving a notice from the Authority under clause 37.2(a) provide the Authority with a plan for remedying any materials or workmanship identified by the Authority in its notice and implement that plan subject to the Authority's reasonable requirements and conditions.

(c) If the Developer reasonably requires any additional details to those contained in the Authority's notice under clause 37.2(a), it may request that those details be provided, and the Authority must provide those details within a further 5 Business Days of such request.

(d) If the Developer disputes the contents of any notice issued by the Authority pursuant to clause 37.2(a), then it must give the Authority a notice to that effect within 10 Business Days after the later of the date it receives that notice and the date the Authority provides further details following a request under clause 37.2(c), and the provisions of clause 45 will apply to that dispute.

37.3 Authority may take action

Subject to clause 37.4, the Authority:

(a) may do anything which should have been done by the Developer under this deed but which has not been done, or which the Authority reasonably considers has not been done properly;

(b) may (and the Authority's Employees may) enter and remain on the Site for so long as it is reasonably necessary for that purpose; and

(c) must use its best endeavours not to interfere with the parts of the Site not required by the Authority under this clause 37.2.

37.4 Notice of exercise of rights

The Authority may not exercise its rights under clause 37.3 unless:

(a) the Developer has not remedied the relevant non-compliance in accordance with any plan for remedy agreed between the Authority and the Developer pursuant to clause 37.2(b) or otherwise within a reasonable time after it occurs after receiving written notice from the Authority to remedy the non-compliance; and

(b) the Authority has first given the Developer reasonable notice of its intention to do so.

37.5 Emergencies

If there is, or the Authority or the Developer has grounds for believing there is, an emergency of any nature in connection with any Works Portion or the Site:

(a) on becoming aware of the emergency or possible emergency, the Authority or the Developer (as applicable) must as soon as practicable advise and cooperate with the other party, and keep the other party fully informed about the nature of the emergency and any actions being taken by, or on behalf of, the Developer or the Authority (as applicable) to address the emergency and ameliorate any risks; and

(b) whether or not the Developer is aware of the emergency or possible emergency or is taking any action, the Authority is permitted to have reasonable access to the Site, having regard to the nature of the emergency or possible emergency, and to take whatever action it considers is reasonably necessary to eliminate the emergency or assist the Developer to eliminate the emergency.

37.6 Costs of taking action

The Authority's rights under clause 37.3 and 37.5 are in addition to any other remedies of the Authority for the Developer's non-compliance. The Developer must pay to the Authority on demand a sum equal to all Costs and liabilities reasonably incurred or suffered by the Authority in taking the action.

37.7 Authority may carry out Service works

The Authority may (at its sole Cost and risk) at any time carry out works expeditiously and in a proper and workmanlike manner to install, vary, maintain, use, repair, alter, replace and to

pass or convey Services through any pipes, ducts, conduits or wires leading through the Site, provided that, in carrying out those works, the Authority:

(a) gives the Developer reasonable notice of its intention to perform those works and of the access times required;

(b) acts reasonably in taking any reasonable requirements of the Developer into account;

(c) ensures that those works comply with all Laws and the requirements of all relevant Public Authorities;

(d) obtains all required consents and approvals in respect of those works;

(e) causes as little inconvenience to the Developer as is reasonably practicable;

(f) does not materially and adversely affect the carrying out of the Works; and

(g) complies with the site safety requirements of clause 13.6.

37.8 Authority not liable

Excluding clauses 37.7 and 37.2(d), the Developer:

(a) acknowledges that it is not entitled to make a claim against the Authority, but without prejudice to the Developer's rights under clause 25, including a claim for an extension of time to achieve any Milestone for any Works Portion pursuant to clause 25.2 in respect of anything arising out of clause 37; and

(b) agrees that the Authority is not liable for, and releases the Authority from liability and loss arising from, and Costs incurred,

in connection with, anything the Authority is permitted to do under this clause 37 (except to the extent that any such claim, liability, loss or Costs arises from the Authority failing to comply with any of its obligations under this clause 37 or by reason of any wrongful or reckless act by the Authority or any of the Authority's Employees).

37.9 Authority may carry out WH&S obligations

(a) If the Developer fails to comply with an obligation under clause 36, the Authority may perform, or have performed, the obligation on the Developer's behalf and the Developer must pay to the Authority on demand an amount equal to the Costs incurred.

(b) If and to the extent that the Authority (acting reasonably) considers it necessary to undertake any activity, give any direction or otherwise perform any of the works or services pursuant to clause 46.3, the parties acknowledge and agree that in doing so, the Authority is not acting as a principal contractor, nor is the Authority to be taken, for any purpose, to be the principal contractor.

38. Defects Liability and Final Certificate for a Works Portion

38.1 Developer to rectify defects

As soon as practicable after the Date of Practical Completion of a Works Portion or Separable Portion the Developer must rectify any defects or omissions in the Works the subject of that Works Portion or Separable Portion as the case may be.

38.2 Inspections by the Authority

In respect of a Works Portion that comprises Public Domain Works, at any time during the Defects Liability Period for that Works Portion, the Authority may inspect the Public Domain Works the subject of that Works Portion for the purpose of ascertaining (acting reasonably) what defects and omissions (if any) in those Works are required to be made good by the Developer.

38.3 Defects Notice given by the Authority

(a) In respect of a Works Portion that comprises Public Domain Works, after each inspection the Authority may give a notice (**Defects Notice**) to the Developer of all defects and omissions (if any) which in the reasonable opinion of the Authority are required to be made good. Any Defects Notice:

(i) must sufficiently identify the defect or omission; and

(ii) may provide that in respect of the rectification work there shall be a separate Defects Liability Period of a stated duration not exceeding 12 months.

(b) The Independent Certifier must not make any determination in relation to defects and omissions unless the Developer and the Independent Certifier have given the Authority not less than 5 Business Days' notice that the Authority has the opportunity to inspect the Works and issue a Defects Notice.

(c) Any separate Defects Liability Period commences on the date the rectification work is completed.

38.4 Obligations of Developer

The Developer must:

(a) give a copy of each Defects Notice to the Independent Certifier;

(b) make good any defects or omissions specified in the Defects Notice which in the reasonable opinion of the Independent Certifier are required to be made good, within the time reasonably specified by the Independent Certifier; and

(c) give notice to the Authority when, in the Developer's opinion, those defects or omissions have been made good.

38.5 Authority may rectify defects

If the Developer does not complete the rectification work in respect of the Public Domain Works within the time specified in clause 38.4, the Authority may have the rectification work carried out (and for that purpose the Authority may call on any relevant Bank Guarantee referred to in clause 39.3 or clause 39.4) without prejudice to any other rights that the Authority may have against the Developer in connection with the defect or omission. The Developer must pay to the Authority on demand a sum equal to the Cost of the rectification work reasonably incurred by the Authority.

38.6 Not used

38.7 Final Certificate

The provisions of clauses 24.2 to 24.6 as they apply to Practical Completion of Works Portions apply *mutatis mutandis* to the issue of the Final Certificate in relation to a Works Portion as if the reference in those clauses to:

(a) the Certificate of Practical Completion were a reference to the Final Certificate; and

(b) the reference to Practical Completion were a reference to Final Completion.

38.8 Access to remedy defects

The Developer must ensure the Authority has access to the Site for the purposes of remedying defects in accordance with this clause 38 and in accessing the Site under this clause, the Authority must use its best endeavours not to disrupt or interfere with any Tenant's or occupier's use of any part of the Project.

39. Bank Guarantees

39.1 Developer to give Total Payment Amount Bank Guarantee

(a) On or about the Commencement Date, the Developer gave a Bank Guarantee to the Authority having a face value of $[redacted].

(b) The Bank Guarantee referred to in clause 39.1(a) is security for the Developer's obligation to pay the Development Rights Fee (plus any amount payable on account of GST pursuant to clause 56.3 referable to that amount) in accordance with the terms of this deed.

(c) The amount of the Bank Guarantee required under clause 39.1(a) will reduce pro rata as payments of the Total Payment Amount Instalments are made until the face value equals $[redacted]. Thereafter up until the date of the Fifth Deed of Amendment and subject to clauses 39.2(a) and 39.2(b), the face value of the Bank Guarantee required under clause 39.1(a) will reduce, on a dollar for dollar basis, as the Total Payment Amount Instalments are made. The reductions in face value of the Bank Guarantee contemplated by this clause can be effected by the replacement of new Bank Guarantees for the new reduced amount in lieu of those previously provided.

39.2 Developer to give additional Bank Guarantees

(a) As further security for the Developer's obligation to pay the Development Rights Fee (plus any amount payable on account of GST pursuant to clause 56.3 referable to that amount) in accordance with the terms of this deed, on the date of the Fifth Deed of Amendment the Developer must give a Bank Guarantee to the Authority having a face value of $[redacted] with an expiry date not earlier than 31 December 2021. On receipt of that replacement Bank Guarantee, the Authority will return the Bank Guarantee referred to in clause 39.1(a) to the extent it has been reduced by the operation of clause 39.1(c).

(b) In addition to the Bank Guarantee to be provided under clause 39.2(a) the Developer must provide Bank Guarantees with an expiry date not earlier than 31 December 2021 to the Authority as a condition of the acceptance of the call offer in respect of the leases for the Buildings set out below (provided those leases are granted prior to 1 July 2021) for the amounts set out below in relation to such each Building:

Lease of Building as contemplated by Mod 8 (Agreed Design Documents)	**Amount secured by Bank Guarantees A**	**Amount secured by Bank Guarantees B**
Residential 5	$ [redacted]	$[redacted]
Residential 4A	$[redacted]	$[redacted]
Residential 4B	$[redacted]	$[redacted]
Stage 1C (Hotel Resort)	$[redacted]	$[redacted]
Total	$[redacted]	$[redacted]

on the basis that the lease of the Hotel Resort granted under the Crown Development Agreement is deemed to be a Lease for the purposes of this clause.

(c) The Bank Guarantees referred to as Bank Guarantees A in the table in clause 39.2(b) are to be provided by the Developer to the Authority, at the Developer's cost.

(d) If the Authority notifies the Developer not less than 3 months prior to the date it anticipates a Lease referred to in the table in clause 39.2(b) will be granted, the Developer must provide to the Authority as a condition of the grant of the Leases referred to in the table in clause 39.2(b), provided those Leases are granted prior to 1 July 2021, the Bank Guarantees B referred to in that table securing the amount set out in that table in relation to each such Lease. The Authority must pay to the Developer the actual cost paid by the Developer to the issuer of the Bank Guarantees B for providing and maintaining (including line fees) the Bank Guarantees B within 10 Business Days after the later of the date the Bank Guarantees B are provided and the date the Authority receives a tax invoice in relation to that amount.

(e) The Authority may request the Developer to provide details of the costs likely to be incurred in relation to the provision of Bank Guarantees prior to the grant of a Lease referred to in the table in clause 39.2(b) but the Authority will use all reasonable endeavours to satisfy itself in relation to the costs and requirements for a Bank Guarantee B without causing delay in the granting of the relevant Lease.

(f) The amounts secured by the Bank Guarantees to be provided under clauses 39.2(a) and 39.2(b) will not reduce. If the Authority makes a claim against those Bank Guarantees in accordance with its rights to do so under this deed, the Developer must provide a replacement Bank Guarantee to the Authority so that at all times until 31 December 2021 the amount secured by the Bank Guarantees held by the Authority pursuant to:

(i) clause 39.2(a) is never less than $[redacted]; and

(ii) clause 39.2(b) is never less than aggregate of the amounts for which the Developer must provide a Bank Guarantee under clause 39.2(b).

39.3 Developer to give Works Portion Bank Guarantee

(a) Subject to clause 39.3(d), on the date of the grant of the Construction Zone Licence for a Works Portion (or otherwise on the date that the Construction Zone Licence is taken to include that part of the Site the subject of that Works Portion), the Developer must give a Bank Guarantee to the Authority having a face value of the greater of:

(i) 5% of the Costs which are estimated by the Developer (acting reasonably) and approved by the Authority (if the Authority does not approve the Developer's estimate, either the Authority or the Developer may notify a dispute under clause 45) will be incurred with respect to that Works Portion (not including any of the Development Rights Fee or the Developer Contribution or the Public Art and Cultural Development Contribution attributable to that Works Portion); and

(ii) $5,000,000,

but in any event not more than 10% of the Costs which are estimated by the Developer will be incurred with respect to that Works Portion (not including any of the Development Rights Fee).

(b) Subject to the provisions of clause 39.3(d), the Bank Guarantee referred to in clause 39.3(a) is security for:

(i) the Developer's obligation to bring the Works Portion in respect of which it is given to Practical Completion;

(ii) the purpose of clause 38.5; and

(iii) the Developer's obligations to reimburse the Authority for monies expended by the Authority in making the Site safe and restoring any damage to the Site in the event the deed is terminated and the Developer otherwise fails to do so.

(c) The amount of the Bank Guarantee required under this clause 39.3 will reduce to 10% of its face value on Practical Completion until the end of the Defects Liability Period referable to that Works Portion.

(d) The Developer is not required to provide Bank Guarantees under this clause 39.3 to the extent that the aggregate face value of Bank Guarantees provided for Works Portions under this clause 39.3 and which remain outstanding is not less than $25,000,000. Where this clause applies and despite clause 39.3(b), the Bank Guarantees then outstanding will be security for:

(i) the Developer's obligation to bring all Works Portions to Practical Completion;

(ii) the purpose of clause 38.5; and

(iii) the Developer's obligations to reimburse the Authority for monies expended by the Authority in making the Site safe and restoring any damage to the Site in the event the deed is terminated and the Developer otherwise fails to do so.

39.4 Developer to give Public Domain Works and Infrastructure Works Bank Guarantees

(a) On the date of the grant of the Construction Zone Licence for a Works Portion referable to either Public Domain Works or Infrastructure Works, the Developer

must give a Bank Guarantee to the Authority having a face value of 5% of the Costs which are estimated by the Developer (acting reasonably) and approved by the Authority (if the Authority does not approve the Developer's estimate, either the Authority or the Developer may notify a dispute under clause 45) will be incurred with respect to that Works Portion (not including any of the Development Rights Fee or the Developer Contribution or the Public Art and Cultural Development Contribution attributable to that Works Portion).

(b) The Bank Guarantee referred to in clause 39.4(a) is security for:

(i) the Developer's obligation to bring the Works Portion in respect of which it is given to Practical Completion;

(ii) the purpose of clause 38.5; and

(iii) the Developer's obligations to reimburse the Authority for monies expended by the Authority in making the Site safe and restoring any damage to the Site in the event the deed is terminated and the Developer otherwise fails to do so.

(c) The amount of the Bank Guarantee required under this clause 39.4 will reduce to 50% of its face value on Practical Completion until the end of the Defects Liability Period referable to that Works Portion.

39.5 Calling on a Bank Guarantee

The Developer acknowledges and agrees that the Authority may call on the Bank Guarantee:

(a) provided by the Developer in accordance with clauses 39.1(a), 39.2(a) or 39.2(b) if the Developer fails to perform any of its obligations under this deed in clause 39.1(b);

(b) provided by the Developer in accordance with clause 39.3(a) if the Developer fails to perform any of its obligations under this deed in clauses 39.3(b); and

(c) provided by the Developer in accordance with clause 39.4(a) if the Developer fails to perform any of its obligations under this deed in clause 38.3(b).

39.6 Replacement of the Bank Guarantees after call

If the Authority calls on any of the Bank Guarantees, the Developer must, no later than 5 Business Days after the Authority gives notice to the Developer requesting any of those Bank Guarantees to be replaced, provide a replacement or additional Bank Guarantee so that the amount held by the Authority is the full amount of the relevant Bank Guarantee.

39.7 Replacement of expiring Bank Guarantee

If a Bank Guarantee has an expiry date, the Developer must, if the Authority has not returned the Bank Guarantee to the Developer in accordance with clause 39, provide the Authority with a replacement Bank Guarantee in the same amount no later than 10 Business Days prior to that expiry date in exchange for the Authority delivering to the Developer the Bank Guarantee to be replaced. If the Developer fails to provide the Authority with the replacement Bank Guarantee as required, the Authority:

(a) may call on the full amount of the expiring Bank Guarantee without notice to the Developer;

(b) must hold the amount of that Bank Guarantee as a cash deposit (**Cash Deposit**) in a separate bank account in the name of the Authority (**Cash Deposit Account**)

(and, if the Authority calls on more than one Bank Guarantee under this clause 39.7, each Cash Deposit must be in a separate Cash Deposit Account);

(c) may withdraw money (including accrued interest) from a Cash Deposit Account and use that money:

(i) in accordance with clause 39.5 as if the Cash Deposit were the amount secured by the relevant Bank Guarantee; and

(ii) to pay all Costs and Taxes payable in connection with that Cash Deposit Account; and

(d) must return the amount held in the relevant Cash Deposit Account (including accrued interest but less any amounts payable to or by the Authority under clause 39.7(c)) to the Developer in accordance with clause 39 as if the amount in that Cash Deposit Account were the relevant Bank Guarantee.

39.8 Returning the Bank Guarantees

(a) A Bank Guarantee provided with respect to a Works Portion will be returned to the Developer when the Final Certificate for that Works Portion issues.

(b) Where clause 39.3(d) applies, the remaining Bank Guarantees will be returned to the Developer when the Final Certificate for the final Works Portion issues.

(c) All Bank Guarantees provided under clauses 39.1 and 39.2 are, to the extent they have not been claimed, to be returned to the Developer within 20 Business Days of the payment by the Developer of the last payment required under clauses 4.1A and 4.2.

(d) If the Authority makes a claim on a Bank Guarantee in accordance with this clause 39, the Developer will be deemed to have made payments to the Authority in the same amount as the Authority recovers pursuant to that claim on the Bank Guarantee.

40. Easements

40.1 Easements required by Developer

(a) Without limiting the generality of clause 26.9 or clause 26.10, the parties acknowledge and agree that the Developer may require easements benefiting the Site or any Premises, including for:

(i) support, Services and access between the lots created by the subdivisions under clause 26.1;

(ii) the construction, retention, maintenance, repair and use of those Services and utilities for the construction and operation of each Building;

(iii) structural support of any stratum areas;

(iv) minor encroachments;

(v) the ongoing construction of the Works (including the use of cranes); and

(vi) all other easements necessary for the development of the Land or the use, enjoyment and occupation of Improvements on the Land,

and accordingly the Authority, on request from the Developer, but subject to clause 40.2, must:

A. grant to the Developer; and

B. grant to, or permit any relevant providers of Services to obtain,

on reasonable terms and at no Cost to the Authority, such easements as are reasonably required by the Developer.

(b) The Authority must exercise any rights it has as landowner in a manner which is consistent with this clause 40.1 and clause 58.3.

(c) The Developer must notify the Authority of the exact location and dimensions of any easement it requires under this clause 40.1 as soon as practicable.

40.2 Non-granting of easement

The Authority is not obliged to grant an easement referred to in clause 40.1 if:

(a) that easement would materially interfere with the normal use and enjoyment of the land to be burdened; or

(b) the Authority is not the registered proprietor of the land to be burdened by the easement.

40.3 Authority's entitlement to grant easements over the Site

(a) The Authority may at any time grant easements and other rights over the Site and restrictions on use burdening the Site (**Site Encumbrances**) provided that:

(i) the proposed Site Encumbrance does not materially and adversely interfere with the Developer's rights or obligations under this deed or a Tenant's rights under a Lease (assuming that the relevant Put Offer or the Call Offer is accepted);

(ii) the Authority notifies the Developer of its intention to grant the Site Encumbrance, giving reasonable details of the proposed location and terms of the Site Encumbrance; and

(iii) the effect of the Site Encumbrances does not reduce the GFA available to the Developer for its commercial exploitation.

(b) If the Developer reasonably believes that it has or will incur additional Costs or it may be delayed in carrying out a Works Portion by reason of any such Site Encumbrance, the Developer may, by notice to the Authority (**Claim Notice**) within 20 Business Days of the Authority's notice, detailing what that the potential impact (in time and/or Costs) is likely to result from that Site Encumbrance, giving sufficient detail for the Authority to assess the reasonableness of the claim and the Costs.

(c) The Authority must within 10 Business Days of receipt of a Claim Notice from the Developer notify the Developer whether it accepts or disputes the claim. Either the Authority or the Developer may notify a dispute in accordance with clause 45.

(d) Any amount that becomes payable by the Authority to the Developer under this clause 40.3 must be paid by the Authority to the Developer within 15 Business Days of the later of:

(i) the amount of the Costs being agreed by the Authority or determined pursuant to clause 45; and

(ii) the grant of the Site Encumbrance.

(e) Subject to clause 40.3(f), the Developer acknowledges it will have no right to make any claims on the Authority or any other person in respect of any Costs, liabilities or damage incurred or suffered by reason of the creation of any Site Encumbrance other than as set out in the Claim Notice.

(f) Nothing in clause 40.3(e) prevents the Developer from making a further claim against the Authority arising from the Site Encumbrances, where there is a change to the nature or scope of the Project after the creation of the Site Encumbrance which is initiated by the Authority.

40.4 Authority's entitlement for easements to benefit the Public Domain

(a) The Authority may at any time grant Site Encumbrances where such Site Encumbrances are reasonably required having regard to plant, equipment and other infrastructure located on the Site which is intended to service or provide services to the Public Domain (which as at the Commencement Date is intended to include the photovoltaic cells on the roofs of Buildings).

(b) The Developer agrees to pay all costs reasonably incurred by the Authority with respect to the grant of such Site Encumbrances and to do all things reasonably required by the Authority to facilitate the creation and registration of such Site Encumbrances and to ensure that the rights of the Tenant any relevant Lease will be subject to that Site Encumbrance.

(c) Wherever possible, such Site Encumbrances will be created and registered prior to the grant of any Leases pursuant to clauses 27 or 28 on the basis the grant of those Leases will be subject to the Authority's rights under those Site Encumbrances.

(d) The Developer agrees to use best endeavours to ensure the need for all Site Encumbrances are identified and advised in writing to the Authority prior to the grant of any relevant Leases pursuant to clauses 27 or 28, and do all things reasonably required to ensure those Site Encumbrances are created and registered prior to the grant of any relevant Lease pursuant to clauses 27 or 28.

40.5 Compliance with easements and restrictions

(a) The Developer must ensure that the restrictions, stipulations, easements and covenants noted on the folio of the register as at the Commencement Date for the Site and the Site Encumbrances are observed or performed by any person who occupies the Developer Secured Area, as if that person were the registered proprietor of that premises. The Developer and any person who occupies the Developer Secured Area must not interfere with the Authority's observance or performance of those restrictions, rights, stipulations, easements and covenants as registered proprietor of the Site.

(b) The Developer indemnifies the Authority to the extent of any liability or loss arising from, and any costs incurred in connection with, a breach by the Developer of any of the provisions of any such restrictions, stipulations, easements and covenants, except to the extent the liability, loss or costs arises from the reckless or wrongful act of the Authority or the Authority's Employees.

41. Naming and marketing the Premises and retail strategy

41.1 Naming the Premises

(a) The Authority acknowledges and agrees that the Developer has the naming rights in respect of each Premises.

(b) If the Developer wishes to use any name for any part of the Site (including sub-precincts) or any Premises (including after the Lease Commencement Date) the Developer must first obtain the consent of the Authority and the Authority must consider and, if thought fit, grant consent to a proposed name within 20 Business Days following the date that the Developer requests consent, such consent not to be unreasonably withheld or delayed.

(c) The Authority acknowledges that in principle, it will not object to a name of a Building where the name of that Building is the name of a Tenant or a major sub-tenant in that Building.

(d) The Authority and the Developer acknowledge that the name of a Building might be different to the signage on the Building.

41.2 Marketing of Barangaroo

The Developer must:

(a) comply with the plan approved by the Authority (as part of the Refined Proposal) which relates to marketing and promotion of the Site;

(b) update the plan referred to in clause 41.2(a) and submit that updated draft plan to the Authority for its approval, which cannot be unreasonably withheld, no later than the date of each anniversary of the Commencement Date;

(c) amend any draft plan to take into account any reasonable comments and recommendations received from the Authority in relation to any draft plan submitted to it for its approval pursuant to clause 41.2(b) and resubmit that plan to the Authority for its approval, which cannot be unreasonably withheld, promptly after any such comments or recommendations are received from the Authority; and

(d) comply with any updated plan approved by the Authority.

41.3 Developer's obligations

(a) The Developer is responsible for all aspects of the marketing and promotion of the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6).

(b) The Developer is authorised to make reference to "Barangaroo" in any marketing materials or advertising when referring to the address of the Premises.

(c) The Developer must ensure that all marketing materials are generally in accordance with the highest standards of industry practice.

(d) If the Authority commits to contributing not less than $1,500,000 towards joint marketing initiatives for Barangaroo on a basis agreed between the Authority and the Developer, then the Developer must contribute not less than $1,500,000 towards such initiatives.

41.4 Authority's rights

The Developer acknowledges that the Authority may conduct at the Authority's Cost complementary marketing of sites within Barangaroo (excluding Stage 1).

41.5 Signage, advertising and marketing materials

(a) Other than the signage approved pursuant to clause 41.5(b), no signs or advertisements are to be placed on any part of the Premises unless the Authority's prior consent is obtained to the size, nature, content, colour, and location of those signs or advertisements, such consent not to be unreasonably withheld.

(b) The Authority acknowledges that its consent is not required under this clause 41.5 for the erection of signs and advertising to the extent the details of the proposed signs and advertising were included in a Project Application approved by the Authority or where such signs and advertising are consistent with Approvals and the Naming and Signage Policy.

41.6 Naming rights, signage and use of external parts of Premises

The Authority agrees that in respect of the provisions of each Lease dealing with naming rights (at the commencement of this deed clause 5.11 of the Pro Forma Lease); signage (at the commencement of this deed clause 5.12 of the Pro Forma Lease) and the use of external parts of the Premises (at the commencement of this deed clause 6.9 of the Pro Forma Lease), all consents granted under this deed will be deemed to have been given under the relevant Lease.

41.7 Retail Leasing Strategy

(a) The Developer must comply with the Retail Leasing Strategy ensuring that any Lease granted for retail purposes is consistent with that strategy.

(b) The Developer must ensure that any Lease granted which entitles the Tenant to use the Premises (or any part of it) for retail purposes (and any subleases associated with that Lease) includes provisions requiring that Tenant or Tenants to comply with the Retail Leasing Strategy.

42. Intellectual property

42.1 Ownership of intellectual property

The Developer warrants that the Developer has, or will have, a transferable right to use all design, materials, documents and methods of working produced by or on behalf of the Developer for the purpose of the Works, including the right to use such items for the purpose of operating, maintaining, repairing, rectifying, adding to and altering the Works.

42.2 Licence to use intellectual property

If this deed is terminated (or otherwise this deed is terminated in respect of any part of the Site), the Developer:

(a) grants the Authority a royalty-free, irrevocable, transferable licence to use and modify the items referred to in clause 42.1 in connection with the Authority's rights under this deed in respect of the Works, including any additions, alterations and repairs to, and rectification and maintenance of, the Works to the extent that those items relate to that part of the Site in respect of which this deed has been terminated; and

(b) agrees that such licence will include sufficient rights:

(i) in any Approval, and all plans and specifications referred to in any such Approval; and

(ii) in any design work relating to the Project which is not incorporated in any Approval,

for the Authority to:

A. commence or complete any part of those Works which are not complete at the date of termination, and use (and modify) such Approvals, plans and design work to construct, operate, maintain, repair, rectify, make additions to, and alter those Works, in the manner contemplated by this deed; and

B. sublicense its rights to third parties engaged by the Authority to provide goods or services in connection with those Works, including any additions, alterations and repairs to, and rectification and maintenance of, those Works; and

(c) must deliver to the Authority all documentation the subject of the licence under this clause 42.2 as is reasonably required by the Authority, including such documentation as may be required to lodge appeals, or making Applications, in respect of any Part 3A Approval.

42.3 Moral Rights warranty

The Developer:

(a) warrants that it has or will obtain an undertaking, from each individual author employed by each party performing any design work in relation to the Works, not to enforce any Moral Rights that author may have, now or in the future, in any such design work in which copyright subsists, so that the Authority may freely exercise its rights pursuant to the licence granted under clause 42.2;

(b) must, as soon as reasonably practicable after the Commencement Date, procure each individual author employed by each party performing any design work in relation to the Works to sign the Moral Rights letter of consent comprising Annexure H; and

(c) must provide to the Authority a copy of all Moral Rights letters of consent signed by the relevant individual authors pursuant to clause 42.3(b) as soon as those signed letters of consent are received from the individual authors.

43. Developer - restrictions on alienation

43.1 Developer must not alienate

Subject to clauses 43.2, 43.3(b) and 43.5:

(a) the Developer must not assign, transfer, grant rights in connection with, enter into a joint venture regarding, or otherwise deal with its interest under this deed in any way;

(b) a person must not become or cease to be a Parent of the Developer; and

(c) a change in Control of the Developer must not take place, it being agreed that there will be no change in Control of the Developer for so long as Lend Lease Corporation Limited remains a Parent of the Developer,

(each being a **Dealing**), without the consent of the Authority (which may be withheld in the sole and unfettered discretion of the Authority).

43.2 Stock exchange listing and assignment to a Related Entity

Clause 43.1 does not apply to:

(a) the initial listing of shares of the Developer or the Guarantor or a Parent of the Guarantor on a recognised stock exchange;

(b) any transaction on a recognised stock exchange involving the Developer, a Parent of the Developer, the Guarantor or a Parent of the Guarantor while listed;

(c) any change in Control of the Guarantor or a Parent of the Guarantor whilst listed on a recognised stock exchange; or

(d) a Dealing where such Dealing is with a Related Entity of the Developer or the Guarantor with the consent of the Authority (which may not be unreasonably withheld).

43.3 Encumbering the Developer's interest in the Site

(a) The Developer must not mortgage, charge or otherwise encumber the Developer's interest in the Site or this deed without the prior consent of the Authority.

(b) The Authority agrees to act reasonably and promptly in determining whether to provide its consent to the Developer for the purposes of this clause 43.3 where the provision of such mortgage, charge or other Encumbrance is reasonably required by the Developer in order to raise funds for the purposes of carrying out its obligations under this deed.

43.4 Leasing and charging Developer's Property

The Developer must not mortgage, charge, lease or otherwise deal with any Developer's Property which requires the Authority to sign a waiver without first obtaining the consent of the Authority, which consent may not be unreasonably withheld if:

(a) the Developer is entering into a proper and bona fide mortgage, charge or lease as a means of financing a Works Portion and provides sufficient evidence to the Authority (acting reasonably) that it is doing so;

(b) the Developer uses the standard form of right of entry waiver document prepared by the Authority; and

(c) the Developer pays the Authority's Costs (including legal Costs where applicable).

43.5 Financing documents

The Authority acknowledges that:

(a) the Developer or its Related Entities may be obtaining financial accommodation to fund the Project; and

(b) it may be a condition of obtaining that financial accommodation that the Authority enters into a Financier's Side Deed and other agreements with the Financier.

43.6 Negotiating terms of financing documents

The Authority agrees to:

(a) enter into a Financier's Side Deed; and

(b) be reasonable in negotiating the terms of the Financier's Side Deed and other agreements referred to in clause 43.5(b) provided that:

(i) there is no material derogation of the Authority's rights under this deed, the Leases (assuming that the relevant Put Offers or the Call Offers are accepted) or the Financier's Side Deed;

(ii) the Developer pays all Costs reasonably incurred by the Authority arising out of or in connection with those agreements (including negotiating their terms); and

(iii) the Authority is satisfied (acting reasonably) with the credit standing of the Financier (including, where the Financier is acting in a security trustee capacity), that the Authority is satisfied that the entity providing commitments to the Authority under the Financier's Side Deed is capable of financially performing those obligations after taking into account:

A. the benefit of any indemnities the Authority may have from the Developer and/or any financier; and

B. the recourse of the Financier to the assets of the security trust pursuant to the relevant security trust deed.

44. Authority's right to assign

44.1 Authority may assign

(a) The Authority may at any time assign its interest in this deed to any person provided that the assignee:

(i) is a Public Authority and has the necessary powers to enable it to perform the Authority's obligations under this deed; and

(ii) has title to the Site following the assignment.

(b) If the assignee is not a Public Authority but otherwise satisfies the requirements of this clause 44.1, then the Authority may only assign its interest in this deed with the consent of the Developer.

44.2 Change of landlord

If the Authority transfers title to any part of the Site or grants a concurrent lease over any part of the Site, so that the Developer becomes obliged to perform all or part of its obligations under this deed in favour of another person (**New Landlord**), then:

(a) where the New Landlord is a Public Authority, the Authority is released from those obligations under this deed which relate to that part of the Site transferred or the subject of the concurrent lease, arising after the Developer receives notice of that event;

(b) the Developer must procure that the New Landlord is substituted for the Authority as a named insured under those Insurances which relate to that part of the Site transferred or the subject of the concurrent lease;

(c) where the Authority holds (or is entitled to hold) a Bank Guarantee which secures obligations which the Developer becomes obliged to perform in favour of the New Landlord, the Developer must give the New Landlord a replacement Bank Guarantee, such Bank Guarantee to be in the same form (except that the New Landlord is named as favouree) and for the same amount as the Bank Guarantee it replaces;

(d) as soon as practicable after the Developer has complied with clause 44.2(c), the Authority must return the Bank Guarantees held by it and which have been replaced, to the Developer (subject to exercising any rights to call on a Bank Guarantee which it may have at that time);

(e) the Developer must enter into those documents and assurances the Authority or the New Landlord reasonably requires to enable the New Landlord to enforce the benefit of all obligations owed under this deed which the Developer becomes obliged to perform in favour of the New Landlord, in the New Landlord's name;

(f) prior to such transfer or grant, the Authority must procure the New Landlord to enter into such documents as are required to ensure that the New Landlord is bound by all Project Documents executed by the Authority and any consents to the extent they relate to that part of the Site transferred or the subject of the concurrent lease; and

(g) the Authority must pay the reasonable Costs incurred by the Developer in complying with the Developer's obligations under this clause 44.2.

45. Dispute resolution

45.1 Notice of dispute

(a) If a dispute (in this clause 45, a "**dispute**") between the Developer (or the Guarantor) and the Authority arises in connection with this deed or its subject matter, then a disputing party must give to the other parties a notice identifying and providing details of the subject of the dispute.

(b) A dispute under this deed includes:

(i) the refusal of a party to give an approval except where that party has the right to grant or refuse that approval in its sole and unfettered discretion; and

(ii) the failure to give an grant or refuse to give an approval within the relevant time periods specified in this deed, noting that any expert cannot make a determination in this situation in relation to the exercise of a party's sole and unfettered discretion, but can only make a determination as to whether a party has or has not granted or refused to give an approval within the relevant time periods specified in this deed.

45.2 Continuing to perform obligations

All parties to this deed must continue to perform their respective obligations under this deed if there is a dispute but will not be required to complete the matter the subject of the dispute (while the dispute remains on foot), unless the party requiring that matter to be completed indemnifies the other party against reasonable Costs and losses suffered in completing that matter if the dispute is not resolved in favour of the indemnifying party. This clause does not limit the right of any party to recover damages (including damages for any delay or other loss and associated costs) if the matter the subject of the dispute is resolved in favour of that party or the other party withdraws its requirement that the dispute be resolved.

45.3 Parties to consult

Any dispute between the parties arising in connection with this deed or its subject matter must first be referred to the chief executive officer of the Authority and the managing director of the Developer to meet within 10 Business Days after the date of the notice for resolution of the dispute and undertake genuine and good faith negotiations with a view to resolving the dispute. If these persons cannot agree within 10 Business Days then (except in the case of an application for any interlocutory relief) the remaining provisions of this clause 45 apply.

45.4 Pathway for determining disputes

Following the consultation referred to in clause 45.3, if the parties to that consultation:

(a) agree that the matter should be determined by an expert (or if this deed expressly specifies that the matter should be determined by an expert), the matter must be referred to expert determination in accordance with clause 45.6;

(b) agree that the matter should be the subject of mediation, the matter must be referred for settlement by a mediator agreed by those parties and, if the parties cannot agree within 10 Business Days, by a mediator appointed by LEADR; or

(c) do not agree within 10 Business Days that the matter should be determined by an expert or a mediator, any of the parties to the dispute may commence litigation.

45.5 Choice of expert

A dispute to be referred to an expert in accordance with clauses 45.4(a) and 45.6 must be determined by an independent expert of at least 10 years immediate past experience in the relevant field:

(a) agreed between and appointed jointly by the parties; or

(b) in the absence of agreement within 5 Business Days after the matter is referred to expert determination, appointed by the President or other senior officer for the time being of the body administering the relevant field and, if the parties cannot agree as to the relevant field within 10 Business Days, by an expert appointed by LEADR.

45.6 Expert

The expert appointed to determine a dispute:

(a) must have a technical understanding of the issues in contest; and

(b) must not have a significantly greater understanding of one party's business or operations which might allow the other side to construe this greater understanding as a bias; and

(c) must inform each disputing party before being appointed the extent of the expert's understanding of each party's business or operations. If that information indicates a possible bias, then that expert must not be appointed except with the approval of both parties.

45.7 Agreement with expert

The parties must enter into an agreement with the expert appointed under clause 45.6 setting out the terms of the expert's engagement (including the time within which the expert must make the determination) and the expert's fees.

45.8 Directions to expert

In reaching a determination in respect of a dispute under clause 45.4(a)45.6, the expert must give effect to the intent of the parties entering into this deed and the purposes of this deed.

45.9 Role of expert

The expert must:

(a) act as an expert and not as an arbitrator;

(b) proceed in any manner as the expert thinks fit without being bound to observe the rules of natural justice or the rules of evidence;

(c) not accept verbal submissions unless both parties are present;

(d) on receipt of a written submission from one party ensure that a copy of such submission is given promptly to the other party;

(e) take into consideration all documents, information and other material which the parties give the expert which the expert in its absolute discretion considers relevant to the determination of the dispute;

(f) not be expected or required to obtain or refer to any other documents, information or material (but may do so if the expert so wishes);

(g) issue a draft certificate stating the expert's intended determination giving each party 10 Business Days to make further submissions;

(h) issue a final certificate stating the expert's determination having had regard to any further submissions received under clause 45.9(g); and

(i) act with expedition with a view to issuing the final certificate as soon as practicable.

45.10 Complying with directions of expert

The disputing parties must comply with all directions given by the expert in relation to the resolution of the dispute, and must within the time period specified by the expert, give the expert:

(a) a short statement of facts;

(b) a description of the dispute; and

(c) any other documents, records or information the expert requests.

45.11 Expert may commission reports

Subject to obtaining the prior consent of both parties the expert may commission the expert's own advisers or consultants (including lawyers, accountants, bankers, engineers, surveyors or other technical consultants) to provide information to assist the expert in making a determination. Provided that both parties have consented to the Costs the Authority and the Developer must indemnify the expert for the Cost of those advisers or consultants in accordance with clause 45.17.

45.12 Expert may convene meetings

The expert will hold a meeting with all the parties present to discuss the dispute. The meeting must be conducted in a manner which the expert considers appropriate. The meeting may be adjourned to, and resumed at, a later time in the expert's discretion.

45.13 Meeting not a hearing

The parties agree that a meeting under clause 45.12 is not a hearing and is not an arbitration.

45.14 Confidentiality of information

The parties agree, and must procure that each of the mediator and expert agrees as a condition of its appointment:

(a) subject to clause 45.14(b), to keep confidential all documents, information and other material, disclosed to them during or in relation to the expert determination or mediation; and

(b) not to disclose any confidential documents, information and other material except:

(i) to a party or adviser who has signed a confidentiality undertaking to the same effect as clause 45.14(a); or

(ii) if required by Law to do so; or

(c) not to use confidential documents, information or other material disclosed to them during or in relation to the expert determination for a purpose other than the expert determination or mediation.

45.15 Confidentiality in proceedings

The parties must keep confidential and must not disclose or rely upon or make the subject of a subpoena to give evidence or produce documents in any arbitral, judicial or other proceedings:

(a) views expressed or proposals or suggestions made by a party or the expert during the expert determination or mediation relating to a possible settlement of the dispute;

(b) admissions or concessions made by a party during the expert determination or mediation in relation to the dispute; and

(c) information, documents or other material concerning the dispute which are disclosed by a party during the expert determination or mediation unless such information, documents or facts shall have been otherwise discoverable in judicial or arbitral proceedings.

45.16 Final determination of expert

The parties agree that the final determination by an expert is final and binding upon them.

45.17 Expert's Costs

If any expert does not award Costs, the disputing parties must each pay an equal share of the expert's Costs incurred from the date of appointment to the date of the final determination.

45.18 Expert generally not liable

The parties agree that other than where the expert has engaged in fraud, the expert will not be liable to them in any respect in connection with the carrying out of the expert's functions in accordance with this deed.

46. Default

46.1 Trigger Notice

(a) If a Trigger Event occurs, the Authority may give the Developer and the Guarantor a notice specifying the Trigger Event and stating that the Developer (or the Guarantor) must remedy that Trigger Event within:

(i) 20 Business Days after service of the Trigger Notice, in the case of a breach of any obligation on the Developer to pay money under this deed; and

(ii) 30 Business Days after service of the Trigger Notice, in the case of a breach of any obligation of the Developer under this deed other than those obligations referred to in clause 46.1(a)(i).

(b) The Authority agrees to act in good faith in considering any submissions the Developer or the Guarantor may make that the 20 Business Day period or 30 Business Day period (as the case may be) should be extended in relation to a particular Trigger Event, but whether the Authority agrees to any such extension shall be at the Authority's sole and unfettered discretion.

46.2 Trigger Event not remedied

If the Developer (or the Guarantor) does not remedy a Trigger Event within the period specified in the Trigger Notice (or such longer period as the Authority may agree under clause 46.1), the Authority may give the Developer a notice stating that an Event of Default has occurred.

46.3 Authority may rectify

The Authority may, but is not obliged to remedy (including by entering upon the Site for the purpose of doing so) any Event of Default. The Developer must pay to the Authority on demand a sum equal to the Costs incurred by the Authority (including legal Costs) in remedying an Event of Default.

46.4 Authority may terminate

(a) If an Event of Default occurs, but subject to clause 46.5, the Authority may terminate this deed by notice in addition to its rights under clause 46.3.

(b) The Authority acknowledges and agrees that its right to terminate this deed under clause 46.4(a) is without prejudice to the rights (if any) of the Developer under any statute or under general law including seeking relief against forfeiture, subject always to any defences, counterclaims and other rights available to the Authority from time to time.

(c) The Authority cannot exercise its rights under clause 46.4(a) if:

(i) the Developer complies with the notice given under clause 46.1;

(ii) either the Authority or the Developer has notified a dispute in accordance with clause 45 until the dispute resolution consultation and mediation or expert determination processes (if applicable) in clause 45 have been exhausted; or

(iii) either the Authority or the Developer has notified a dispute in accordance with clause 45 and it is determined that there is no Event of Default.

46.5 Where a Works Portion has been Substantially Commenced

Despite the provisions of clause 46.4:

(a) subject to clause 46.5(b), the Authority may not terminate this deed for any Event of Default, to the extent that it relates to any Works Portion which has Substantially Commenced; and

(b) despite clause 46.5(a), in the case of an Insolvency Event, the Authority may terminate this deed with respect to any Works Portion that has been Substantially Commenced unless the Developer's obligations under this deed with respect to that Works Portion are being performed (and continue to be performed) by or on behalf of the Developer in accordance with the provisions of this deed, despite that Insolvency Event.

46.6 No windfall gain

(a) If on the date of termination of this deed by the Authority, the aggregate of all Total Payment Amount Instalments paid by the Developer to the Authority and moneys received from a Nominee for the grant of a Lease is greater than the Nominated Clause 46.6 Payment Amount paid or payable as at that date, then the Authority must pay to the Developer the amount by which the aggregate of all Total Payment Amount Instalments paid by the Developer to the Authority exceed the Nominated Clause 46.6 Payment Amount paid or payable as at the date of termination of this deed, less any damages that the Authority suffer or costs that the Authority incurs as a result of the Developer's Event of Default.

(b) The Authority will be entitled to set off against the payments to be made by it under this clause any entitlement to damages which the Authority has against the Developer under this deed.

(c) The Authority must make that part of the payment contemplated by this clause 46.6 which is certain and not contested as between the Authority and the Developer no later than the date which is 40 Business Days from the date of termination of this deed.

(d) The Authority must make the residual part of the payment contemplated by this clause 46.6 within 40 Business Days from the date the quantum of that payment becomes certain (following the Authority's entitlement to damages against the Developer being determined).

(e) The Authority agrees to act reasonably to crystallise the damages against the Developer contemplated by this clause and agrees not to artificially delay the processes associated with that event.

(f) Despite the termination of this deed, if the Developer disputes the Authority's claim for damages, the Developer may notify a dispute in accordance with clause 45.

46.7 Rights not affected

The Authority's entitlement to recover damages from the Developer or any other person is not affected or limited, by:

(a) the Authority terminating this deed;

(b) the Authority accepting the Developer's repudiation; or

(c) the Developer abandoning or vacating the Site.

46.8 Waiver

Subject to clause 58.6, the Authority and the Developer agree that:

(a) a failure to enforce any breach of covenant on the part of the Developer or the Authority (as the case requires) is not to be construed as a waiver of that breach, nor shall any custom or practice which may grow up between the parties in the course of administering this deed be construed to waive or lessen the right of the Authority or the Developer to insist upon the performance by the Developer or the Authority (as the case requires) of any term, covenant or condition of this deed, or to exercise any rights on account of any such default; and

(b) a waiver of a particular breach will not be deemed to be a waiver of the same or any other subsequent breach or default.

46.9 Consequences of the Authority breach

Should the Authority breach an obligation imposed on it by this deed, the Developer must, if it is, or reasonably ought to have been, aware of such breach, provide written notice to the Authority describing the nature of the Authority's breach, when the breach occurred and what action, consistent with the rights and obligations of the parties under this deed, the Developer requires the Authority to take to remedy such breach.

47. Developer's obligations on termination

If this deed is terminated, the Developer must, in respect of those parts of the Site, the Developer Secured Area and Works Portions for which this deed is terminated:

(a) vacate the Site and the Developer Secured Area on the date this deed is terminated;

(b) at the request of the Authority (but not otherwise), within a reasonable time (being not more than 6 months) after the date of that termination:

(i) demolish and remove from the Site all Works and things affixed to the Site (or intended to be affixed to the Site) or such of them as the Authority may request; and

(ii) restore the areas and any Services affected by any Works carried out by the Developer to the condition (and, in the case of Services, the location) they were in prior to commencement of those Works or complete the parts of the Works commenced by the Developer;

(c) within 5 Business Days after the completion of that demolition, removal or restoration, give the Authority a structural engineer's certificate certifying that the Improvements are stable and safe;

(d) leave the Site in a safe and secure condition;

(e) remove all rubbish from the Site and leave the Site clean and tidy;

(f) remove from the Site furniture, loose equipment, materials, goods and other items owned by the Developer but which do not form part of the relevant part of the Site or which are not affixed (or intended to be affixed) to the relevant part of the Site; and

(g) assign to the Authority all of the Developer's interest in any Approvals obtained by the Developer, and any design documents prepared by or for the Developer, in connection with the Works in accordance with clause 42.1.

48. Releases and indemnities

48.1 Release of the Authority from liability

The Developer agrees that, except as otherwise specified in this deed, the Works and all property in the Developer Secured Area, are at the sole risk of the Developer except to the extent of any breach of this deed by the Authority or the Authority's Employees or the wrongful or reckless act of the Authority or the Authority's Employees. Except as otherwise specified in this deed, the Developer releases and forever discharges the Authority from all actions, suits, claims, demands, causes of actions and Costs, equitable or under statute and otherwise and all other liabilities of any nature (whether or not the parties were or could have been aware of them) which the Developer:

(a) now has;

(b) at any time had;

(c) may have now or in the future; or

(d) but for this deed, could or might have had,

against the Authority in any way relating to or arising out of or in connection with:

(i) any injury, damage or loss that the Developer or the Developer's Employees and Agents suffer by reason of:

A. the carrying out of the Works;

B. any construction within the Developer Secured Area;

C. any overflow, leakage or condensation from the water supply or from any sprinkler system or device or apparatus from the roof, walls, gutters, downpipes or other parts of the Developer Secured Area;

D. the condition of or from any defect in the gas, electricity or water supply, connections or fittings within the Developer Secured Area; or

E. the flooding of any part of the Developer Secured Area;

(ii) loss of or damage to any property or effects of the Developer or any other person on or in the vicinity of the Developer Secured Area however occurring;

(iii) injury to or the death of any person on or in the vicinity of the Developer Secured Area however occurring;

(iv) security of or within the Developer Secured Area;

(v) any unauthorised entry to the Developer Secured Area;

(vi) any loss, injury or damage sustained by the Developer or any other person because of the interruption or failure of any of the Services to the Developer Secured Area; and

(vii) any changes to the location or size of the CBD station, station portals, corridors, tunnels or other infrastructure concerning the Metro Line 1 (Stage 1) or the Metro Line 1 (Stage 1) zone of influence from those contemplated as at 9 November 2009,

except to the extent that such injury, loss or damage is caused or contributed to by the breach of this deed by the Authority or the Authority's Employees or the wrongful or reckless act of the Authority or the Authority's Employees.

48.2 General indemnities

The Developer indemnifies the Authority and the Authority's Employees from and against any claim, action, damage, loss, liability or Cost incurred or suffered by any of the Indemnified Persons or arising from any claim, suit, demand, action or proceeding by any person against any of the Indemnified Persons to the extent such loss was caused or contributed to by:

(a) loss of or damage to the Developer Secured Area or to any property on or in the vicinity of the Developer Secured Area, or injury to or the death of any person on or in the vicinity of the Developer Secured Area, arising from any acts or omissions of the Developer or the Developer's Employees and Agents;

(b) the negligent or careless use, misuse, waste or abuse of any Services by the Developer or the Developer's Employees and Agents or any other person claiming through or under the Developer (for the avoidance of doubt, not including any Tenant for any period after Practical Completion of the relevant Works Portion); and

(c) overflow or leakage of water emanating from the Developer Secured Area, or from any sprinkler system or device in the Developer Secured Area or arising from any defect in the Services (or any connections or equipment for the Services).

48.3 Environmental Liabilities

The Developer indemnifies the Authority against any liability or loss arising from, and any Costs incurred in connection with, any Environmental Liability (whether arising before or after the expiration or termination of this deed) to the extent the Environmental Liability is caused by any wrongful or reckless act of the Developer or the Developer's Employees and Agents or a failure by the Developer or the Developer's Employees and Agents to carry out the Investigation Works, the Other Investigation Works, the Remediation Works , the Other Remaining Remediation Works or the Other Remediation Works in accordance with this deed.

48.4 Continuation of liability

The obligations of the Developer under this clause 48 in respect of a Works Portion continue after the Lease Commencement Date in respect of that Works Portion or determination of this deed in connection with any act, matter or thing occurring before the later of Practical Completion of that Works Portion and the Lease Commencement Date in respect of that Works Portion or determination.

48.5 Conduct of proceedings

(a) In connection with any indemnity provided by the Developer under clause 16.35, clause 48.2 or clause 48.3, the Authority agrees to act reasonably in considering any request by the Developer with respect to the manner in which any claim that may be made against the Authority or any legal proceedings that may be commenced against the Authority are to be conducted, including considering in good faith any request by the Developer that the Developer should have the carriage and conduct of the manner in which any such claims or proceedings are defended, upon the basis that all Costs and risks (including the risks of adverse judgments) that may arise in connection with any such claim or proceeding are accepted by the Developer.

(b) Without limiting the Authority's obligations under this clause 48.5, the Authority agrees that it will not compromise or settle any such claim without the Developer's prior approval. The Developer must act reasonably and promptly in relation to any

request received from the Authority as to the manner in which any such claim ought to be settled or compromised.

48.6 Authority's ability to enforce the indemnity

The Developer agrees that the Authority may enforce any indemnity or other covenant in this clause 48 in favour of the person specified in this clause 48 for the benefit of each such person in the name of the Authority or such person.

49. Guarantee and indemnity

49.1 Consideration

The Guarantor acknowledges that the Authority is acting in reliance on the Guarantor incurring obligations and giving rights under this clause 49.

49.2 Guarantee

The Guarantor unconditionally and irrevocably guarantees to the Authority the due and punctual performance and observance by the Developer of the Guaranteed Obligations.

49.3 Indemnity

(a) The Guarantor unconditionally and irrevocably indemnifies the Authority for all losses, Costs, damages and liabilities which it incurs or suffers as a result of the Developer failing to duly and punctually perform and observe any of the Guaranteed Obligations.

(b) The liability of the Guarantor to the Authority for failing to comply for any reason with its obligations under clause 49.2 is limited to the liability of the Guarantor to the Authority under clause 49.3(a).

(c) The remedies available to the Authority against the Guarantor for failing to comply for any reason with its obligations under clause 49.2 are limited to the right of the Authority to make a claim on the Guarantor under clause 49.3(a).

49.4 Additional indemnities

Whether or not the Authority exercises any rights it may have under clause 46.4, and without being affected by the exercise of any such rights, the Guarantor unconditionally and irrevocably indemnifies the Authority against any loss the Authority suffers because:

(a) the liability to guarantee to the Authority the due and punctual performance or observance of the Guaranteed Obligations is unenforceable in whole or in part as a result of lack of capacity, power or authority or improper exercise of power or authority;

(b) the Guaranteed Obligations are rescinded or terminated by the Developer or the Authority for any reason other than by reason of the wrongful repudiation or default by the Authority;

(c) the Developer disregards an order for specific performance of the Guaranteed Obligations;

(d) an Insolvency Event occurs with respect to the Developer but only to the extent of obligations or monies which form part of the Guaranteed Obligations; or

(e) the Guaranteed Obligations are not or have never been enforceable against the Guarantor or are not capable of observance, performance or compliance in full

because of any other circumstance whatsoever including any transaction relating to the Guaranteed Obligations being void, voidable or unenforceable and whether or not the Authority knew or should have known anything about that transaction.

49.5 Guarantor as principal debtor

(a) The Guarantor as principal debtor agrees to pay to the Authority within 10 Business Days of a demand being made by the Authority on the Guarantor a sum equal to the amount of any loss described in clauses 49.3 and 49.4. Any such demand must:

(i) be in writing;

(ii) state that it is made under clause 49.3 or 49.4;

(iii) state and provide details of the amount being demanded and confirm that:

A. a written demand for payment of the amount has been made on the Developer by the Authority;

B. at least 10 Business Days has passed since the demand on the Developer was made; and

C. the demand on the Developer remains unsatisfied;

(iv) be signed by an Authorised Officer of the Authority; and

(v) be served in accordance with clause 57.1.

(b) The Guarantor unconditionally and irrevocably indemnifies the Authority for all losses, Costs, expenses, damages and liabilities suffered or incurred by the Authority as a result of any of the Guaranteed Obligations, or any of the obligations of the Guarantor under clauses 49.2 to 49.4 (inclusive) being illegal, void or otherwise unenforceable for any reason.

(c) Any amount which the Guarantor is liable to pay the Authority under clause 49.5(b) must be paid within 10 Business Days of a demand being made by the Authority on the Guarantor. Any such demand must:

(i) be in writing and state that it is made under clause 49.5(b);

(ii) state and provide details of the amount demanded;

(iii) be signed by an Authorised Officer of the Authority; and

(iv) be served in accordance with clause 57.1.

49.6 Guarantor Sunset Date

Subject to clause 49.16, but notwithstanding any other provision of this Guarantee and Indemnity:

(a) the Authority is not entitled to make a claim on the Guarantor under this Guarantee and Indemnity after the Guarantor Sunset Date; and

(b) the Guarantor's liability under this Guarantee and Indemnity ceases on the Guarantor Sunset Date for the claim except in relation to a claim made on the Guarantor under and in accordance with this Guarantee and Indemnity on or prior to the Guarantor Sunset Date.

49.7 Limitation of Liability

Notwithstanding any other provision of this Guarantee and Indemnity, the liability of the Guarantor to the Authority under or in connection with this Guarantee and Indemnity (whether that liability arises under a specific provision of this deed for breach of contract, negligence or otherwise) is no greater than the liability of the Developer to the Authority under or in connection with the Project Documents.

49.8 Extent of guarantee and indemnity

The guarantee provided in clause 49.2 and the indemnities provided in clauses 49.3 and 49.4 are continuing obligations and extend to all of the Guaranteed Obligations and other money payable under this deed.

49.9 Preservation of the Authority's rights

The liabilities under this deed of the Guarantor as a guarantor or an indemnifier and the rights of the Authority under a Project Document are not affected by anything which might otherwise affect them at Law or in equity including, without limitation, one or more of the following (whether occurring with or without the consent of a person):

(a) the Authority or another person granting time or other indulgence (with or without the imposition of an additional burden) to, compounding or compromising with, or wholly or partially releasing, the Developer, any other indemnifier or another person in any way;

(b) the release (including a release as part of any novation) or discharge of a party to a Project Document or any other person;

(c) the cessation of the obligations, in whole or in part, of a party to a Project Document or any other agreement;

(d) the liquidation of a party to a Project Document or any other person;

(e) any arrangement, composition or compromise entered into by the Authority or any other person with a party to a Project Document or any other person;

(f) any Project Document or any other agreement being in whole or in part illegal, void, voidable, avoided, unenforceable or otherwise of limited force or effect;

(g) any extinguishment, failure, loss, release, discharge, abandonment, impairment, compound, composition or compromise, in whole or in part of any Project Document or any other agreement;

(h) any Encumbrance being given to the Authority by a party to a Project Document or any other person;

(i) any moratorium or other suspension of any right of the Authority against a party to a Project Document or any other person under a Project Document or any other agreement;

(j) the Authority exercising or enforcing, delaying or refraining from exercising or enforcing, or being not entitled or unable to exercise or enforce any right against a party to a Project Document or any other person under a Project Document or any other agreement;

(k) any transaction, agreement or arrangement that may take place between the Authority and a party to a Project Document or any other person;

(l) any payment to the Authority by a party to a Project Document or any other person, including any payment which at the payment date or at any time after the payment date is, in whole or in part, illegal, void, voidable, avoided or unenforceable;

(m) any failure to give effective notice to a party to a Project Document or any other person of any default under any Project Document or any other agreement;

(n) any legal limitation, disability or incapacity of a party to a Project Document or any other person;

(o) any breach of any Project Document or any other agreement by a party to a Project Document or any other person;

(p) any disclaimer by a party to a Project Document or any other person of any Project Document or any other agreement;

(q) the opening of a new account of a party to a Project Document with the Authority or any transaction relating to the new account;

(r) any prejudice to a party to a Project Document or any other person as a result of anything done, or omitted by the Authority or other person, or any failure or neglect by the Authority or other person to recover any amount in relation to the Guaranteed Obligations or any other thing;

(s) laches, acquiescence, delay, acts, omissions or mistakes on the part of the Authority or another person or both the Authority and another person;

(t) any variation or novation of a right of the Authority or another person, or material alteration of a Project Document, in respect of the Developer, the Guarantor or another person;

(u) the transaction of business, expressly or impliedly, with, for or at the request of the Developer, the Guarantor or another person;

(v) changes which from time to time may take place in the membership, name or business of a firm, partnership, committee or association whether by death, retirement, admission or otherwise, whether or not the Guarantor or another person was a member;

(w) a Security Interest being void, voidable or unenforceable;

(x) a person dealing in any way with a Security Interest, guarantee, judgment or negotiable instrument (including, without limitation, taking, abandoning or releasing (wholly or partially), realising, exchanging, varying, abstaining from perfecting or taking advantage of it);

(y) the death of any person or an Insolvency Event occurring in respect of any person;

(z) a change in the legal capacity, rights or obligations of a person;

(aa) the fact that a person is a trustee, nominee, joint owner, joint venturer or a member of a partnership, firm or association;

(bb) a judgment against the Developer or another person;

(cc) the receipt of a dividend, distribution or other payment after an Insolvency Event of a party to a Project Document or any other person or the payment of a sum or sums into the account of the Developer or another person at any time (whether received or paid jointly, jointly and severally or otherwise);

(dd) any part of the Guaranteed Obligations being irrecoverable for any reason, or (subject to the Guarantor giving its consent) any increase in the amount of the Guaranteed Obligations);

(ee) an assignment of rights in connection with the Guaranteed Obligations or any assignment, novation, assumption or transfer of, or other dealings with, any rights or obligations under any Project Documents or any other agreement;

(ff) the acceptance of repudiation or other termination of any Project Document or any other agreement, or in connection with the Guaranteed Obligations;

(gg) the invalidity or unenforceability of an obligation or liability of a person other than the Guarantor;

(hh) invalidity or irregularity in the execution of this deed by any Guarantor or any deficiency in or irregularity in the exercise of the powers of any Guarantor to enter into or observe its obligations under this deed;

(ii) any obligation of the Developer or the Guarantor being discharged by operation of Law or otherwise;

(jj) property secured under a Security Interest being forfeited, extinguished, surrendered, resumed or determined; or

(kk) any other act, omission, matter or thing whatsoever whether negligent or not.

This clause 49.9 applies irrespective of the consent or knowledge, or lack of consent or knowledge, of the Authority, a party to a Project Document or any other person of any event described in clause 49.9.

49.10 Liabilities not affected

The liability of the Guarantor under a Project Document is not affected:

(a) because any other person who was intended to enter into this deed, or otherwise become a co-surety or co-indemnifier for payment of the Guaranteed Obligations or other money payable under this deed has not done so or has not done so effectively; or

(b) because a person who is a co-surety or co-indemnifier for payment of the Guaranteed Obligations or other money payable under this deed is discharged under an agreement or under statute or a principle of law or equity.

49.11 Suspension of Guarantor's rights

As long as the Guaranteed Obligations are outstanding or other money payable under this deed remains unpaid, the Guarantor cannot without the consent of the Authority:

(a) be subrogated to the Authority;

(b) claim or receive the benefit of this deed or any other agreement of which the Authority has the benefit, any moneys held by the Authority or any other rights of the Authority, in each case in relation to the Guaranteed Obligations;

(c) in reduction of its liability under this deed, raise a defence, set-off or counterclaim available to itself, the Developer or a co-surety or co-indemnifier against the Authority or claim a set-off or make a counterclaim against the Authority;

(d) make a claim or enforce a right (including, without limitation, an Encumbrance) against the Developer or the Guarantor or against their estate or property;

(e) prove in competition with the Authority if an Insolvency Event occurs in respect of the Developer whether in respect of an amount paid by the Guarantor under this deed, in respect of another amount (including the proceeds of a Security Interest) applied by the Authority in reduction of the Guarantor's liability under this deed, or otherwise; or

(f) claim to be entitled by way of contribution, indemnity, subrogation, marshalling or otherwise to the benefit of a Security Interest or guarantee or a share in it now or subsequently held for the Guaranteed Obligations or other money payable under this deed.

49.12 Other securities and obligations of Guarantor

The Authority's rights under this deed are additional to and do not merge with or affect and are not affected by:

(a) any Security Interest now or subsequently held by the Authority from the Developer, the Guarantor or any other person; or

(b) any other obligation of the Guarantor to the Authority,

notwithstanding any rule of law or equity or any statutory provision to the contrary.

49.13 Reinstatement of the Authority's rights

If a claim is made that all or part of a payment, obligation, settlement, transaction, conveyance or transfer in connection with the Guaranteed Obligations or other money payable under this clause is void or voidable under Law relating to Insolvency Events or the protection of creditors or for any other reason and the claim is upheld, conceded or compromised, then:

(a) the Authority is entitled immediately as against the Guarantor to the rights in respect of the Guaranteed Obligations or other money payable under this deed to which it would have been entitled if all or that part of that payment, obligation, settlement, transaction, conveyance or transfer had not taken place; and

(b) promptly on request from the Authority, the Guarantor agrees to do any act and sign any document reasonably required to restore to the Authority any Security Interest or guarantee held by it under or in connection with this deed from the Guarantor immediately prior to that payment, obligation, settlement, transaction, conveyance or transfer.

49.14 Application of money

(a) The Authority may apply money paid by the Developer or the Developer's estate, or the Guarantor or otherwise towards satisfaction of the Guaranteed Obligations and other money payable under this deed in the manner it sees fit.

(b) Subject to the Developer complying with its obligations under clause 43.1 in connection with an assignment or transfer of its interest in the Site or this deed, the Guarantor is released from its obligations under this deed on completion of the assignment or transfer except in relation to matters arising prior to the completion of the assignment or transfer.

49.15 Foreign currency indemnity

(a) If, at any time:

(i) the Authority receives or recovers any amount payable by the Guarantor under this deed for any reason including, but not limited to:

A. any judgement or order of any Government agency;

B. any breach of any Project Document;

C. the liquidation of a party to a Project Document or any other person or any proof or claim in that liquidation; or

D. any other thing into which the obligations of a party to a Project Document or any other person may have become merged; and

(ii) the Payment Currency is not the Relevant Currency,

the Guarantor indemnifies the Authority against any shortfall between the amount payable in the Relevant Currency and the amount actually received or recovered by the Authority after the Payment Currency is converted into the Relevant Currency in accordance with clause 49.15(b).

(b) The Authority may itself or through its bankers purchase one currency with another, whether or not through an intermediate currency, whether spot or forward, in the manner and amounts and at the times it thinks fit.

49.16 Avoidance of payments

If any payment by the Guarantor to the Authority under this deed is at any time avoided for any reason including, but not limited to, any legal limitation, disability, incapacity or insolvency of or affecting the Guarantor or any other thing, and whether or not:

(a) any transaction relating to the amount owing by the Guarantor was illegal, void or substantially avoided; or

(b) anything was or ought to have been within the knowledge of the Authority, the Guarantor:

(i) acknowledges that any liability of the Guarantor and any right of remedy of the Authority under this deed is not discharged or satisfied and is the same as if that payment had not been made; and

(ii) as an additional, separate and independent obligation, indemnifies the Authority against loss suffered resulting from that avoided payment.

49.17 Continuing obligation

Subject to clause 49.6, each guarantee and indemnity contained in this Guarantee and Indemnity is a continuing obligation of the Guarantor, despite:

(a) any settlement of account; or

(b) the occurrence of any other thing,

and remains in full force and effect until all the Guaranteed Obligations and all moneys owing by the Guarantor under this Guarantee and Indemnity, contingently or otherwise, have been paid or satisfied in full.

49.18 Principal and independent obligation

(a) Each obligation of the Guarantor under this Guarantee and Indemnity is:

(i) a principal obligation and is not to be treated as ancillary or collateral to any other right or obligation; and

(ii) independent of and not in substitution for or affected by any other collateral security which the Authority may hold in respect of the Guaranteed Obligations or any other obligation of any part to a Project Document or any other person.

(b) This deed is enforceable against the Guarantor:

(i) without first having recourse to any collateral security;

(ii) whether or not the Authority has:

A. made demand upon any party to a Project Document (except as required in order to comply with clause 49.5); or

B. given notice to any party to a Project Document or any other person in respect of anything (except as required in order to comply with clause 49.5); or

C. taken any other steps against any party to a Project Document or any other person; and

(iii) despite the occurrence of any event described in clause 49.9.

49.19 Stapled Entity

(a) If the Authority reasonably requests the Guarantor, by service of written notice, the Guarantor must ensure that if the Stapling Proposal is approved by the Guarantor's shareholders, the Guarantor will procure that the Stapled Entity provides a joint and several guarantee and indemnity, on the same terms as is provided for in this clause 49 promptly after such request from the Authority.

(b) For the purposes of this clause, the expressions:

(i) **Stapling Proposal** means a proposal to be put at the annual general meeting of the Guarantor in 12 November 2009 for the stapling of the shares in the Guarantor to the units in the Stapled Entity; and

(ii) **Stapled Entity** means a unit trust, named The Lend Lease Trust, the units in which are proposed to be stapled to the shares in the Guarantor as set out in the Explanatory Statement sent to the Guarantor's shareholders in relation to the Stapling Proposal.

50. Representations and warranties

50.1 Head lease and other interests

The Developer must permit persons having an estate or interest in the Site concurrent with the Authority's to exercise the Authority's or that other person's rights, and otherwise perform their obligations, in connection with the Site.

50.2 Warranties by Developer

The Developer represents and warrants that at all times during the Project in relation to itself that:

(a) it has been incorporated as a company limited by shares in accordance with the Laws of its place of incorporation, is validly existing under those Laws and has power and authority to carry on its business as it is now being conducted;

(b) it has, or will have (in respect of those Project Documents still to be executed as at the Commencement Date), power to enter into the Project Documents to which it is a party and comply with its obligations under them;

(c) it has, or will have (in respect of those Project Documents still to be executed as at the Commencement Date) in full force and effect the authorisations necessary for it to enter into the Project Documents to which it is a party, to comply with its obligations under them and to allow them to be enforced;

(d) its obligations under the Project Documents (once executed) are valid and binding and are enforceable against it in accordance with their terms;

(e) the Project Documents and the transactions under them which involve it do not contravene its constituent documents or any Law or obligation by which it is bound or to which any of its assets are subject or cause a limitation on its powers or the powers of its directors to be exceeded;

(f) it benefits by entering into the Project Documents to which it is a party;

(g) there are no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable;

(h) it is not in breach of a Law or obligation affecting it or its assets in a way which is, or is likely to have, a Material Adverse Effect. For the purposes of this clause 50.2(h) only, **Material Adverse Effect** means a material adverse effect on:

(i) the Developer's or the Guarantor's ability to comply with its obligations under any Project Document;

(ii) the Authority's rights under any Project Document; or

(iii) the business or financial condition of the Developer;

(i) it does not have immunity from the jurisdiction of a court or from legal process;

(j) no person has contravened or will contravene section 208 or section 209 of the Corporations Act by entering into any Project Document or participating in any transaction in connection with a Project Document;

(k) that the Encumbrances which are registered in the folio of the register for the Site will not prejudice the Developer's ability to complete the Works; and

(l) the Treasurer cannot prohibit and has not prohibited the grant of this deed under the FIRB Act.

50.3 Trustee warranties

The Developer further represents and warrants to the Authority that:

(a) it is the only trustee of the Trust;

(b) no action has been taken to remove it as trustee of the Trust;

(c) the copies of the Trust Deed and other documents relating to the Trust which have been delivered to the Authority are true copies of those documents and disclose all the terms of the Trust;

(d) it has power under the Trust Deed to enter into and observe its obligations under the Project Documents and it has entered into the Project Documents in its capacity as trustee of the Trust;

(e) it is to the commercial benefit of the Trust that the Developer enters into the Project Documents in its capacity as trustee of the Trust;

(f) it has in full force and effect the authorisations necessary to enter into the Project Documents, to perform obligations under them and to allow them to be enforced (including, without limitation, under the Trust Deed, and its constitution);

(g) it has a right to be fully indemnified out of the Trust Fund in respect of obligations incurred by it under the Project Documents;

(h) the Trust Fund is sufficient to satisfy its right of indemnity under the Trust Deed;

(i) it has not breached any of its obligations as trustee of the Trust under the Trust Deed;

(j) no vesting date (as defined in the Trust Deed) for the Trust has been determined by it or any prior trustee of the Trust;

(k) it and its directors and other officers have complied with their respective obligations in connection with the Trust; and

(l) the Authority's rights under the Project Documents rank in priority to the interests of the beneficiaries of the Trust.

50.4 Warranties by the Guarantor

The Guarantor represents and warrants for the benefit of the Authority that:

(a) **incorporation**: it is a corporation having limited liability, incorporated (or taken to be incorporated) and validly existing under the Corporations Act;

(b) **corporate power**: it has the corporate power to own its assets and to carry on its business as it is now being conducted;

(c) **authority**: it has full power and authority to enter into and perform its obligations under this deed;

(d) **authorisations**: it has taken all necessary action to authorise the execution, delivery and performance of this deed in accordance with its terms;

(e) **binding obligations**: this deed constitutes its legal, valid and binding obligations and is enforceable in accordance with its terms subject to Laws generally affecting creditors' rights and to principles of equity;

(f) **transaction permitted**: the execution, delivery and performance by it of this deed does not and will not violate, breach, or result in a contravention of:

(i) any Law, regulation or authorisation;

(ii) its constitution; or

(iii) any Encumbrance or agreement which is binding upon it or any of its assets,

and do not and will not result in:

(iv) the creation or imposition of any Encumbrance or restriction of any nature on it or any asset of it other than under a Project Document;

(v) the acceleration of the date of payment of any obligation existing under any Encumbrance or agreement which is binding upon it or any of its assets;

(g) **no immunity**: it does not and its assets do not enjoy immunity from any suit or execution;

(h) **equal ranking**: its obligations under this deed rank at least equally and rateably with all other unsecured obligations of the Guarantor except for obligations mandatorily preferred by Law or arising in equity; and

(i) **commercial benefit:** the entry into and performance by it of its obligations under this deed is for its commercial benefit and is in its commercial interests.

50.5 Warranties by the Authority

The Authority represents and warrants that at all times during the Project in relation to itself that:

(a) it has power to enter into the Project Documents to which it is a party and comply with its obligations under them;

(b) it has in full force and effect the authorisations necessary for it to enter into the Project Documents to which it is a party, to comply with its obligations under them and to allow them to be enforced;

(c) its obligations under the Project Documents are valid and binding and are enforceable against it in accordance with their terms;

(d) the Project Documents and the transactions under them which involve it do not contravene its constituent documents or any Law or obligation by which it is bound or to which any of its assets are subject or cause a limitation on its powers or the powers of its directors to be exceeded;

(e) it benefits by entering into the Project Documents to which it is a party;

(f) it does not enter into any Project Document in the capacity of a trustee of any trust or settlement;

(g) it is a statutory body validly existing under the BDA Act;

(h) it is legally entitled and has all statutory power to enter into and perform its obligations under each Project Document to which it is a party, to carry out the transactions contemplated by those documents, and the entry into of each such document is a proper exercise of its power; and

(i) it has unencumbered, good and sufficient title to the Site to enter into and perform its obligations under each Project Document to which it is a party and to carry out the transactions contemplated by those documents.

50.6 Developer's privacy warranty

The Developer represents and warrants that disclosures of Personal Information which it makes to the Authority (and which it has consented to the Authority using and disclosing) are consistent with any Privacy Statement or policy which it has issued and all Privacy Laws by which it is bound.

50.7 Obligations not affected

The Developer and the Guarantors each acknowledge that the warranties in clauses 50.2, 50.3 and 50.4 respectively and the Developer's and the Guarantors' obligations under the Project Documents to which they are a party remain unaffected notwithstanding:

(a) the design carried out by or on behalf of the Authority in connection with the Project; and

(b) any receipt or review of, or comment or direction on, documentation prepared by the Developer.

51. Undertakings by Developer

51.1 Undertakings by Developer

The Developer undertakes to notify the Authority promptly if any representation or warranty made or taken to be made by or on behalf of the Developer or the Guarantors in connection with a Project Document other than this deed is found, having regard to the Authority's rights under, or by virtue of this deed, to be materially incorrect or materially misleading when made or taken to be made.

51.2 Developer's privacy obligations

The Developer agrees to:

(a) comply with all Privacy Laws in connection with the use or disclosure of Personal Information disclosed by it to the Authority in connection with the Project;

(b) if requested by the Authority, give the Authority after the Commencement Date, copies of any updates of Personal Information which the Developer has disclosed to the Authority except where to do so would put the Developer in breach of any Privacy Laws;

(c) notify the Authority if the Developer does something of which it is, or ought reasonably to be, aware and which may cause the Authority to be in breach of any Privacy Law.

51.3 Consent to use and disclose Personal Information

The Developer consents to the Personal Information of third persons it gives to the Authority being:

(a) used by the Authority in connection with the Authority's functions or business, including in connection with:

(i) internal reporting;

(ii) reporting to any adviser of the Authority or to any Public Authority;

(iii) the management of the Project;

(iv) any use specified in any Privacy Statement; and

(b) disclosed by the Authority:

(i) if required or authorised by Law;

(ii) to any adviser of the Authority or any Public Authority; or

(iii) if the third person consents.

51.4 Anti-terrorism

The Developer:

(a) represents and warrants that it is not a Prohibited Entity and is not owned or controlled by, or acts on behalf of, any Prohibited Entity; and

(b) undertakes to ensure that it complies with all anti-terrorism legislation in Australia including, without limitation, Part 4 of the Charter of the United Nations Act 1945 and Part 5.3 of the Criminal Code Act 1995.

52. Representatives

52.1 Authority's representative

The Authority may from time to time appoint an individual or individuals to exercise any functions of the Authority under this deed. The appointment of a representative does not prevent the Authority from exercising any function.

52.2 Notification by the Authority and knowledge of representative attributed to Authority

(a) The Authority must as soon as practicable notify the Developer of:

(i) the appointment and the name of the Authority's representative and the functions delegated to that representative; and

(ii) the termination of the appointment of a representative.

(b) A direction of the Developer given to a representative of the Authority prior to the Developer's receipt of a notification that that person is no longer the Authority's representative shall be taken to have been given to the Authority.

(c) Matters within the knowledge of a representative of the Authority are taken to be within the knowledge of the Authority.

52.3 Developer's representative

The Developer must appoint a competent representative in respect of the Project.

52.4 Notification by Developer

The Developer must as soon as practicable notify the Authority of the name of its representative and of any subsequent changes. A direction of the Authority given to a representative of the Developer prior to the Authority's receipt of a notification that that person is no longer the Developer's representative shall be taken to have been given to the Developer.

52.5 Knowledge of representative attributed to Developer

Matters within the knowledge of a representative of the Developer are taken to be within the knowledge of the Developer.

52.6 Objection by the Authority

If the Authority makes a reasonable objection to the appointment of a representative, the Developer must terminate the appointment and appoint another representative.

53. Barangaroo Developers' Forum

53.1 Barangaroo Developers' Forum

(a) If requested by the Authority, the provisions of this clause 53 apply and the parties must participate in a group (**Barangaroo Developers' Forum**) established by the Authority comprising a number of the following:

(i) a representative of the Authority;

(ii) a senior management representative of the Developer;

(iii) senior management representatives of the developers of other development projects in Barangaroo; and

(iv) any other person reasonably required from time to time by the Authority.

(b) The Developer must appoint a senior management representative to attend any meetings held by the Barangaroo Developer's Forum, subject to clause 53.4(a).

53.2 Barangaroo Developers' Forum functions

The functions of the Barangaroo Developers' Forum include:

(a) strategic planning and co-ordination of the developments in each of the development projects;

(b) forming advisory policy for the Authority in relation to minimising the conflict between developments in Barangaroo including forming policy on:

(i) cultural, civic and community space including museums, art galleries, enterprises, key worker housing, low rent accommodation, artist residences, student accommodation, education and community meeting spaces;

(ii) restaurants, entertainment and residential developments in Barangaroo to ensure a range of type, style, standard and mix of facilities, cost, target market and image; and

(iii) the co-ordination of developments in Barangaroo in accordance with the Objectives; and

(c) the management and operation of Barangaroo including:

(i) sustainability of and within the precinct;

(ii) traffic and access issues; and

(iii) the co-ordination of common Services;

(d) marketing and promotion of Barangaroo; and

(e) any other matter reasonably raised by the Authority or any developer, and the Authority and any developer may place any matter on the agenda for a meeting of the Barangaroo Developers' Forum.

53.3 Decisions of Barangaroo Developers' Forum

Neither the Developer nor the Authority are not bound by any decision of the Barangaroo Developers' Forum unless it has, in writing agreed to be bound.

53.4 Barangaroo Developers' Forum meetings

(a) The Barangaroo Developers' Forum will meet whenever reasonably required by the Authority but the Developer is not required to have its representative attend meetings of the Barangaroo Developers' Forum more frequently than quarterly.

(b) If the Developer's representatives attend meetings of the Barangaroo Developers' Forum, the Developer must:

(i) meet all costs of its personnel and involvement in the Barangaroo Developers' Forum; and

(ii) act in good faith with the Authority when dealing with the Barangaroo Developers' Forum.

54. Costs

54.1 Obligations of the Developer

Except as otherwise specified in this deed (including the Fifth Deed of Amendment and any documents associated with the Fifth Deed of Amendment), the Developer must pay or reimburse the Authority on demand for:

(a) the Costs of the Authority in connection with:

(i) any consent or approval sought by the Developer under this deed, or anyone claiming through the Developer, which is not related to any Application (whether or not that consent or approval is given);

(ii) the exercise or non-exercise of rights arising from a breach by the Developer of its obligations under this deed;

(iii) the actual or (in circumstances where a default by the Developer has occurred or is suspected by the Authority, on reasonable grounds, to have occurred) contemplated enforcement by the Authority of its rights under this deed or any Project Document; and

(iv) a waiver, variation, release, surrender or discharge of or in connection with any Project Document,

but excluding in all cases the Authority's internal administrative Costs;

(b) without limiting clause 54.1(a), Costs incurred by the Authority in connection with anything the Authority does at the request of the Developer, including considering plans (which do not relate to an Application), varying documents, negotiating anything in connection with the Project not specifically dealt with in this deed and negotiating with financiers; and

(c) Taxes and fees (including registration fees) and fines and penalties in respect of fees, which may be payable or determined to be payable in connection with any Project Document or a payment or receipt or any other transaction excluding any fine or penalty incurred due to the default of the Authority,

including legal costs.

54.2 Limitations of legal costs

For the purposes of clause 54.1, Costs shall only include legal costs incurred by the Authority in connection with:

(a) any default by the Developer or the Guarantor of any of their obligations under this deed;

(b) anything expressly referred to in this deed for which the Developer is to reimburse the Authority for its costs (which shall exclude the matters referred to in clause 54.1(a)(i) or 54.1(a)(iv) (where that waiver, variation, release, surrender or discharge is not requested by the Developer)); and

(c) any variation requested by the Developer or the Guarantor of this deed, a Builder's Side Deed, a Financier's Side Deed, a Lease or the Independent Certifier's Deed.

54.3 Limitations

For the purposes of clause 54.1, the Authority agrees that (except in the circumstances referred to in clause 54.2(a)):

(a) it will act reasonably in using its internal resources without charge to the Developer having regard to the skills and capacities of the Authority and the Authority's Employees;

(b) before going out to an external person for services where charges incurred by the Authority will be charged to, and paid by, the Developer, the Authority must inform the Developer that that has the view it has formed and provide the Developer with a scope of the work that it is seeking that external person to undertake and an estimate of costs in that regard; and

(c) if the Developer responds saying an independent expert that the Developer has retained is prepared to offer an opinion or an advice in writing for the benefit of the Authority as well as for the Developer, the Authority (acting reasonably) will agree to use such independent expert.

54.4 Costs of negotiating this deed

Each party agrees to pay its own Costs of and incidental to the negotiation and execution of this deed.

54.5 Developer to pay its Costs

Unless otherwise provided, anything which the Developer does in connection with a Project Document must be done at the Developer's Cost.

54.6 Third party consents

If the Authority has agreed to obtain a person's consent before the Authority gives its consent under this deed or to pay Costs incurred by that person in giving consent, then the consent from that person is a consent in connection with this deed.

54.7 Stamp duty indemnity

(a) The Authority agrees to pay to the Developer an amount equal to any stamp duty payable by the Developer or a Tenant in respect of each of the following:

(i) the execution of this deed (as amended by the Fifth Deed of Amendment);

(ii) the payment of consideration, in cash or in kind, by the Developer to the Authority;

(iii) the acceptance of the Call Offer or the Put Offer;

(iv) the nomination of a Nominee under clause 29.6 and the payment of a nomination fee (however described) payable by the Tenant to the Authority or the Developer;

(v) the grant of a Construction Zone Licence or a Staging Licence;

(vi) the grant of a Lease to a Tenant, including the entry into of an agreement for lease with a Tenant; and

(vii) the application of Chapter 11A of the Duties Act 1997 to or in connection with any or all of the above.

(b) For the avoidance of doubt, the Authority's obligations under this clause do not extend to any stamp duty which is payable with respect to:

(i) any mortgages, charges or other Security Interests granted by:

A. the Developer with respect to its rights under this deed; or

B. a Tenant with respect to its rights under a Lease;

(ii) the transfer of the Lease by the Tenant;

(iii) the transfer or assignment of right in connection with this deed by a person who has been nominated as the Nominee by the Developer in accordance with this deed; or

(iv) the Crown Development Agreement.

(c) Any payments required to be made by the Authority under this clause, must be made within 30 days of a written demand being made by the Developer, such demand to include reasonable substantiation of the amount being claimed by the Developer. If the Authority is late making a payment, then in addition to that payment, the Authority must pay interest to the Developer at the Interest Rate, calculated monthly in arrears.

(d) At the request of the Authority, the Developer must provide to the Authority, as soon as reasonably practicable, the Developer's reasonable estimate of the amount for which it reasonably anticipates it will make a claim under clause 54.7 for the ensuing 12 month period.

(e) The Authority agrees that any estimate provided by the Developer is an estimate only and the provision of this estimate by the Developer does not limit the Developer's right to make a claim under clause 54.7.

55. General requirements for payments

55.1 Method of payment

The Developer must make payments under this deed to the Authority (or a person nominated by the Authority in a notice to the Developer) by the method the Authority reasonably requires without set off or counterclaim and without deduction, unless prohibited by Law or pursuant to this deed.

55.2 No demand necessary

The Authority need not make demand for any amount required to be paid by the Developer under this deed unless this deed expressly specifies that demand must be made.

55.3 Incorrect amount paid

If the Developer pays an amount and it is found later that the amount payable should have been:

(a) higher, then the Authority may demand payment of the difference; or

(b) lower, then the Authority must repay the difference,

even though the Authority has given the Developer a receipt for payment of the incorrect amount.

55.4 Ongoing obligation

Subject to any provision in this deed to the contrary, expiry or termination of this deed does not affect the Developer's obligations to make payments under this deed for periods before then.

55.5 When to make payments

The Developer must make payments to the Authority under this deed on the due date in immediately available funds.

55.6 If due date not a Business Day

If a payment becomes due for payment on a day which is not a Business Day, then the date for payment is the preceding Business Day.

55.7 Currency of payment

The Developer waives any right which it has in any jurisdiction to pay an amount in a currency other than the currency payable under this deed.

55.8 Interest on overdue money

Any party under this deed which is required to make a payment (**Paying Party**) agrees to pay interest at the Interest Rate on any amount under this deed which is not paid on the due date for payment. That interest:

(a) accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days; and

(b) is payable on demand from the other party (**Recipient Party**) or, if no such demand is made, on the last day of each calendar month.

55.9 Compounding

Interest payable under clause 55.8 which is not paid when due for payment may (at any time before payment) be added to the overdue amount by the Recipient Party monthly or the last day of each calendar month. Interest is payable on the increased overdue amount at the Interest Rate in the manner set out in clause 55.8 compounding daily.

55.10 Interest on liability merged in judgment or order

If a liability under this deed becomes merged in a judgment or order, then the Paying Party agrees to pay interest to the Recipient Party on the amount of that liability as an independent obligation. The interest accrues both before and after that judgment or order from the date the liability was due for payment until it is paid, at a rate that is the higher of the Interest Rate and the rate payable under the judgment or order.

55.11 Tender after termination

Money tendered by the Developer after the termination of this deed and accepted by the Authority may be applied in the manner the Authority decides.

56. GST

56.1 Interpretation

(a) Except where the context suggests otherwise, terms used in this clause 56 have the meanings given to those terms by the A New Tax System (Goods and Services Tax) Act 1999 (as amended from time to time).

(b) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 56.

(c) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.

56.2 Reimbursements

Any payment or reimbursement required to be made under this deed that is calculated by reference to a Cost or other amount paid or incurred will be limited to the total Cost or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the Cost or amount relates.

56.3 Additional amount of GST payable

Subject to clause 56.5, if GST becomes payable on any supply made by a party (**Supplier**) under or in connection with this deed:

(a) any amount payable or consideration to be provided under any provision of this deed (other than this clause 56), for that supply is exclusive of GST;

(b) any party (**Recipient**) that is required to provide consideration to the Supplier for that supply must pay an additional amount to the Supplier equal to the amount of the GST payable on that supply (**GST Amount**), at the same time as any other consideration is to be first provided for that supply; and

(c) the Supplier must provide a tax invoice to the Recipient for that supply, no later than the time at which the GST Amount for that supply is to be paid in accordance with clause 56.3(b).

56.4 Variation

(a) If the GST Amount properly payable in relation to a supply (as determined in accordance with clause 56.3 and clause 56.5), varies from the additional amount paid by the Recipient under clause 56.3, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this clause 56.4(a) is deemed to be a payment, credit or refund of the GST Amount payable under clause 56.3.

(b) The Supplier must issue an adjustment note to the Recipient in respect of any adjustment event occurring in relation to a supply made under or in connection with this deed as soon as reasonably practicable after the Supplier becomes aware of the adjustment event.

56.5 Exchange of non-monetary consideration

(a) To the extent that the consideration provided for the Supplier's taxable supply to which clause 56.3 applies is a taxable supply made by the Recipient in the same tax period (**Recipient Supply**), the GST Amount that would be otherwise be payable by the Recipient to the Supplier in accordance with clause 56.3 shall be reduced by the amount of GST payable by the Recipient on the Recipient Supply.

(b) The Recipient must issue to the Supplier an invoice for any Recipient Supply on or before the time at which the Recipient must pay the GST Amount in accordance with clause 56.3 (or the time at which such GST Amount would have been payable in accordance with clause 56.3 but for the operation of clause 56.5(a)).

56.6 Indemnities

(a) If a payment under an indemnity gives rise to a liability to pay GST, the payer must pay, and indemnify the payee against, the amount of that GST.

(b) If a party has an indemnity for a cost on which that party must pay GST, the indemnity is for the cost plus all GST (except any GST for which that party can obtain an input tax credit).

(c) A party may recover payment under an indemnity before it makes the payment in respect of which the indemnity is given.

57. Notices

57.1 Form

Unless expressly stated otherwise in this deed, all notices, certificates, consents, approvals, waivers and other communications in connection with this deed must be in writing, signed by an Authorised Officer of the sender and marked for attention as set out below or, if the recipient has notified otherwise, then marked for attention in the way last notified.

Authority

Name:	Barangaroo Delivery Authority
Address:	AON Tower Level 21, 201 Kent Street Sydney NSW 2000
Fax:	02 9271 5051
For the attention of:	Chief Executive Officer

Developer

Name:	Lend Lease (Millers Point) Pty Limited
Address:	Level 4, The Bond 30 Hickson Road Millers Point NSW 2000
Fax:	02 9383 8138
For the attention of:	The Company Secretary

Guarantor

Name:	Lend Lease Corporation Limited
Address:	Level 4, The Bond 30 Hickson Road Millers Point NSW 2000
Fax:	02 9383 8138
For the attention of:	The Company Secretary

57.2 Delivery

They must be:

(a) left at the address referred to in clause 57.1;

(b) sent by prepaid post (airmail, if appropriate) to the address referred to in clause 57.1; or

(c) sent by fax to the fax number referred to in clause 57.1.

However, if the intended recipient has notified a changed postal address or changed fax number, then the communication must be to that address or number.

57.3 When effective

They take effect from the time they are received unless a later time is specified in them.

57.4 Receipt - postal

If sent by post, they are taken to be received:

(a) in the case of all parties other the Guarantor, 3 Business Days after posting (or 5 Business Days after posting if sent to or from a place outside Australia); and

(b) in the case of the Guarantor, on receipt by the Guarantor.

57.5 Receipt - fax

If sent by fax, they are taken to be received at the time shown in the transmission report as the time that the whole fax was sent.

57.6 Receipt - general

If notices are left at an address or received after 5.00pm in the place of receipt or on a non-Business Day, they are to be taken to be received at 9.00am on the next Business Day.

57.7 Waiver of notice period

The Authority may waive a period of notice required to be given by the Developer under this deed.

58. General

58.1 Certificate

A certificate signed by the Authority or the Authority's Solicitor about a matter or about a sum payable to the Authority in connection with this deed is sufficient evidence of the matter or sum stated in the certificate unless the matter or sum is proved to be false.

58.2 Exercise of rights

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

58.3 Exercise of proprietary rights

The Authority must exercise any proprietary right it has in its capacity as landowner of Site consistently with the Project Documents.

58.4 Partial exercise of rights

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

58.5 Delay in exercising rights

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

58.6 Authority not liable

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

58.7 Waiver and variation

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

58.8 Supervening legislation

Any present or future legislation which operates to vary the obligations of the Developer or the Guarantor in connection with this deed with the result that the Authority's rights, powers or remedies are adversely affected (including by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by Law.

58.9 Approvals and consent

The Authority must:

(a) give conditionally or unconditionally; or

(b) refuse its approval or consent in,

its reasonable discretion, unless this deed expressly provides otherwise.

58.10 Remedies cumulative

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

58.11 Set-off

Any party may set off any amount owing by it to the other party under this deed against any amount owing by that other party.

58.12 Indemnities

Each indemnity in this deed is a continuing obligation, separate and independent from the other obligations of the Authority, the Developer or the Guarantor and survives expiry or termination of this deed. Except as otherwise provided for in this deed, it is not necessary for a party to incur expense or make payment before enforcing a right of indemnity conferred by this deed.

58.13 Further assurances

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

(a) execute and cause its successors to execute documents and do everything else necessary or appropriate to bind it and its successors under this deed; and

(b) use its best endeavours to cause relevant third parties to do likewise to bind every person intended to be bound under this deed.

58.14 Continuing breaches

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

58.15 Antecedent obligations

The expiry or termination of this deed does not affect the Developer's or the Guarantor's obligations:

(a) to make payments under this deed in respect of periods before the expiry or termination of this deed; or

(b) to provide information to the Authority to enable it to calculate those payments.

58.16 Confidentiality

All information provided under or in relation to the Project Documents:

(a) by the Developer or the Guarantor to the Authority; or

(b) by the Authority to the Developer or the Guarantor,

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

(i) with the consent of the disclosing party;

(ii) if allowed or required by Law or required by any stock exchange;

(iii) in connection with legal proceedings relating to the Project Documents or the Premises;

(iv) if the information is generally and publicly available; or

(v) to employees, legal advisers, auditors and other consultants to whom it needs to be disclosed.

The recipient of the information must do all things necessary to ensure that its respective employees, legal advisers, auditors and other consultants keep the information confidential and not disclose it to any person.

58.17 Severability

If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction:

(a) it is severed for that jurisdiction; and

(b) the remainder of this deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected.

This clause 58.17 has no effect if the severance alters the basic nature of this deed or is contrary to public policy.

58.18 Entire agreement

The Project Documents represent the entire agreement between the parties.

58.19 Construction

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

58.20 Effect of moratorium

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

58.21 Governing Law, jurisdiction and service of process

This deed is governed by the Law in force in New South Wales.

58.22 Jurisdiction

Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them.

58.23 Waiver

Each party waives any right it has to object to an action being brought in those courts including by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

58.24 Counterparts

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

58.25 Survival of provisions – no merger

Clauses 1, 4.8, 16.35, 16.36, 18A, 29A, 29A.1, 32.1, 35.7, 35.9, 35.10, 35.11, 35.12, 35.13, 35.16, 35.17, 35.18, 35.19, 35.21, 35.22, 39.5, 42.2, 45, 46.6, 47, 48.4, 48.5, 48.6, 49, 54.7, 55, 56, 57 and 58 survive termination or expiration of this deed (whether or not other clauses also survive termination or expiration).

Schedule 1 – Unacceptable Conditions (clause 11.9)

Paragraph references in italics are paragraphs in this Schedule 1

1. Developer Unacceptable Conditions

The Authority and the Developer acknowledge that where the Approval to the Alternative Modification Application is issued or is likely to issue with conditions attached, any such condition will constitute a Developer Unacceptable Condition, where that condition results in or could result in:

(a) a material change to the Agreed Design Documents;

(b) a material adverse impact on the financial return to the Developer from that return which could reasonably have been expected to have been earned by the Developer with respect to either that Works Portion or the Project as a whole, had that condition not existed;

(c) a material adverse impact on the timing of the delivery of that Works Portion or the Project as a whole; or

(d) a material adverse impact on the Developer's ability to apply the tolerances contemplated by clause 8.5(b).

2. Authority Unacceptable Conditions

The Authority and the Developer acknowledge that where the Approval to the Alternative Modification Application or any other Approval is issued in response to a Significant Application which has conditions attached, any such condition will constitute an Authority Unacceptable Condition, to the extent that the condition could result in a material change to:

(a) the Agreed Design Documents (as further detailed by the Detailed Plans and Specifications relevant to the Application associated with that Approval);

(b) the Public Domain; or

(c) the Concept Plan Approval in so far as it relates to other parts of Barangaroo (outside of Stage 1).

3. Procedure for Unacceptable Conditions

3.1 Notice of Unacceptable Condition

(a) If the effect of the notices issued by the Developer pursuant to clause 11.9(c) and by the Authority pursuant to clause 11.9(d) is that:

(i) the Developer and the Authority agree that the Approval to the Alternative Modification Application includes a Developer Unacceptable Condition, the provisions of *paragraphs 3.2 and 3.3* inclusive apply; or

(ii) the Developer is of the opinion that the Approval to the Alternative Modification Application includes a Developer Unacceptable Condition but the Authority disagrees with that opinion, the provisions of *paragraphs 3.2 and 3.3* inclusive apply.

(b) If the effect of the notice issued by the Authority pursuant to clause 11.9(d) is that the Approval to the Alternative Modification Application includes an Authority

Unacceptable Condition, the provisions of *paragraphs 3.2* and *3.3* (mutatis mutandis) apply.

3.2 Good faith discussions

(a) Within 5 Business Days from the date of the notice issued under clause 11.9(c), clause 11.9(d) or clause 11.11(a), as the case may be, the Developer and the Authority must meet in good faith to:

(i) discuss the condition which is claimed to be an Unacceptable Condition; and

(ii) use their reasonable endeavours to agree on an appropriate course of action to reduce the effect of that Unacceptable Condition.

(b) Without limiting the foregoing, the parties agree that it is their mutual intention that these discussions are intended to identify a solution which retains as many elements of the Alternative Modification Application as reasonably possible, whilst addressing the Consent Authority's concerns which have prompted the inclusion (or expected inclusion) of the Developer Unacceptable Conditions or the Authority Unacceptable Condition (as the case may be).

(c) This includes, where the relevant Unacceptable Condition relates to an issue which would be addressed by refining the design of the development, by preparing and lodging with the Consent Authority an Application which effectively modifies the terms of the Alternative Modification Application.

(d) Where a modification Application is to be prepared and lodged by the Developer with the Consent Authority as required by *paragraph 3.2(c)*, the Developer must prepare revised plans, elevations and sections and submit those plans, elevations and sections to the Authority for its approval. Once approved by the Authority, those plans, elevations and sections (to the extent of the revisions) will comprise the Agreed Design Documents for the purposes of this deed.

(e) The Developer must consult and discuss with the Authority and have reasonable regard to any reasonable comments or suggestions that the Authority may make in respect of the proposed terms and conditions of the Alternative Modification Application. The Authority and the Developer agree that they will use all reasonable endeavours to seek to have the Alternative Modification Application approved by the Authority as soon as commercially practicable.

3.3 Dispute

If the Authority and the Developer are unable to agree within 10 Business Days whether a Developer Unacceptable Condition or Authority Unacceptable Condition exists (and, failing agreement, on some other course of action) then the dispute will be subject to the provisions of clause 45.

4. Alterations to Site

(a) The Developer and the Authority acknowledge that as at the Commencement Date, the Site is defined to include the maximum areas needed to accommodate any of the designs contemplated in the versions of the Agreed Design Documents attached to this deed at the Commencement Date.

(b) The Developer and the Authority agree that as soon as commercially practicable after the Approval to the Alternative Modification Application is obtained, they will meet to discuss in good faith any amendments required to the boundaries specified on the Plan, to ensure that those boundaries extend only to the extent needed to accommodate the Improvements the subject of the Agreed Design Documents which are then relevant (having regard to the designs contemplated in the Approval

to the Alternative Modification Application (as the case may be), providing that such boundaries must not exceed the boundaries contained in the Plan in Annexure A.

(c) If the Developer and the Authority fail to reach agreement on the matters referred to in *paragraph 4(b),* then the matter will be resolved pursuant to the dispute resolution provisions of clause 45.

Schedule 2 – Construction Zone Licence terms (clause 13.1(a)(i))

The terms and conditions of the Construction Zone Licence granted pursuant to clause 13.1(a)(i) are set out in this Schedule 2.

Paragraph references in italics are paragraphs in this Schedule 2

1. Grant of non-exclusive licence

The Authority grants to the Developer a non-exclusive licence to access and use the Developer Secured Area in order to:

(a) do all things necessary to carry out the Works and complete the Project in accordance with the Developer's obligations under this deed; and

(b) for any other use which the Authority approves in its reasonable discretion,

for the licence term in *paragraph 2*, subject to the conditions contained in this Schedule 2.

2. Licence term

The Construction Zone Licence:

(a) commences on the Works Portion Commencement Date; and

(b) expires:

(i) for Works Portions for which a Lease is granted, at 11:59pm on the day before the Lease Commencement Date for that Works Portion;

(ii) with respect to areas the subject of Remediation Works, the Other Remediation Works or the Other Remaining Remediation Works, on Practical Completion of those works; and

(iii) with respect to a Works Portion for Barangaroo Works for which no Lease is granted, on Practical Completion of that Works Portion,

subject to any extension of the Construction Zone Licence term agreed by the Authority in writing to enable the Developer to rectify relevant defects as contemplated by clause 38.

3. Use of the Developer Secured Area

The Developer must not use the Developer Secured Area for any purpose other than as provided in *paragraph 1* and will not do anything in or about the Developer Secured Area which may constitute a breach of the Developer's obligations under a Code.

4. Developer obligations

4.1 No proprietary interest

The Developer:

(a) does not have exclusive possession or occupation of the Developer Secured Area;

(b) is not a tenant of the Authority.

4.2 Care of Developer Secured Area

From the commencement date of the Construction Zone Licence, the Developer:

(a) must not do anything to interfere with the access of the Authority or the Authority's Employees to the Developer Secured Area;

(b) must not make any structural additions to the Developer Secured Area other than in accordance with this deed; and

(c) following the Lease Commencement Date, must make good in a timely manner any damage to the Developer Secured Area caused by the Developer or the Developer's Employees and Agents and return the Developer Secured Area to the Authority in the same condition it was on the date the Construction Zone Licence commenced.

4.3 Transfer and other dealings

The Developer must not transfer, assign, sub-licence or grant an encumbrance over or otherwise deal with the land the subject of the Developer Secured Area or with its licences to use the Developer Secured Area, other than as set out in the Crown Development Agreement.

5. Indemnity and insurance

For the purposes of this licence, any reference to "Premises" or "Site" in the clauses of this deed referred to below is deemed to include the Developer Secured Area to the intent that those clauses are taken to be part of this licence.

(a) clause 35.3;

(b) clause 48.1; and

(c) clause 48.2.

Schedule 2A – Staging Licence terms for BDA Development Block 5 (clause 13.1(aa))

The terms and conditions of the Staging Licence for BDA Development Block 5 granted pursuant to clause 13.1(aa) are set out in this Schedule 2A.

Paragraph references in italics are paragraphs in this Schedule 2A

1. Grant of non-exclusive licence

The Authority grants to the Developer a non-exclusive licence to access and use that part of BDA Development Block 5 shown on the Staging Plans attached to this licence:

(a) for Construction Staging applicable to BDA Development Block 5 in accordance with the Developer's rights and obligations under this deed; and

(b) for any other use which the Authority approves in its reasonable discretion,

for the licence term in *paragraph 2*, subject to the conditions contained in this Schedule 2A.

2. Licence term

(a) The Staging Licence:

(i) commences on the Hotel Approval Date or such later date as provided in the Staging Plans; and

(ii) expires on the "End Date" (as determined pursuant to *paragraph 2(b)*).

(b) For the purposes of this Schedule 2A, the "**End Date**" is determined as follows:

(iii) if on or prior to the Date for Vacation of the BDA Development Block 5 all Significant Contamination has been Remediated on the Declaration Area, then the End Date is the Date for Vacation of the BDA Development Block 5;

(iv) if at any time on or after the Date for Vacation of the BDA Development Block 5 all Significant Contamination has not been Remediated on the Declaration Area and:

A. the Declaration then in force either:

1) applies, separately to the Block 4 Declaration Area (that is the Declaration is separate and can be lifted in relation to the Block 4 Declaration Area without the need for completion of the VMP Remediation Works or the VMP Investigation Works required to be done to any other area contemplated by the Declaration); or

2) can be independently lifted in so far as it relates to the Block 4 Declaration Area while continuing to apply to any other area contemplated by the Declaration,

and;

B. the Authority gives a notice terminating the Staging Licence in accordance with clause 13.1(d),

then the End Date is the date which is 10 Business Days after the date on which Authority gives a notice terminating the Staging Licence in accordance with clause 13.1(d) (or such later date as notified by the Authority in its absolute discretion); or

(v) if at any time on or after the Date for Vacation of the BDA Development Block 5:

A. all Significant Contamination has not been Remediated on the Declaration Area; and

B. the Authority has not terminated the Staging Licence in accordance with clause 13.1(d),

then the End Date is the date on which all Significant Contamination has been Remediated on the Declaration Area.

(c) If the Authority has terminated the Staging Licence in accordance with clause 13.1(d) and the End Date arises pursuant to *paragraph 2(b)(ii)*, the Authority will retake possession, step in and carry out and complete any remaining incomplete VMP Remediation Works and VMP Investigation Works required to be carried out to BDA Development Block 5 and have the Relevant Contracts in relation to those Works novated to it. Without prejudice to the Authority's right to claim damages against the Developer under this deed, the Authority agrees that it will use reasonable endeavours to carry out and complete any such incomplete VMP Remediation Works and VMP Investigation Works within a reasonable time (at its cost).

3. Use of BDA Development Block 5

(a) The Developer may use BDA Development Block 5 for any construction related purpose in connection with the development of Barangaroo South including:

(i) Stage 1B; and

(ii) by sub-licence to Crown, the Hotel Resort.

(b) It will not do anything in or about the BDA Development Block 5 which may constitute a breach of the Developer's obligations under a Code.

(c) The BDA Development Block 5 is a "Developer Secured Area" for the purposes of this deed.

4. Developer obligations

4.1 No proprietary interest

The Developer:

(a) does not have exclusive possession or occupation of BDA Development Block 5;

(b) is not a tenant of the Authority;

(c) has no caveatable interest in BDA Development Block 5 and must not lodge a caveat against the title to any land forming part of BDA Development Block 5;

(d) has no right to hold over beyond the End Date; and

(e) will be a trespasser on BDA Development Block 5, if after the End Date, the Developer continues to access and use the Staging Area without the express written consent of the Authority.

4.2 Care of BDA Development Block 5

From the commencement date of the Staging Licence, the Developer:

(a) must not do anything to interfere with the access of the Authority or the Authority's Employees to the Staging Area; and

(b) must not make any structural additions to the BDA Development Block 5 other than in accordance with this deed (or with the prior written consent of the Authority which may be given in its sole and unfettered discretion).

4.3 Vacation of BDA Development Block 5

On or before the End Date, the Developer must:

(a) restore BDA Development Block 5 and any Services affected by any Works to the condition (and, in the case of Services, the location) they were in prior to commencement of those Works (subject to any permanent relocation or other permanent works agreed between the Developer and the Authority acting reasonably);

(b) vacate BDA Development Block 5;

(c) leave BDA Development Block 5 in a safe and secure condition;

(d) with respect to Block 5, if requested by the Authority, give the Authority a structural engineer's certificate certifying that the backfilling of Block 5 contemplated as part of the VMP Remediation Works have been undertaken in accordance with the approved specifications;

(e) remove from BDA Development Block 5 any equipment, materials, goods and other items; and

(f) leave BDA Development Block 5 clean and tidy and free from rubbish.

4.4 Failure to vacate

If the Developer does not comply with its obligations under *paragraph 4.3* on time, the Authority may:

(a) re-enter and take possession of BDA Development Block 5, using reasonable force to secure possession;

(b) give the Developer notice to quit and vacate BDA Development Block 5 at any time;

(c) institute proceedings for possession of BDA Development Block 5 against the Developer; or

(d) take action under *paragraphs 4.4(a)* and *(b)* or *paragraphs 4.4(b)* and *(c)*.

4.5 Failure to comply

In addition to the Authority's rights under *paragraph 4.4*, if the Developer does not comply with its obligations under *paragraph 4.3* on time:

(a) the Authority may comply with these obligations (if necessary, in the Developer's name) at the Developer's risk and expense;

(b) the Authority may store any of the Developer's equipment, materials, goods and other items removed from BDA Development Block 5 at the Developer's risk and expense;

(c) if the Developer does not remove any of the Developer's equipment, materials, goods and other items from BDA Development Block 5 or from the place where it is stored by the Authority within 30 days of being asked to do so by the Authority, such items becomes the property of the Authority if the Authority so elects; and

(d) the Developer must pay the Authority on demand as liquidated damages (in addition to any other liquidated damages) a sum equal to the cost to the Authority of complying with *paragraph 4.3* and anything the Authority does under this *paragraph 4.5*.

4.6 Transfer and other dealings

The Developer must not transfer, assign, sub-licence or grant an encumbrance over or otherwise deal with the land the subject of BDA Development Block 5 or with its licences to use BDA Development Block 5, other than as set out in the Crown Development Agreement.

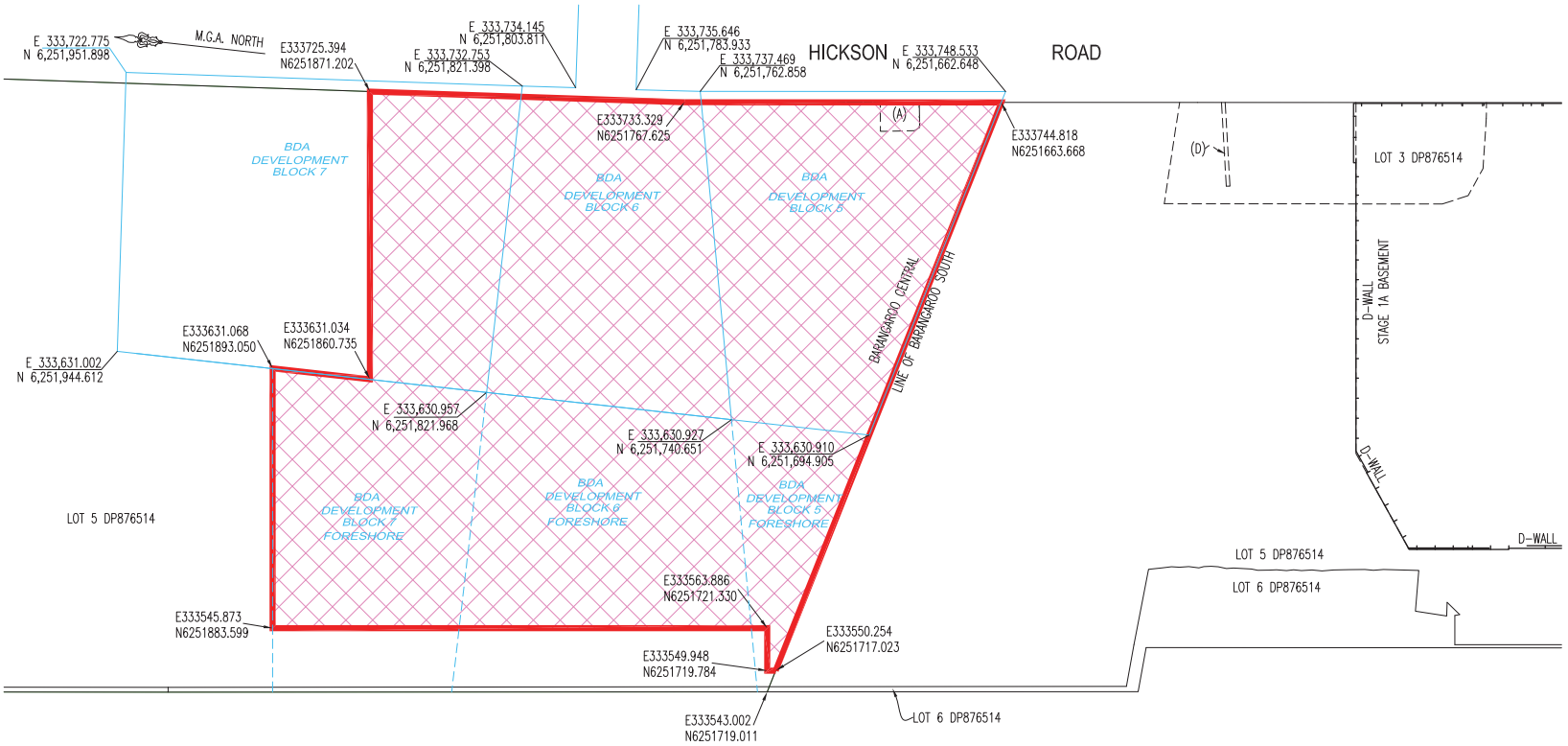
5. Indemnity and insurance

For the purposes of this licence, any reference to "Premises" or "Site" in the clauses of this deed referred to below is deemed to include BDA Development Block 5 to the intent that those clauses are taken to be part of this licence.

(a) clause 35.3;

(b) clause 48.1; and

(c) clause 48.2.



REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5 &
OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0158 REV:J

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

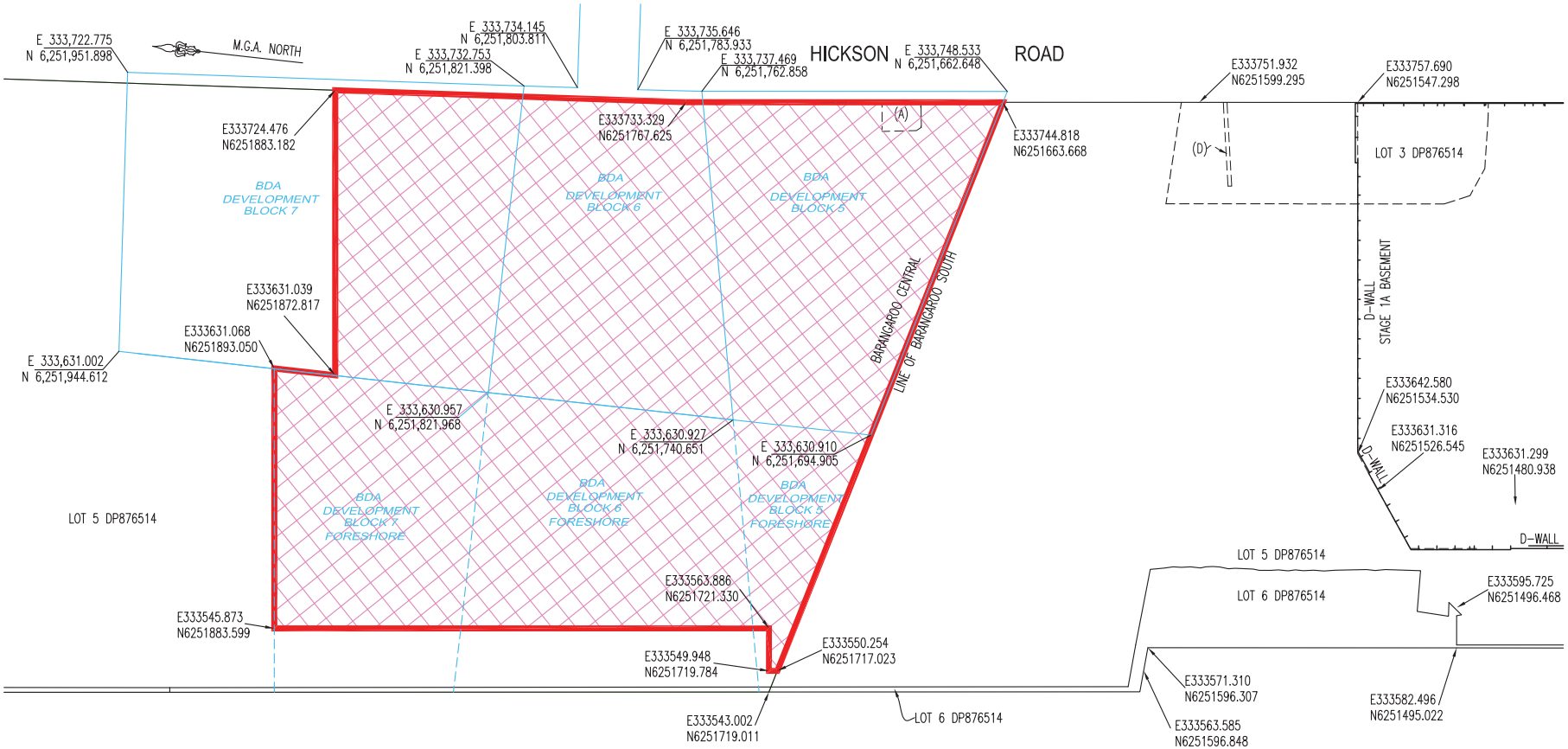
STAGING LICENCE
[redacted]

LEND LEASE (Millers Point) PTY. LTD.

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03

LOCALITY: BARANGAROO

DRAWING No.
SLP 0158



REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFFSITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0159 REV:J

DARLING HARBOUR

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
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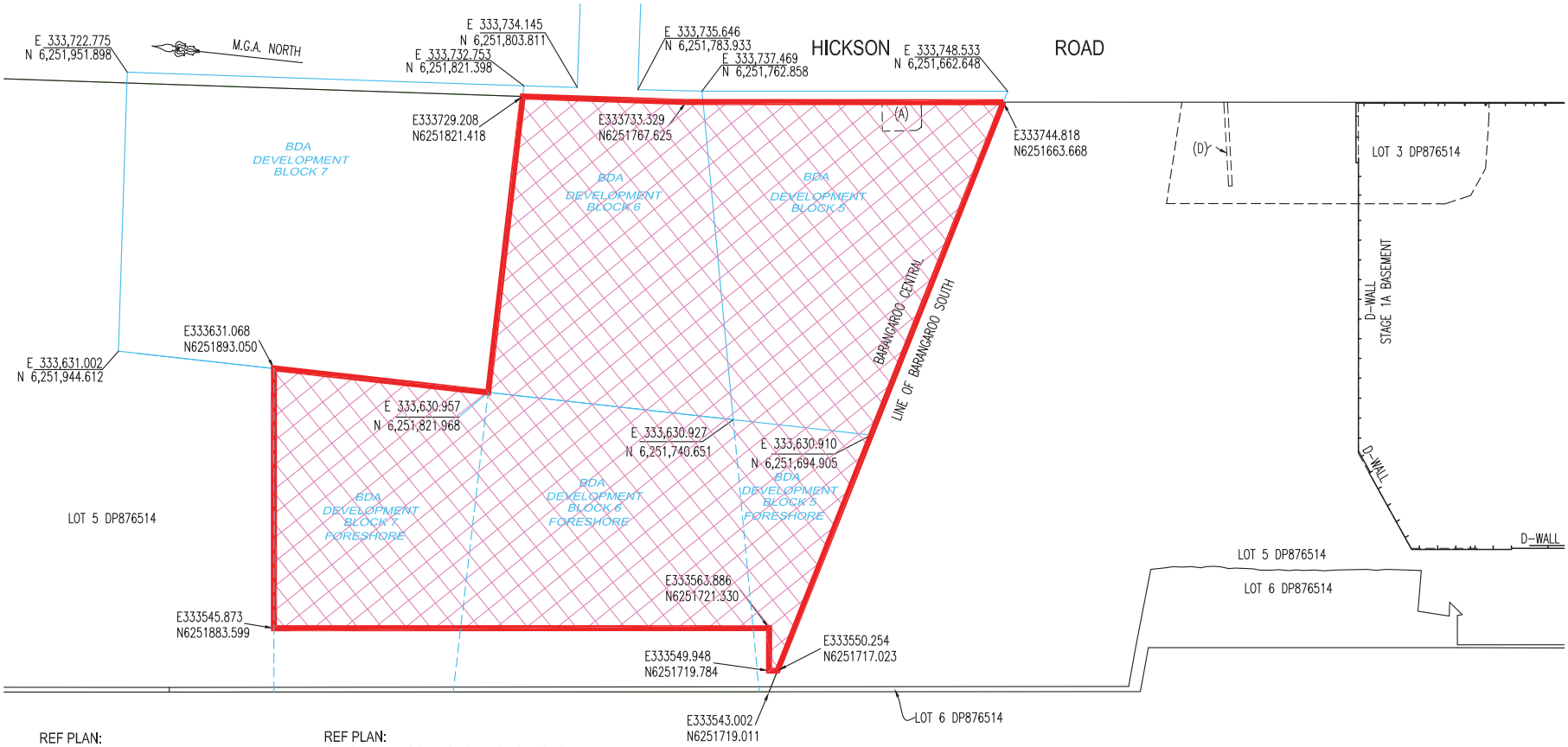

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STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
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REF: BB2_ASK_CO_0160 REV:J

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

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REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
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DENOTES STAGING LICENCE

STAGING LICENCE [redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

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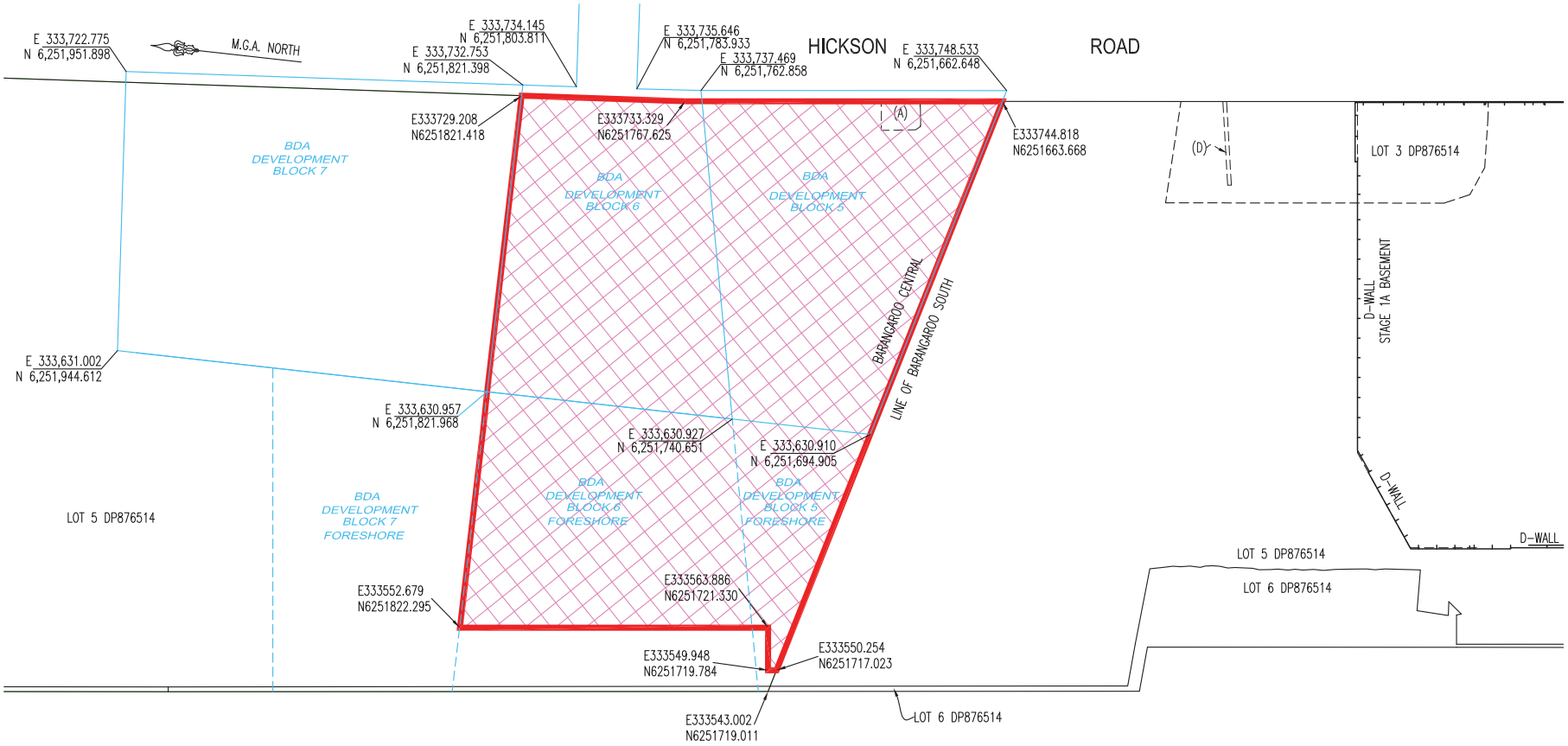

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REF: BB2_ASK_CO_0162 REV:J

REF PLAN:
STAGE1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
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DENOTES STAGING LICENCE

STAGING LICENCE

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LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

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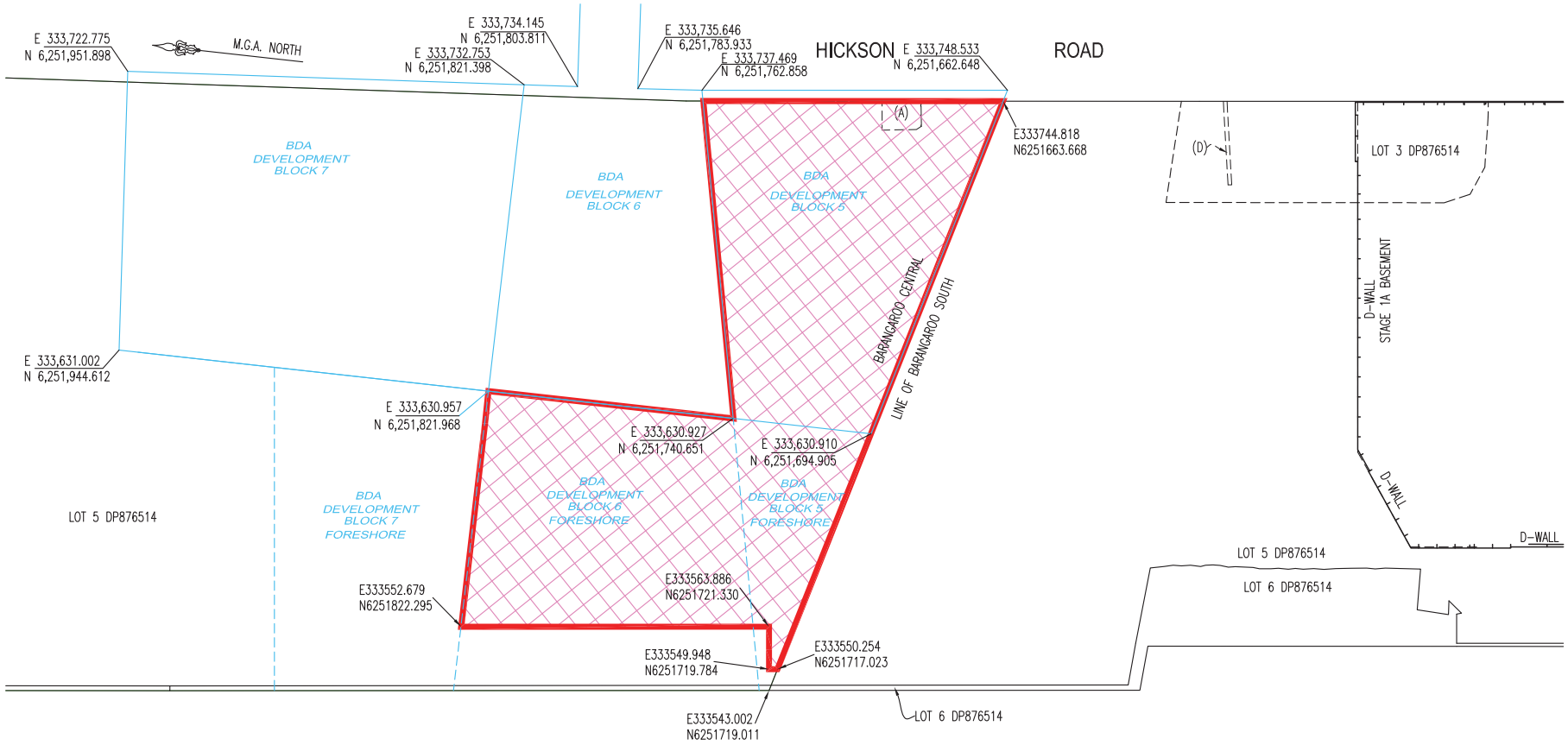

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REV.	REVISION DESCRIPTION	DATE
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LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

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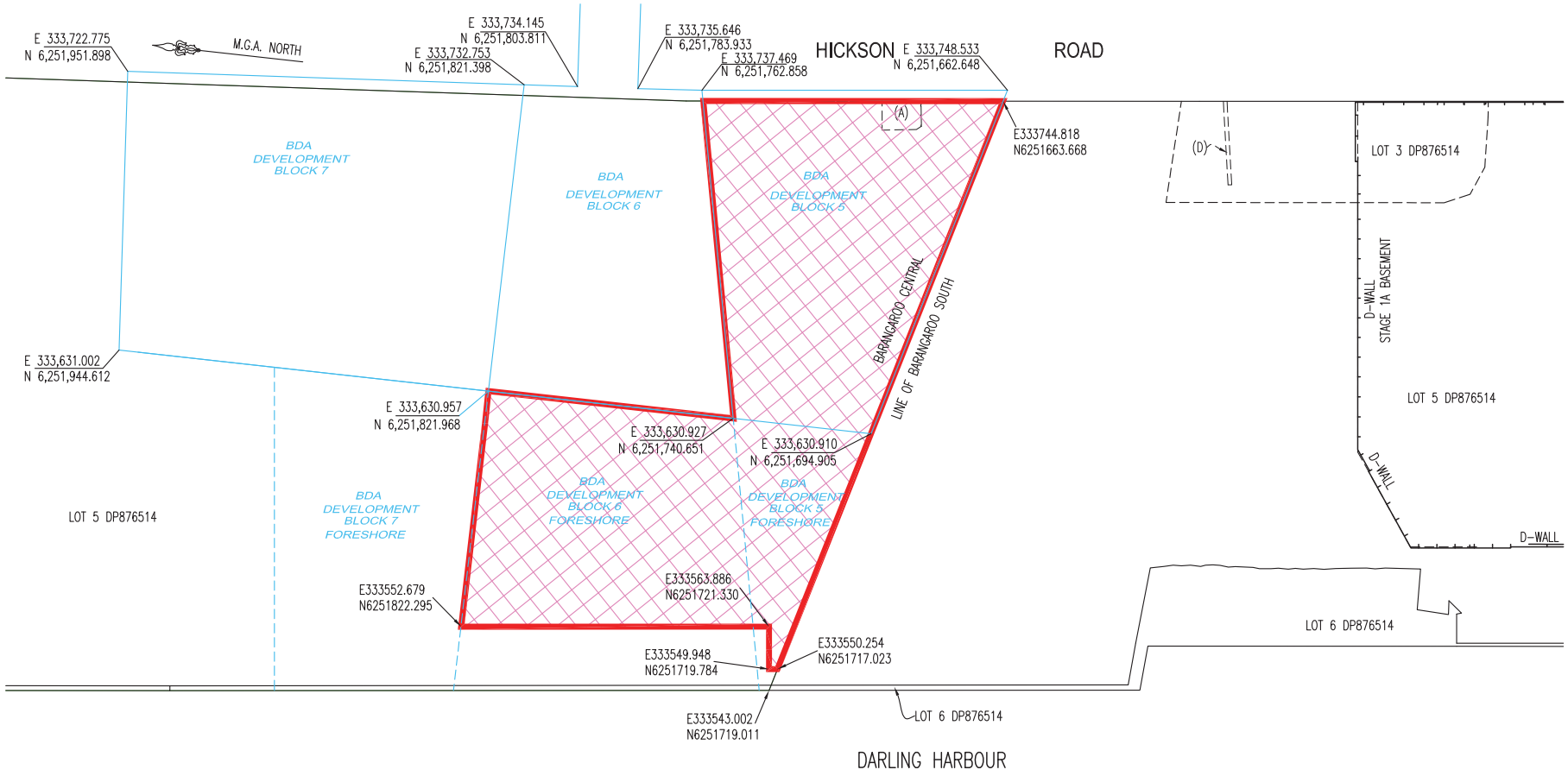

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& OFF-SITE TREATMENT OPTION
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REF: BB2_ASK_CO_0180 REV:M

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DENOTES STAGING LICENCE

STAGING LICENCE
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LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

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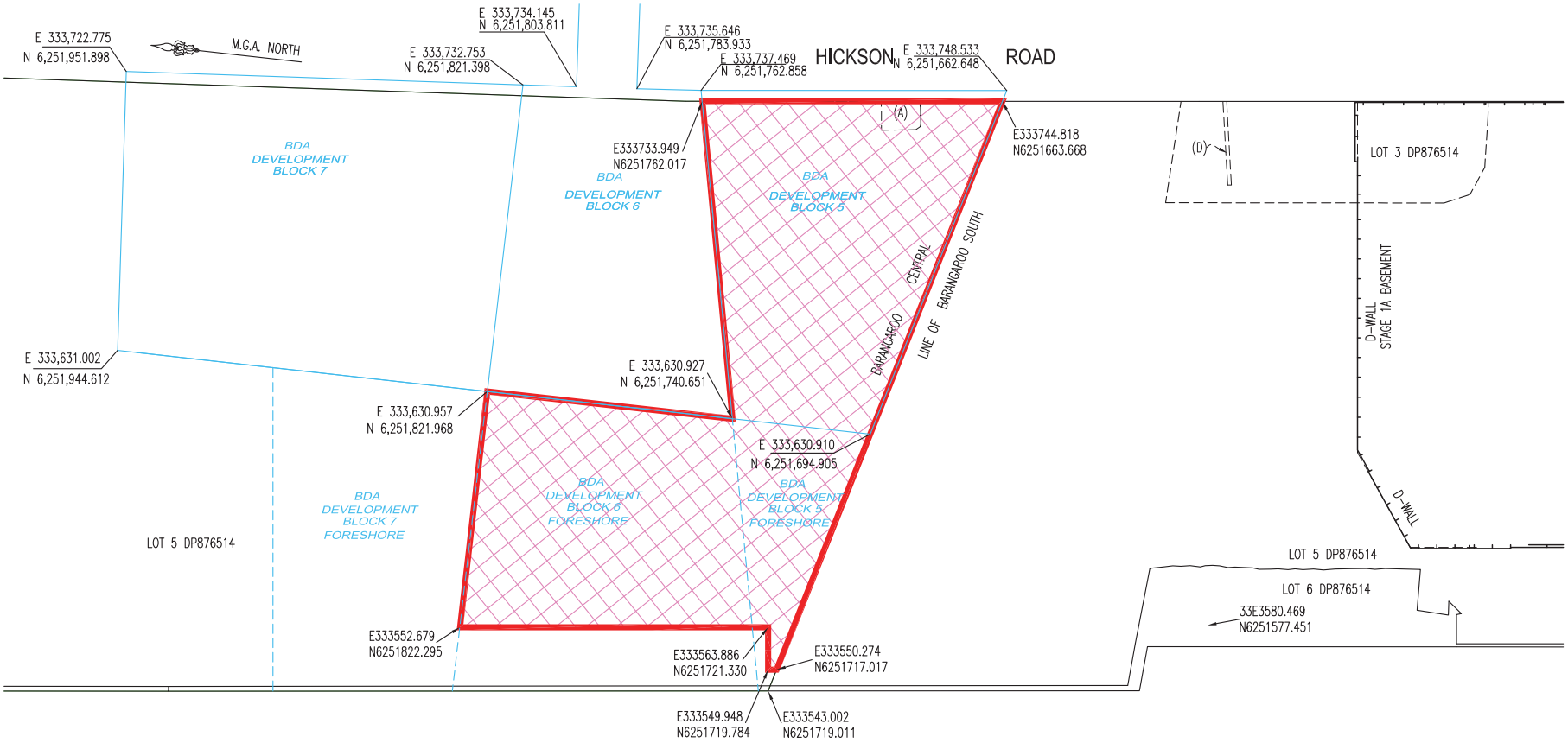

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REF: BB2_ASK_CO_0227 REV: E

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STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
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REF: BB2_ASK_CO_0228 REV: E

03	REVISED ISSUE	3/3/15
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DENOTES STAGING LICENCE

STAGING LICENCE

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LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

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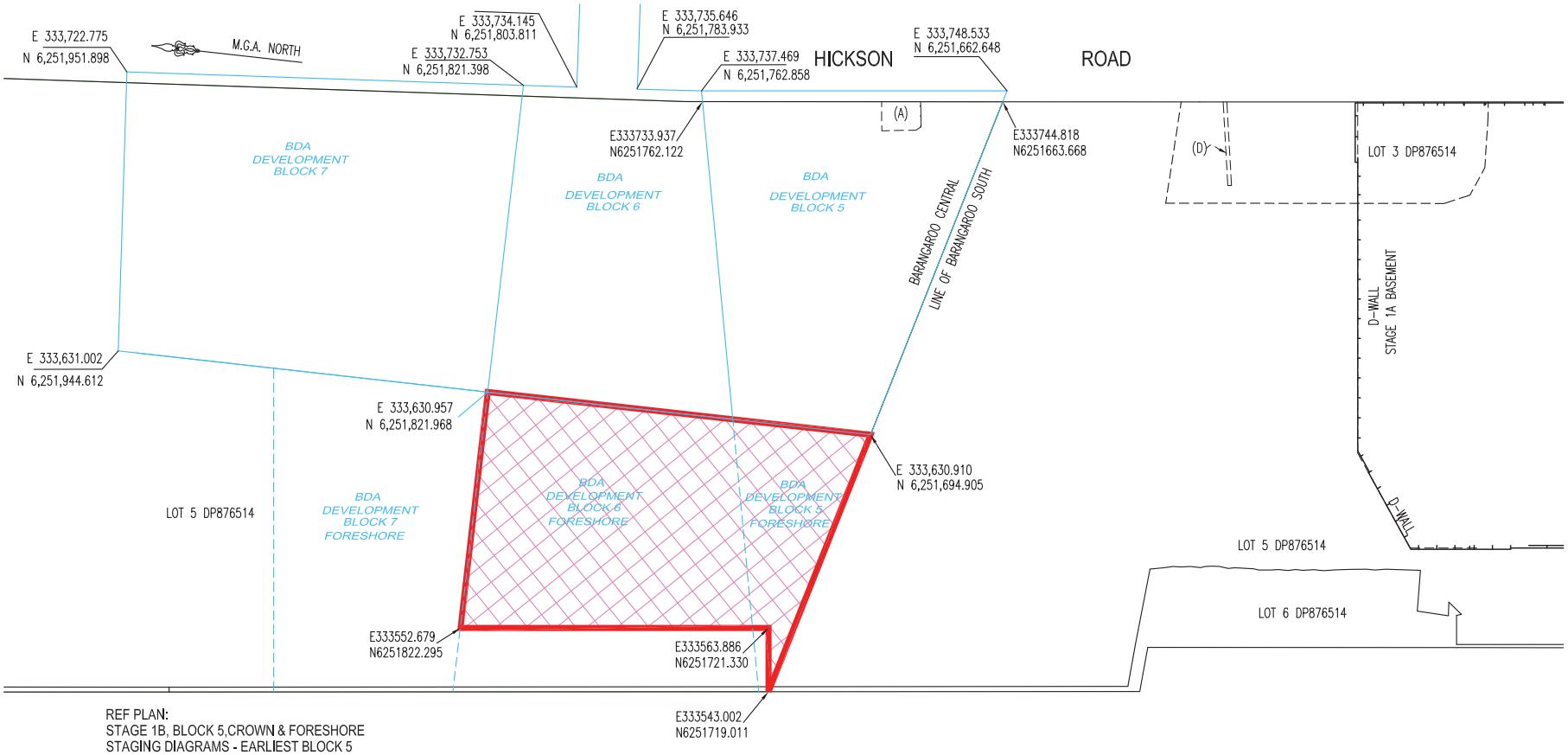

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& OFF-SITE TREATMENT OPTION
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REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
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DENOTES STAGING LICENCE

STAGING LICENCE
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LEND LEASE (Millers Point) PTY. LTD.

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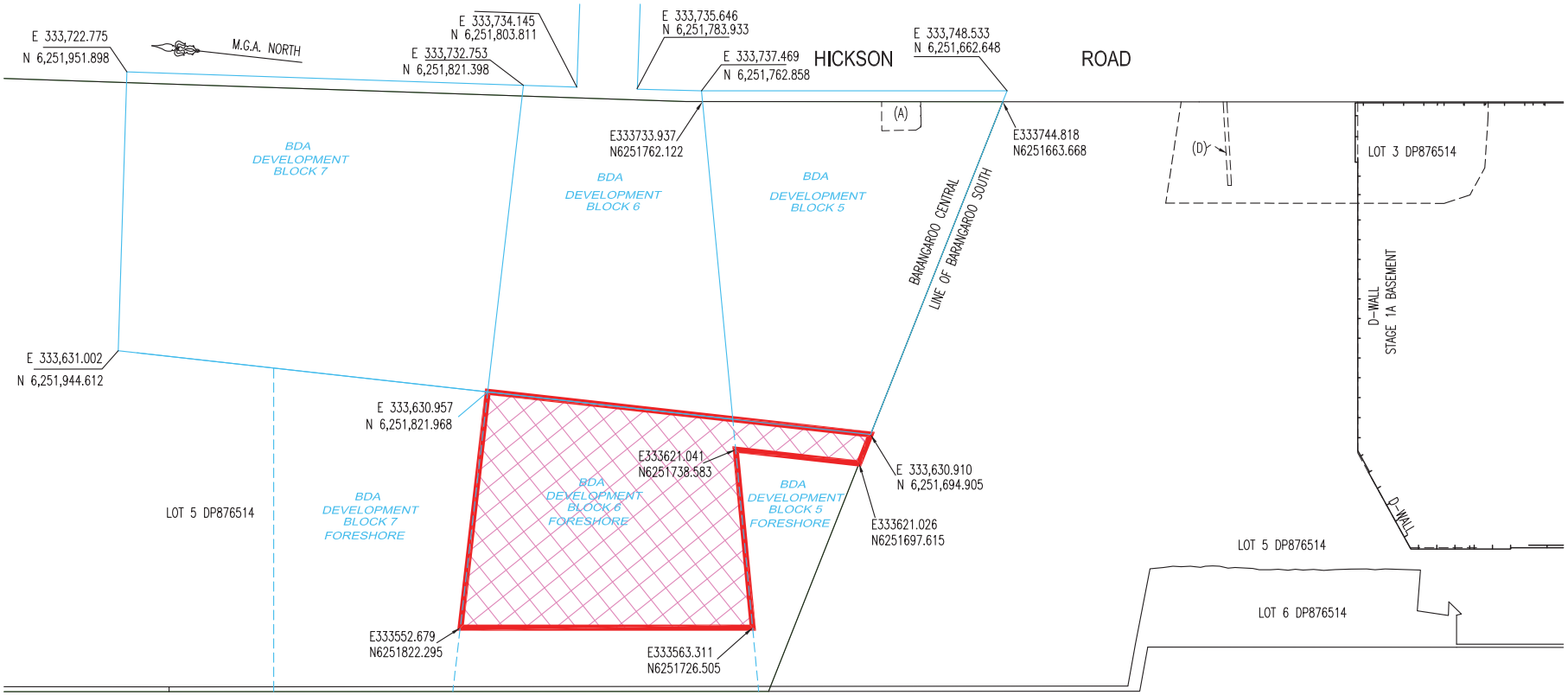

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
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& OFF-SITE TREATMENT OPTION
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REF: BB2_ASK_CO_0229 REV: E

REV.	REVISION DESCRIPTION	DATE
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DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
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Schedule 2B – Staging Licence terms for BDA Development Block 5 Foreshore (clause 13.1(aa))

The terms and conditions of the Staging Licence for BDA Development Block 5 Foreshore granted pursuant to clause 13.1(aa) are set out in this Schedule 2B.

Paragraph references in italics are paragraphs in this Schedule 2B

1. Grant of non-exclusive licence

The Authority grants to the Developer a non-exclusive licence to access and use that part of BDA Development Block 5 Foreshore shown on the Staging Plans attached to this licence:

(d) for Construction Staging applicable to BDA Development Block 5 Foreshore in accordance with the Developer's rights and obligations under this deed; and

(e) for any other use which the Authority approves in its reasonable discretion,

for the licence term in *paragraph 2*, subject to the conditions contained in this Schedule 2B.

2. Licence term

(a) The Staging Licence:

(i) commences on the Hotel Approval Date or such later date as provided in the Staging Plans; and

(ii) expires on the "End Date" (as determined pursuant to *paragraph 2(b)*).

(b) For the purposes of this Schedule 2B, the "**End Date**" is determined as follows:

(i) if on or prior to the Date for Vacation of the BDA Development Block 5 Foreshore all Significant Contamination has been Remediated on the Declaration Area, then the End Date is the Date for Vacation of the BDA Development Block 5 Foreshore;

(ii) if at any time on or after the Date for Vacation of the BDA Development Block 5 Foreshore all Significant Contamination has not been Remediated on the Declaration Area and:

A. the Declaration then in force either:

1) applies, separately to the Block 4 Declaration Area (that is the Declaration is separate and can be lifted in relation to the Block 4 Declaration Area without the need for completion of the VMP Remediation Works or the VMP Investigation Works required to be done to any other area contemplated by the Declaration); or

2) can be independently lifted in so far as it relates to the Block 4 Declaration Area while continuing to apply to any other area contemplated by the Declaration,

and;

B. the Authority gives a notice terminating the Staging Licence in accordance with clause 13.1(d),

then the End Date is the date which is 10 Business Days after the date on which Authority gives a notice terminating the Staging Licence in accordance with clause 13.1(d) (or such later date as notified by the Authority in its absolute discretion); or

(iii) if at any time on or after the Date for Vacation of the BDA Development Block 5 Foreshore:

A. all Significant Contamination has not been Remediated on the Declaration Area; and

B. the Authority has not terminated the Staging Licence in accordance with clause 13.1(d),

then the End Date is the date on which all Significant Contamination has been Remediated on the Declaration Area.

(c) If the Authority has terminated the Staging Licence in accordance with clause 13.1(d) and the End Date arises pursuant to *paragraph 2(b)(ii)*, the Authority will retake possession, step in and carry out and complete any remaining incomplete VMP Remediation Works and VMP Investigation Works required to be carried out to BDA Development Block 5 Foreshore and have the Relevant Contracts in relation to those Works novated to it. Without prejudice to the Authority's right to claim damages against the Developer under this deed, the Authority agrees that it will use reasonable endeavours to carry out and complete any such incomplete VMP Remediation Works and VMP Investigation Works within a reasonable time (at its cost).

3. Use of BDA Development Block 5 Foreshore

(a) The Developer may use BDA Development Block 5 Foreshore for any construction related purpose in connection with the development of Barangaroo South including:

(i) Stage 1B; and

(ii) by sub-licence to Crown, the Hotel Resort.

(b) It will not do anything in or about the BDA Development Block 5 Foreshore which may constitute a breach of the Developer's obligations under a Code.

(c) The BDA Development Block 5 Foreshore is a "Developer Secured Area" for the purposes of this deed.

4. Developer obligations

4.1 No proprietary interest

The Developer:

(a) does not have exclusive possession or occupation of BDA Development Block 5 Foreshore;

(b) is not a tenant of the Authority;

(c) has no caveatable interest in BDA Development Block 5 Foreshore and must not lodge a caveat against the title to any land forming part of BDA Development Block 5 Foreshore;

(d) has no right to hold over beyond the End Date; and

(e) will be a trespasser on BDA Development Block 5 Foreshore, if after the End Date, the Developer continues to access and use the Staging Area without the express written consent of the Authority.

4.2 Care of BDA Development Block 5 Foreshore

From the commencement date of the Staging Licence, the Developer:

(a) must not do anything to interfere with the access of the Authority or the Authority's Employees to the Staging Area; and

(b) must not make any structural additions to the BDA Development Block 5 Foreshore other than in accordance with this deed (or with the prior written consent of the Authority which may be given in its sole and unfettered discretion).

4.3 Vacation of BDA Development Block 5 Foreshore

On or before the End Date, the Developer must:

(a) restore BDA Development Block 5 Foreshore and any Services affected by any Works to the condition (and, in the case of Services, the location) they were in prior to commencement of those Works (subject to any permanent relocation or other permanent works agreed between the Developer and the Authority acting reasonably);

(b) vacate BDA Development Block 5 Foreshore;

(c) leave BDA Development Block 5 Foreshore in a safe and secure condition;

(d) with respect to Block 5, if requested by the Authority, give the Authority a structural engineer's certificate certifying that the backfilling of Block 5 contemplated as part of the VMP Remediation Works have been undertaken in accordance with the approved specifications;

(e) remove from BDA Development Block 5 Foreshore any equipment, materials, goods and other items; and

(f) leave BDA Development Block 5 Foreshore clean and tidy and free from rubbish.

4.4 Failure to vacate

If the Developer does not comply with its obligations under *paragraph 4.3* on time, the Authority may:

(a) re-enter and take possession of BDA Development Block 5 Foreshore, using reasonable force to secure possession;

(b) give the Developer notice to quit and vacate BDA Development Block 5 Foreshore at any time;

(c) institute proceedings for possession of BDA Development Block 5 Foreshore against the Developer; or

(d) take action under *paragraphs 4.4(a)* and *(b)* or *paragraphs 4.4(b)* and *(c)*.

4.5 Failure to comply

In addition to the Authority's rights under *paragraph 4.4*, if the Developer does not comply with its obligations under *paragraph 4.3* on time:

(a) the Authority may comply with these obligations (if necessary, in the Developer's name) at the Developer's risk and expense;

(b) the Authority may store any of the Developer's equipment, materials, goods and other items removed from BDA Development Block 5 Foreshore at the Developer's risk and expense;

(c) if the Developer does not remove any of the Developer's equipment, materials, goods and other items from BDA Development Block 5 Foreshore or from the place where it is stored by the Authority within 30 days of being asked to do so by the Authority, such items becomes the property of the Authority if the Authority so elects; and

(d) the Developer must pay the Authority on demand as liquidated damages (in addition to any other liquidated damages) a sum equal to the cost to the Authority of complying with *paragraph 4.3* and anything the Authority does under this *paragraph 4.5*.

4.6 Transfer and other dealings

The Developer must not transfer, assign, sub-licence or grant an encumbrance over or otherwise deal with the land the subject of BDA Development Block 5 Foreshore or with its licences to use BDA Development Block 5 Foreshore, other than as set out in the Crown Development Agreement.

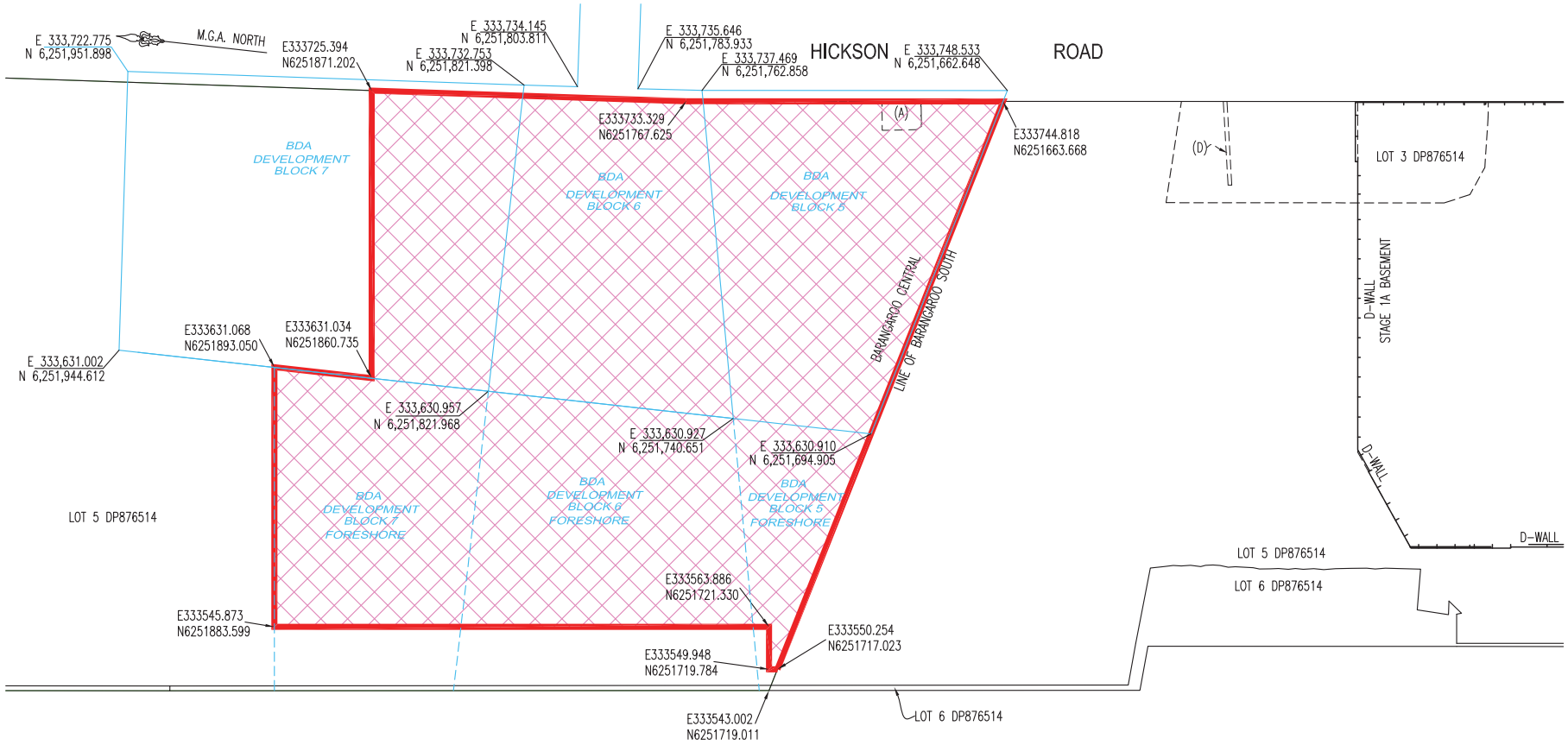
5. Indemnity and insurance

For the purposes of this licence, any reference to "Premises" or "Site" in the clauses of this deed referred to below is deemed to include BDA Development Block 5 Foreshore to the intent that those clauses are taken to be part of this licence.

(a) clause 35.3;

(b) clause 48.1; and

(c) clause 48.2.



REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5 &
OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
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REV.	REVISION DESCRIPTION	DATE
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DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

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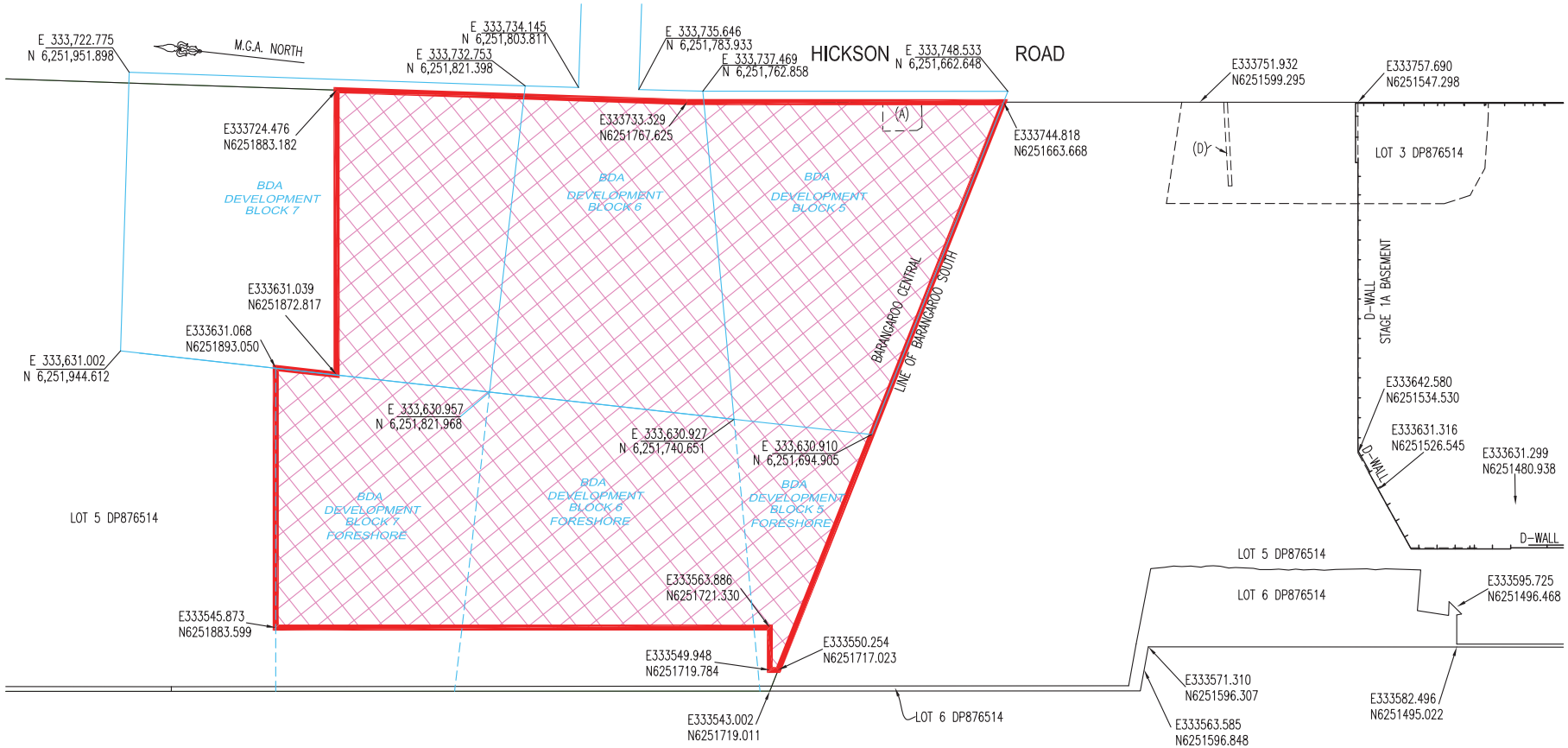

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DARLING HARBOUR

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DENOTES STAGING LICENCE

STAGING LICENCE

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LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

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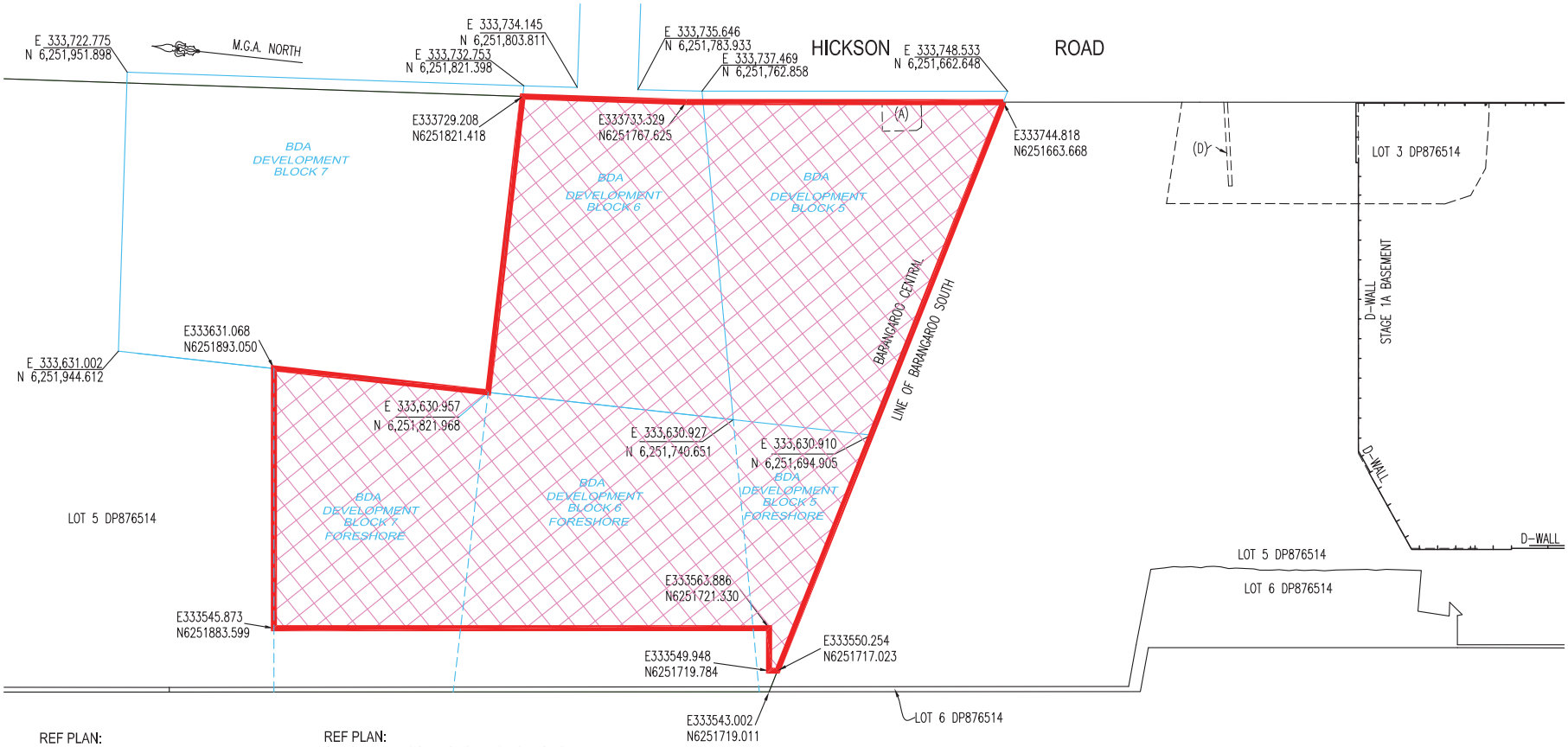

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STAGING LICENCE [redacted]

LEND LEASE (Millers Point) PTY. LTD.

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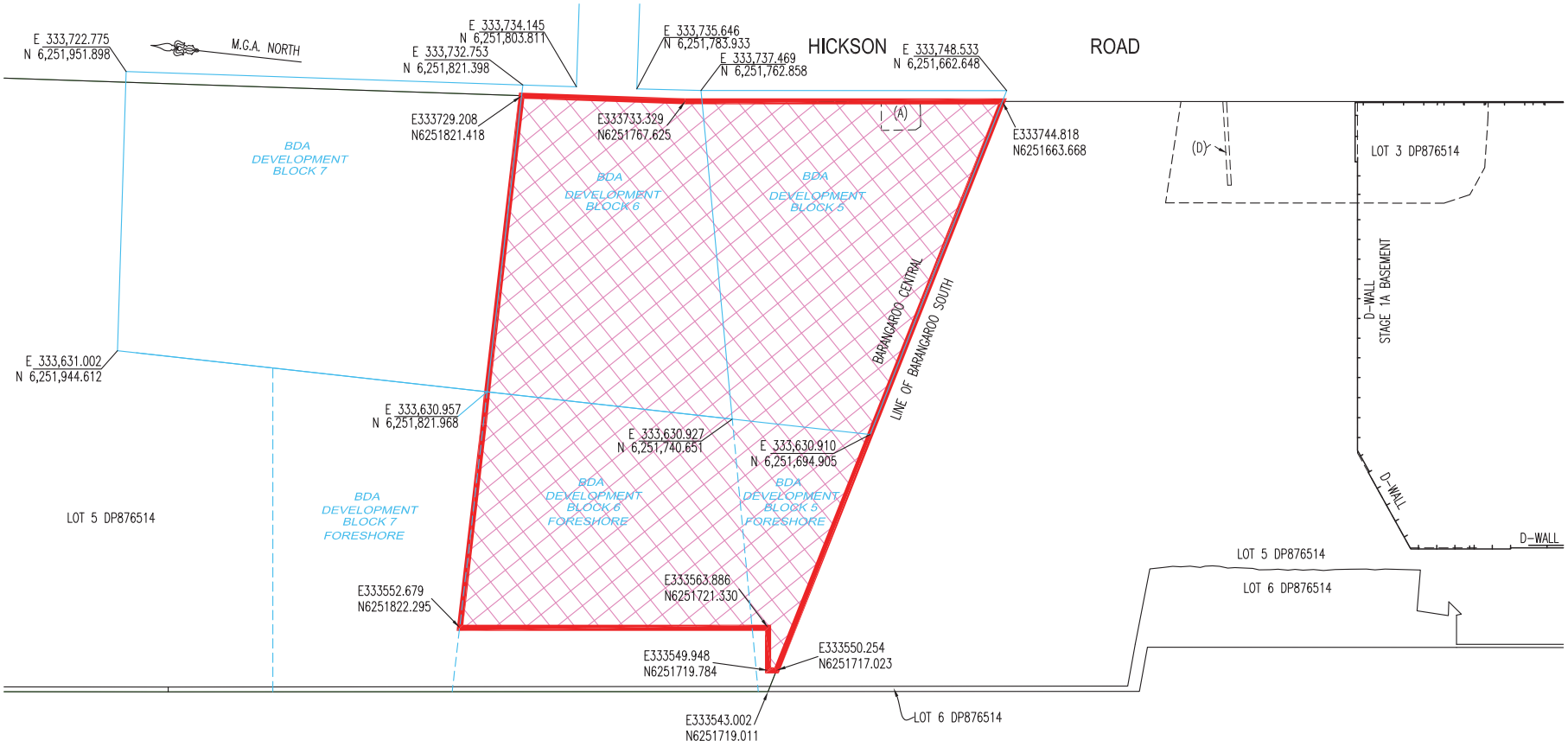

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CROWN DA DETERMINATION ON [redacted]

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& OFF-SITE TREATMENT OPTION
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LEND LEASE (Millers Point) PTY. LTD.

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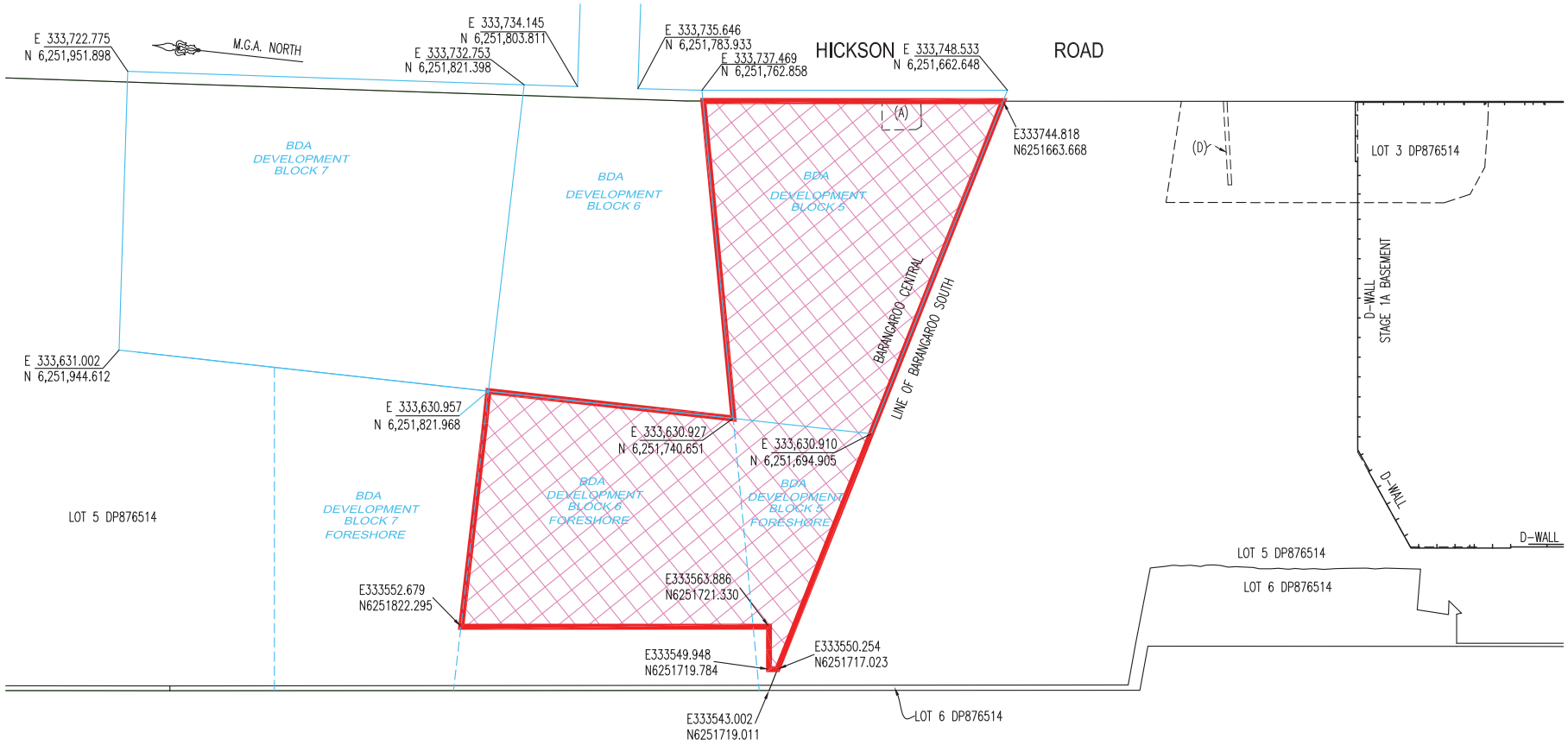

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[redacted]

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03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE
[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
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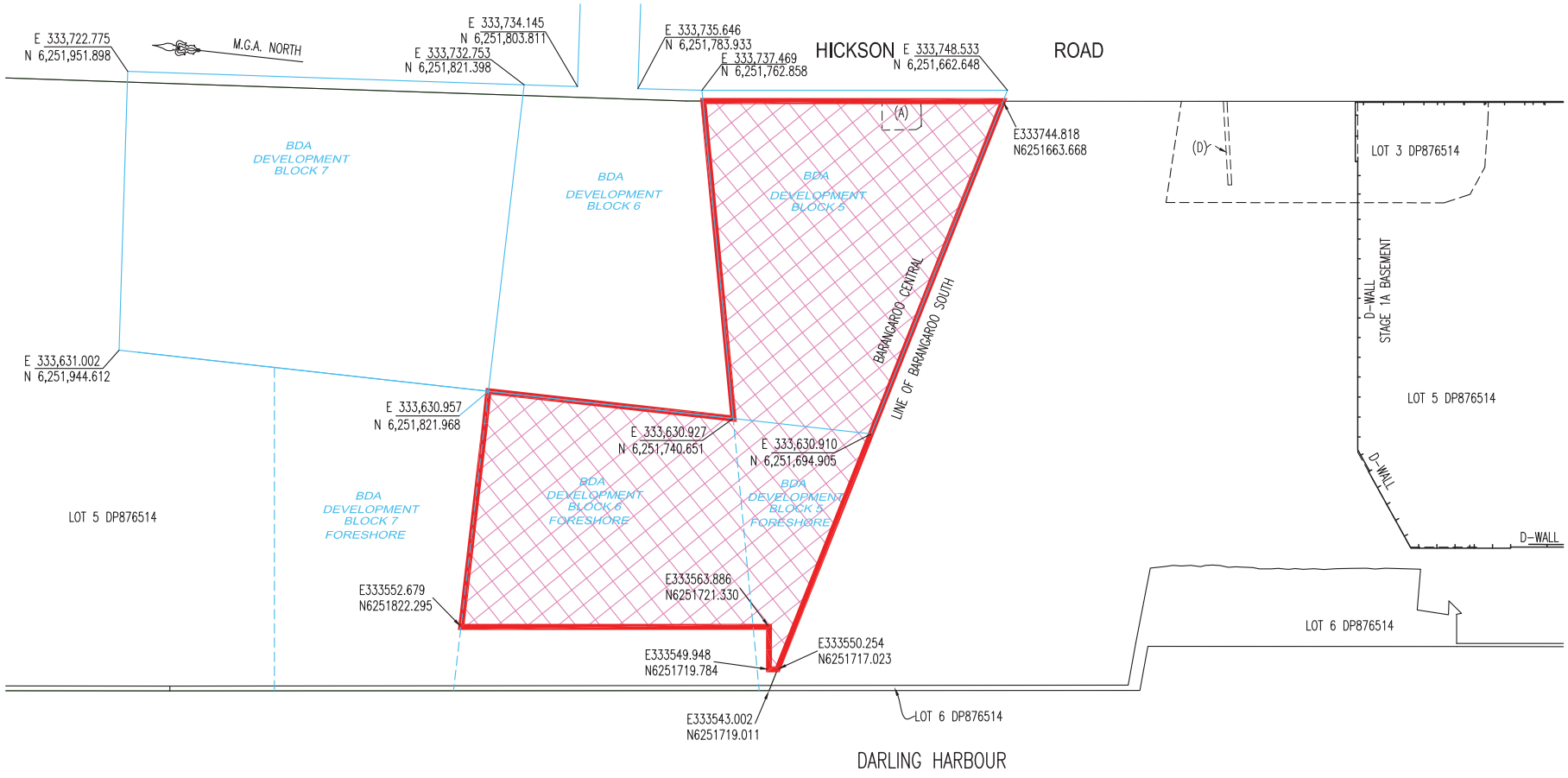

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
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REF: BB2_ASK_CO_0180 REV:M

03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE
[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
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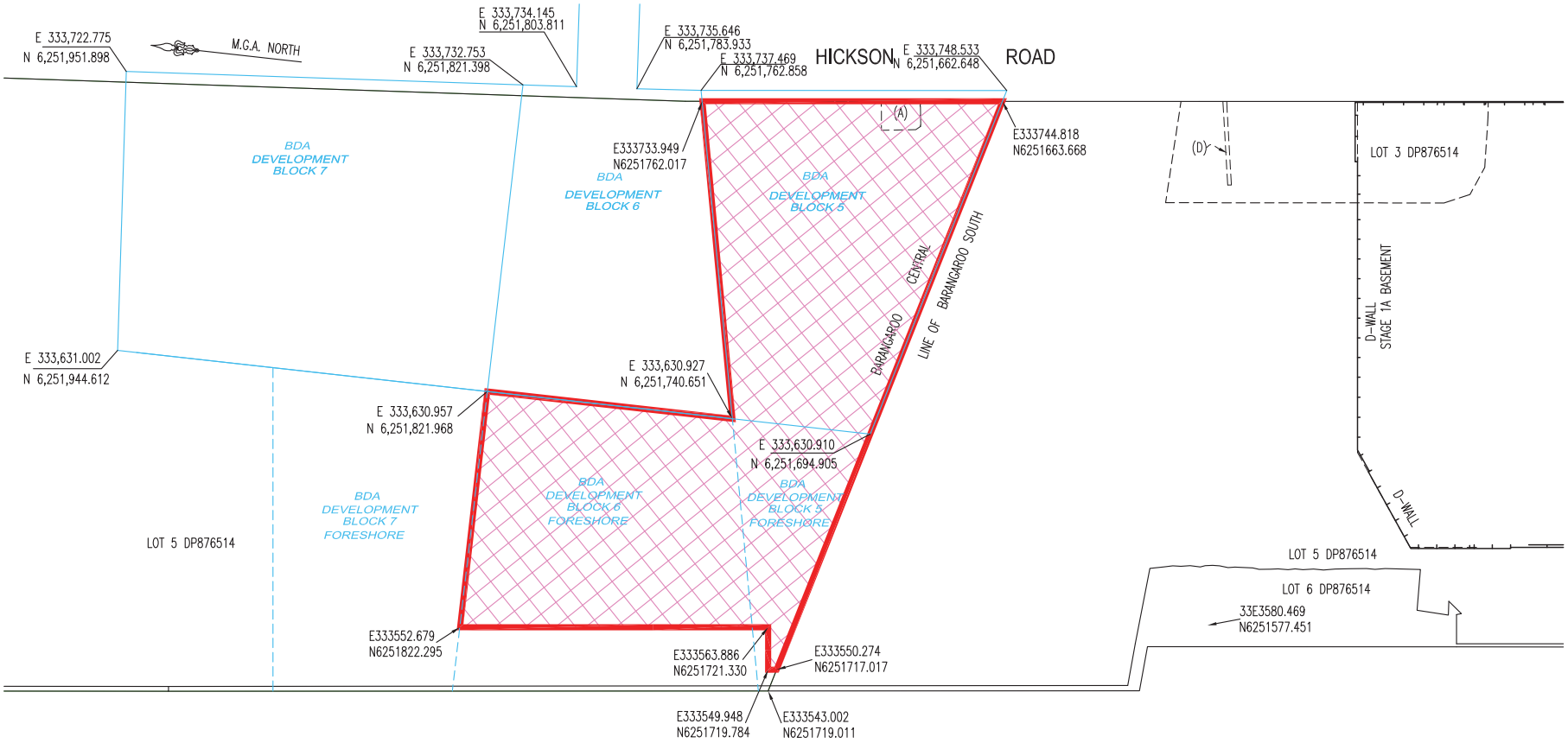

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STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0227 REV: E

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0228 REV: E

03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
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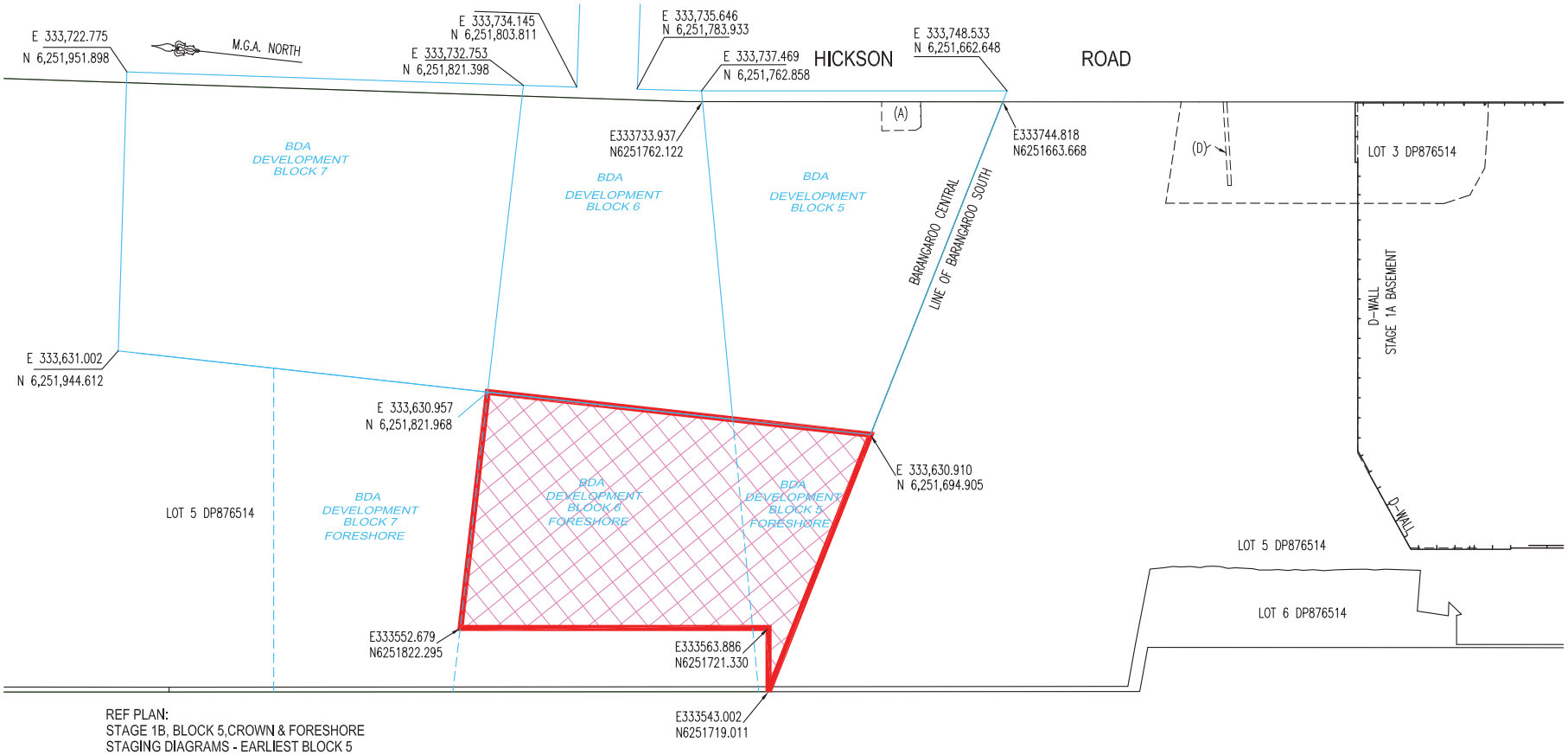

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STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0229 REV: E

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
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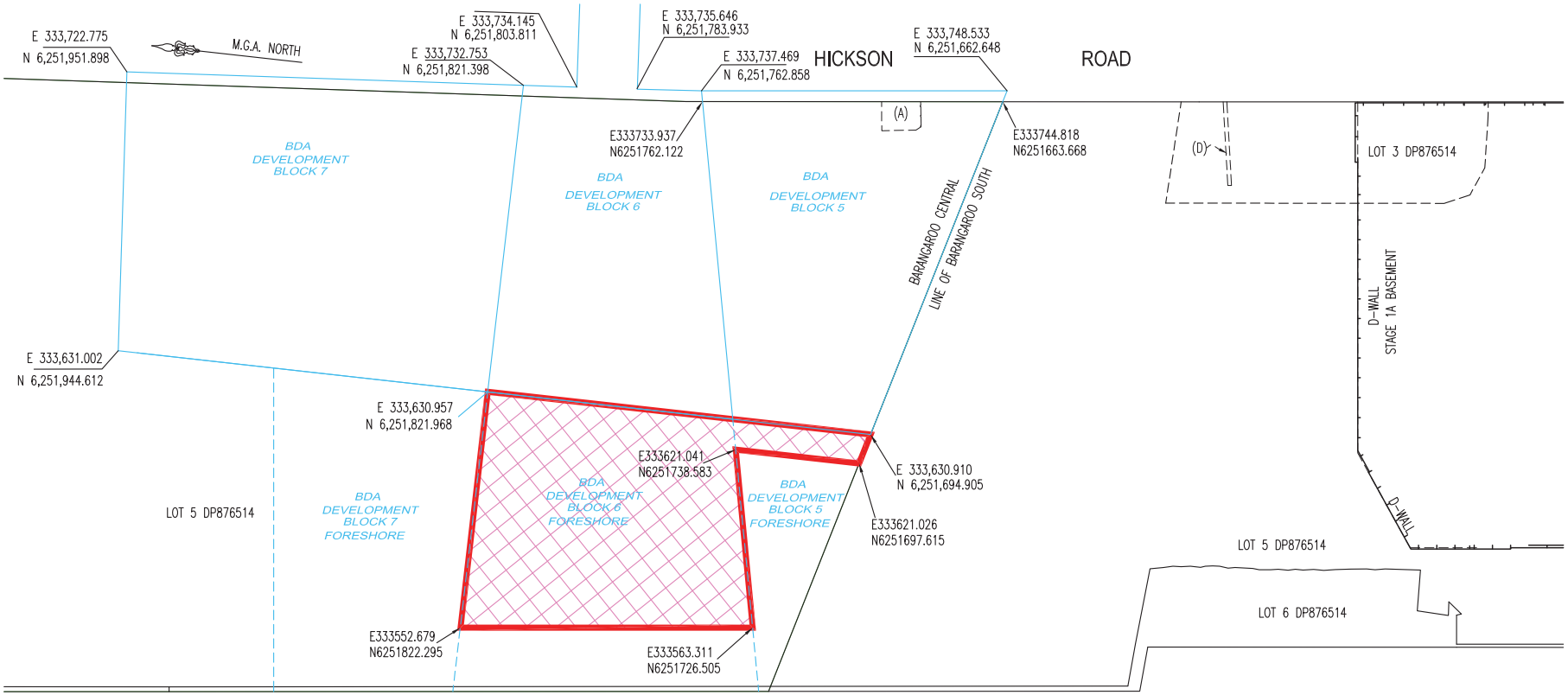

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
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REF: BB2_ASK_CO_0229 REV: E

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
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(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
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DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
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Schedule 2C – Staging Licence terms for BDA Development Block 6 (clause 13.1(aa))

The terms and conditions of the Staging Licence for BDA Development Block 6 granted pursuant to clause 13.1(aa) are set out in this Schedule 2C.

Paragraph references in italics are paragraphs in this Schedule 2C

1. Grant of non-exclusive licence

The Authority grants to the Developer a non-exclusive licence to access and use that part of BDA Development Block 6 shown on the Staging Plans attached to this licence:

(a) for Construction Staging applicable to BDA Development Block 6 in accordance with the Developer's rights and obligations under this deed; and

(b) for any other use which the Authority approves in its reasonable discretion,

for the licence term in *paragraph 2*, subject to the conditions contained in this Schedule 2C.

2. Licence term

(a) The Staging Licence:

(i) commences on the Hotel Approval Date or such later date as provided in the Staging Plans; and

(ii) expires on the "End Date" (as determined pursuant to *paragraph 2(b)*).

(b) For the purposes of this Schedule 2C, the "**End Date**" is determined as follows:

(i) if on or prior to the Date for Vacation of the BDA Development Block 6 all Significant Contamination has been Remediated on the Declaration Area, then the End Date is the Date for Vacation of the BDA Development Block 6;

(ii) if at any time on or after the Date for Vacation of the BDA Development Block 6 all Significant Contamination has not been Remediated on the Declaration Area and:

A. the Declaration then in force either:

1) applies, separately to the Block 4 Declaration Area (that is the Declaration is separate and can be lifted in relation to the Block 4 Declaration Area without the need for completion of the VMP Remediation Works or the VMP Investigation Works required to be done to any other area contemplated by the Declaration); or

2) can be independently lifted in so far as it relates to the Block 4 Declaration Area while continuing to apply to any other area contemplated by the Declaration,

and;

B. the Authority gives a notice terminating the Staging Licence in accordance with clause 13.1(d),

then the End Date is the date which is 10 Business Days after the date on which Authority gives a notice terminating the Staging Licence in accordance with clause 13.1(d) (or such later date as notified by the Authority in its absolute discretion); or

(iii) if at any time on or after the Date for Vacation of the BDA Development Block 6:

A. all Significant Contamination has not been Remediated on the Declaration Area; and

B. the Authority has not terminated the Staging Licence in accordance with clause 13.1(d),

then the End Date is the date on which all Significant Contamination has been Remediated on the Declaration Area.

(c) If the Authority has terminated the Staging Licence in accordance with clause 13.1(d) and the End Date arises pursuant to *paragraph 2(b)(ii)*, the Authority will retake possession, step in and carry out and complete any remaining incomplete VMP Remediation Works and VMP Investigation Works required to be carried out to BDA Development Block 6 and have the Relevant Contracts in relation to those Works novated to it. Without prejudice to the Authority's right to claim damages against the Developer under this deed, the Authority agrees that it will use reasonable endeavours to carry out and complete any such incomplete VMP Remediation Works and VMP Investigation Works within a reasonable time (at its cost).

3. Use of BDA Development Block 6

(a) The Developer may use BDA Development Block 6 for any construction related purpose in connection with the development of Barangaroo South including:

(i) Stage 1B; and

(ii) by sub-licence to Crown, the Hotel Resort.

(b) It will not do anything in or about the BDA Development Block 6 which may constitute a breach of the Developer's obligations under a Code.

(c) The BDA Development Block 6 is a "Developer Secured Area" for the purposes of this deed.

4. Developer obligations

4.1 No proprietary interest

The Developer:

(a) does not have exclusive possession or occupation of BDA Development Block 6;

(b) is not a tenant of the Authority;

(c) has no caveatable interest in BDA Development Block 6 and must not lodge a caveat against the title to any land forming part of BDA Development Block 6;

(d) has no right to hold over beyond the End Date; and

(e) will be a trespasser on BDA Development Block 6, if after the End Date, the Developer continues to access and use the Staging Area without the express written consent of the Authority.

4.2 Care of BDA Development Block 6

From the commencement date of the Staging Licence, the Developer:

(a) must not do anything to interfere with the access of the Authority or the Authority's Employees to the Staging Area; and

(b) must not make any structural additions to the BDA Development Block 6 other than in accordance with this deed (or with the prior written consent of the Authority which may be given in its sole and unfettered discretion).

4.3 Vacation of BDA Development Block 6

On or before the End Date, the Developer must:

(a) restore BDA Development Block 6 and any Services affected by any Works to the condition (and, in the case of Services, the location) they were in prior to commencement of those Works (subject to any permanent relocation or other permanent works agreed between the Developer and the Authority acting reasonably);

(b) vacate BDA Development Block 6;

(c) leave BDA Development Block 6 in a safe and secure condition;

(d) with respect to Block 5, if requested by the Authority, give the Authority a structural engineer's certificate certifying that the backfilling of Block 5 contemplated as part of the VMP Remediation Works have been undertaken in accordance with the approved specifications;

(e) remove from BDA Development Block 6 any equipment, materials, goods and other items; and

(f) leave BDA Development Block 6 clean and tidy and free from rubbish.

4.4 Failure to vacate

If the Developer does not comply with its obligations under *paragraph 4.3* on time, the Authority may:

(a) re-enter and take possession of BDA Development Block 6, using reasonable force to secure possession;

(b) give the Developer notice to quit and vacate BDA Development Block 6 at any time;

(c) institute proceedings for possession of BDA Development Block 6 against the Developer; or

(d) take action under *paragraphs 4.4(a)* and *(b)* or *paragraphs 4.4(b)* and *(c)*.

4.5 Failure to comply

In addition to the Authority's rights under *paragraph 4.4*, if the Developer does not comply with its obligations under *paragraph 4.3* on time:

(a) the Authority may comply with these obligations (if necessary, in the Developer's name) at the Developer's risk and expense;

(b) the Authority may store any of the Developer's equipment, materials, goods and other items removed from BDA Development Block 6 at the Developer's risk and expense;

(c) if the Developer does not remove any of the Developer's equipment, materials, goods and other items from BDA Development Block 6 or from the place where it is stored by the Authority within 30 days of being asked to do so by the Authority, such items becomes the property of the Authority if the Authority so elects; and

(d) the Developer must pay the Authority on demand as liquidated damages (in addition to any other liquidated damages) a sum equal to the cost to the Authority of complying with *paragraph 4.3* and anything the Authority does under this *paragraph 4.5*.

4.6 Transfer and other dealings

The Developer must not transfer, assign, sub-licence or grant an encumbrance over or otherwise deal with the land the subject of BDA Development Block 6 or with its licences to use BDA Development Block 6, other than as set out in the Crown Development Agreement.

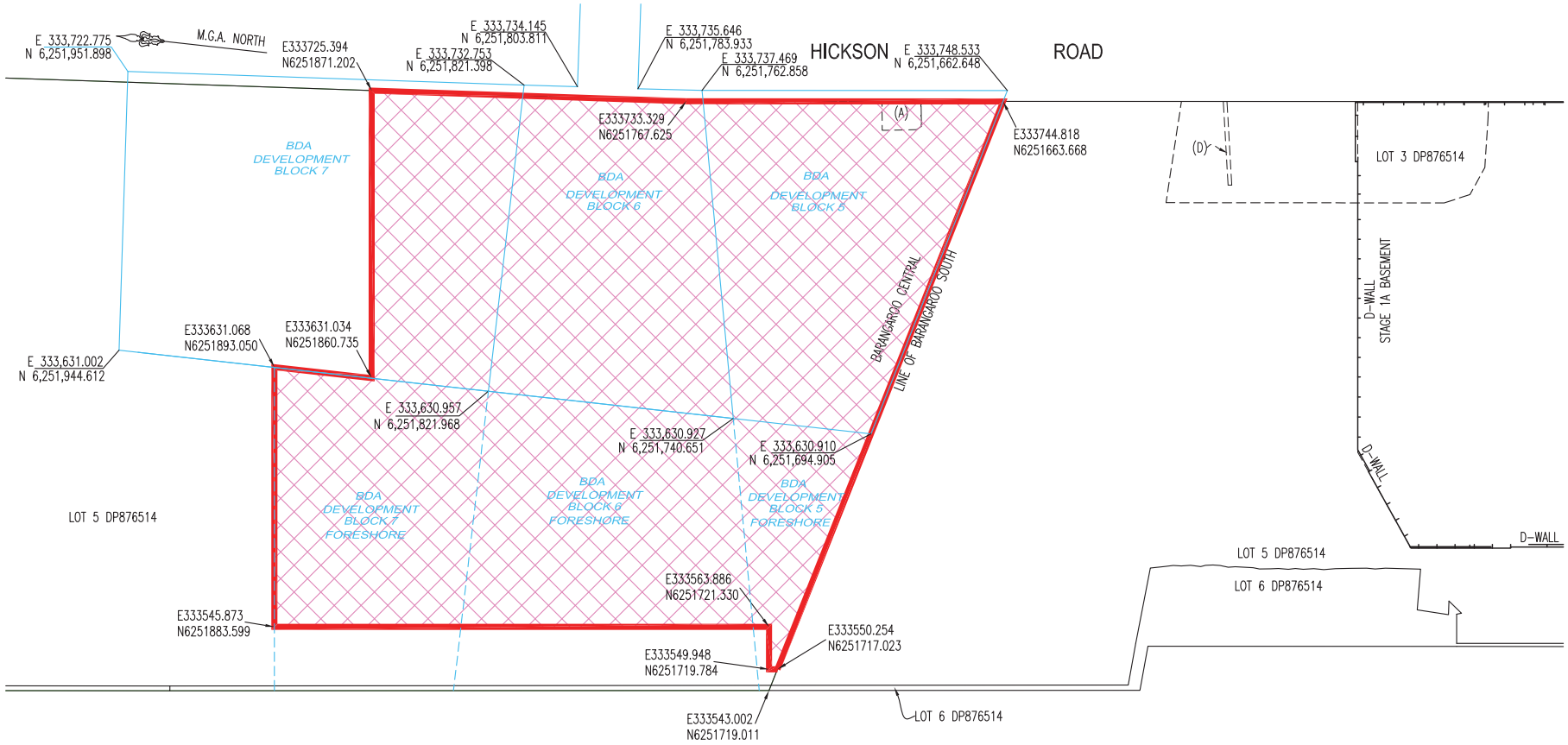
5. Indemnity and insurance

For the purposes of this licence, any reference to "Premises" or "Site" in the clauses of this deed referred to below is deemed to include BDA Development Block 6 to the intent that those clauses are taken to be part of this licence.

(a) clause 35.3;

(b) clause 48.1; and

(c) clause 48.2.



REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5 &
OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0158 REV:J

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
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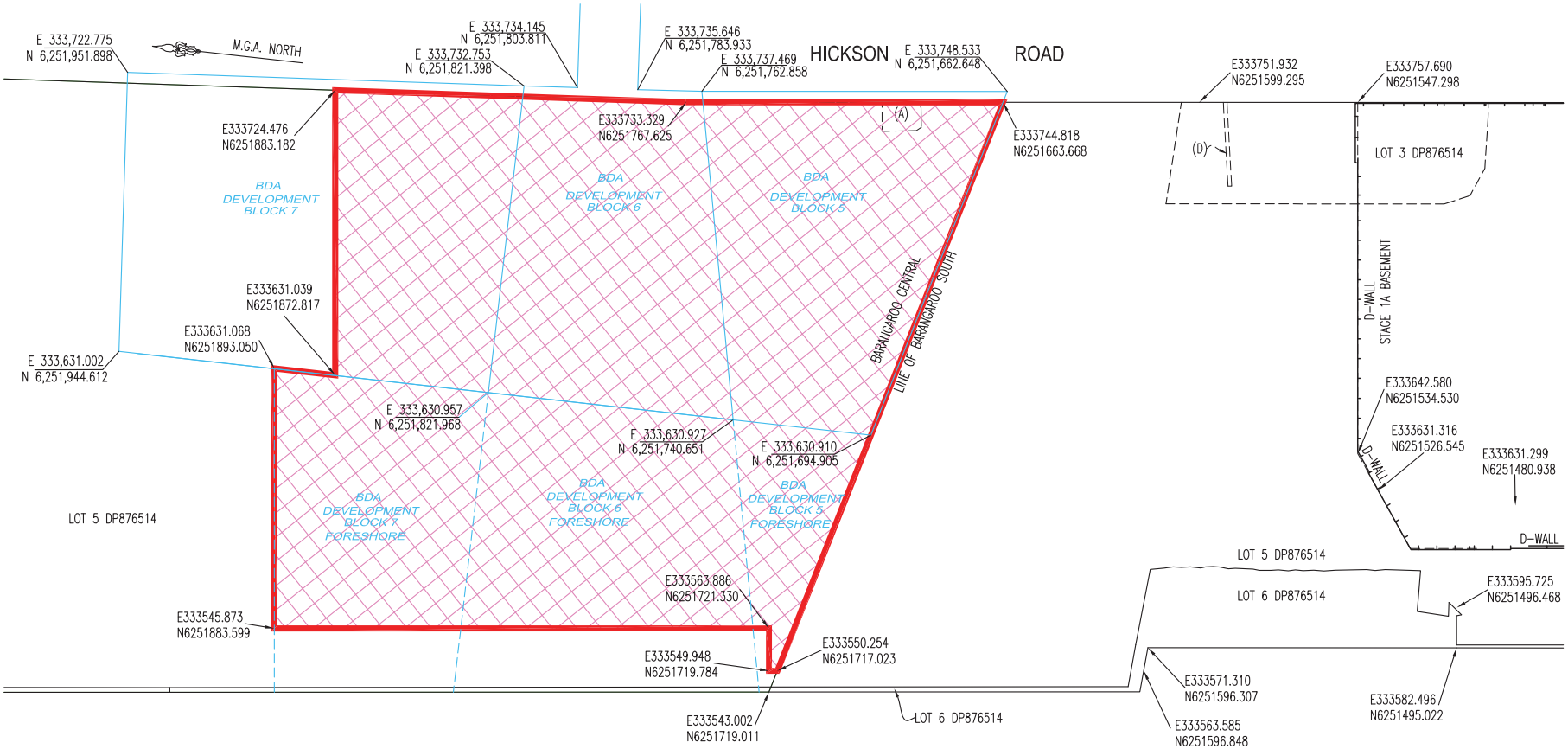

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STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFFSITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
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REF: BB2_ASK_CO_0159 REV:J

DARLING HARBOUR

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
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DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
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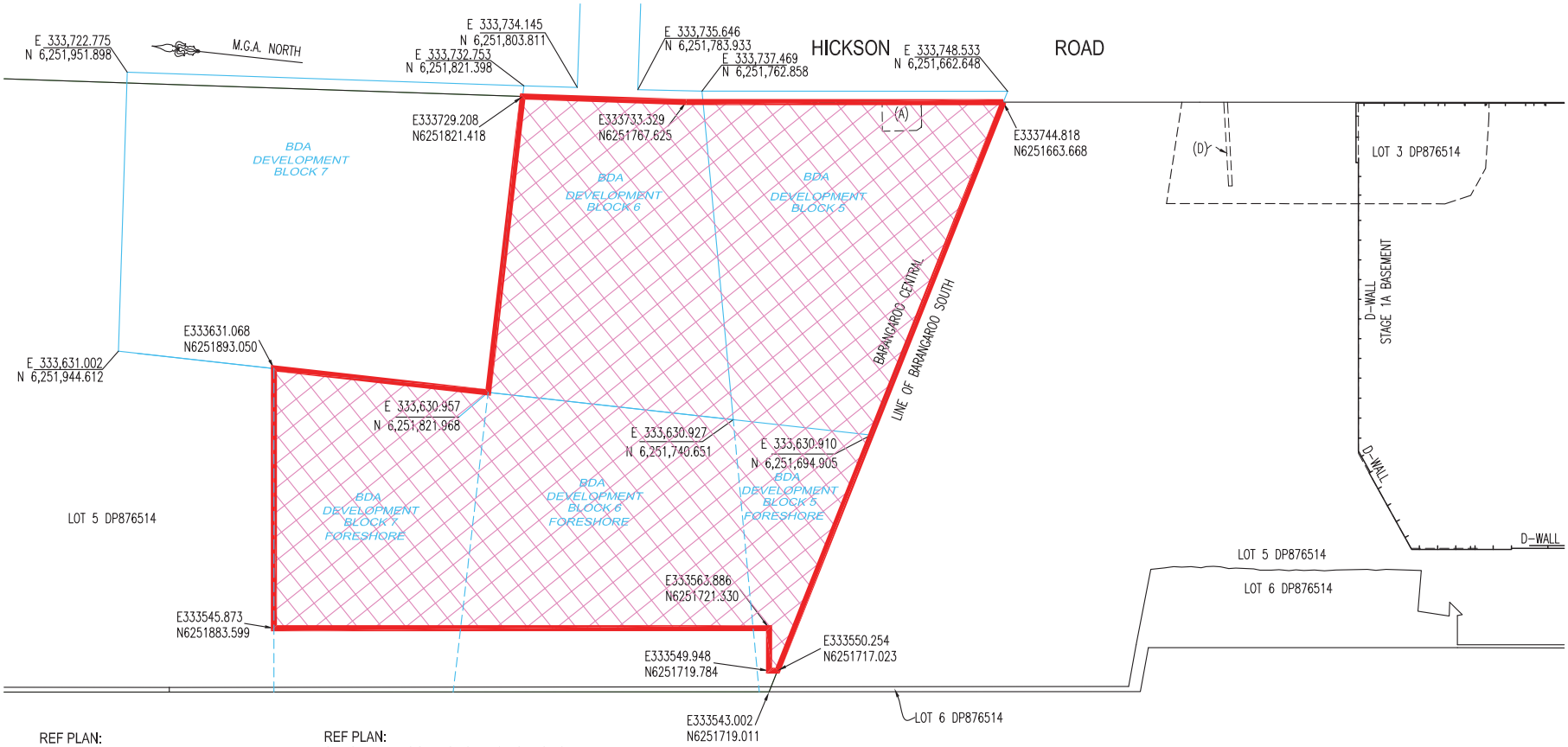

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0160 REV:J

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0161 REV:J

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
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DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

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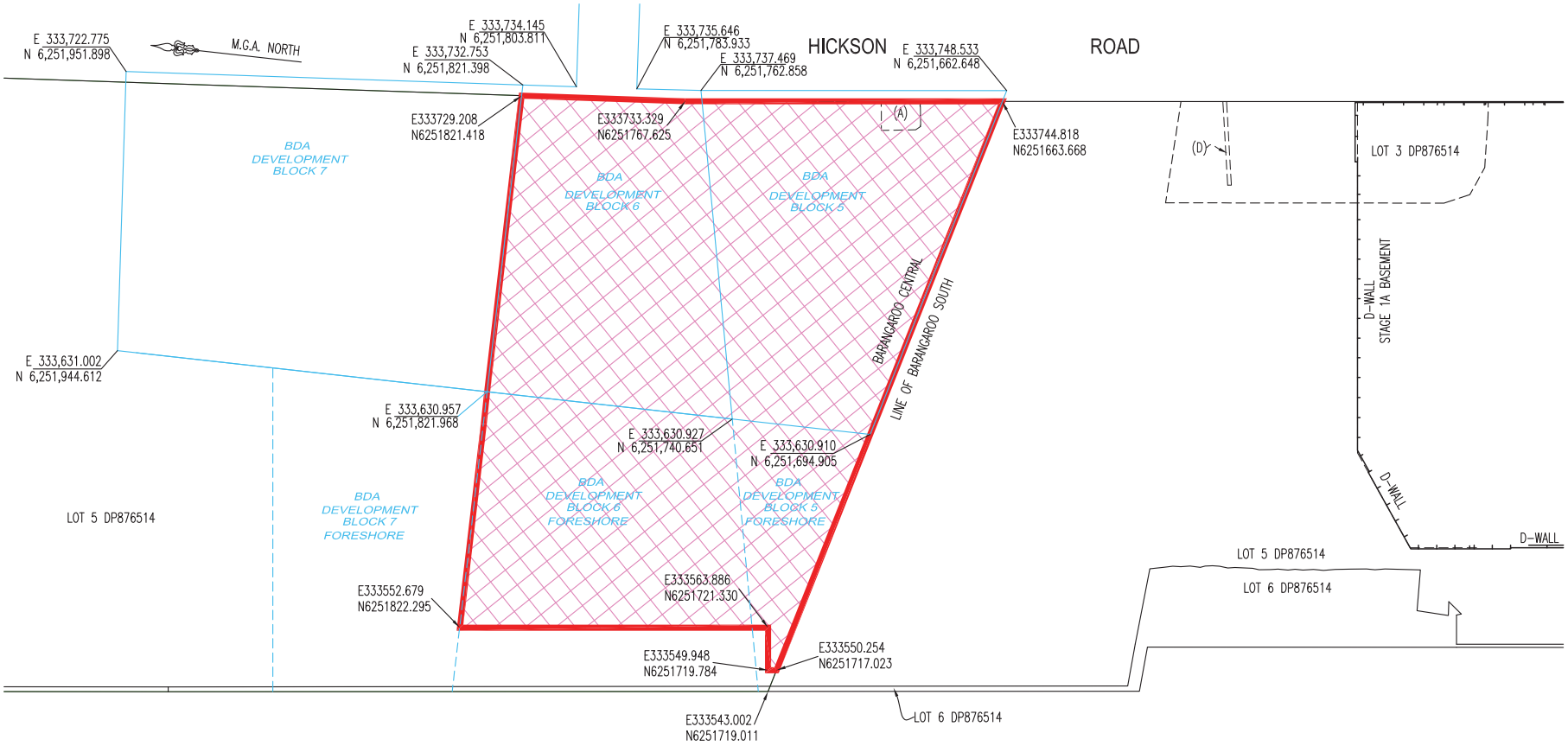

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STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0162 REV:J

REF PLAN:
STAGE1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
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REF: BB2_ASK_CO_0163 REV:J

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0164 REV:J

03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
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DENOTES STAGING LICENCE

STAGING LICENCE [redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
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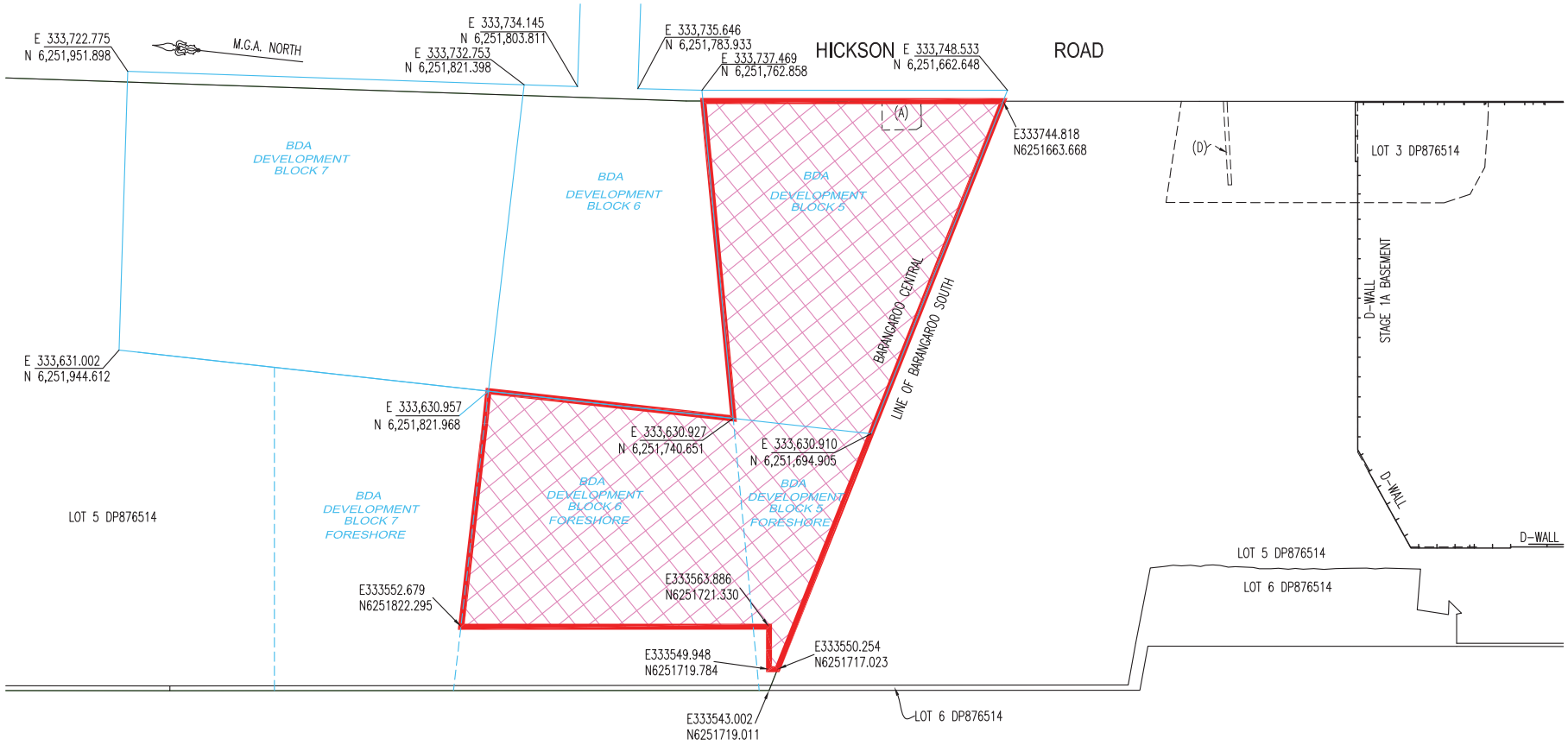

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& OFF-SITE TREATMENT OPTION
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REF: BB2_ASK_CO_0165 REV:J

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
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DENOTES STAGING LICENCE

STAGING LICENCE
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LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
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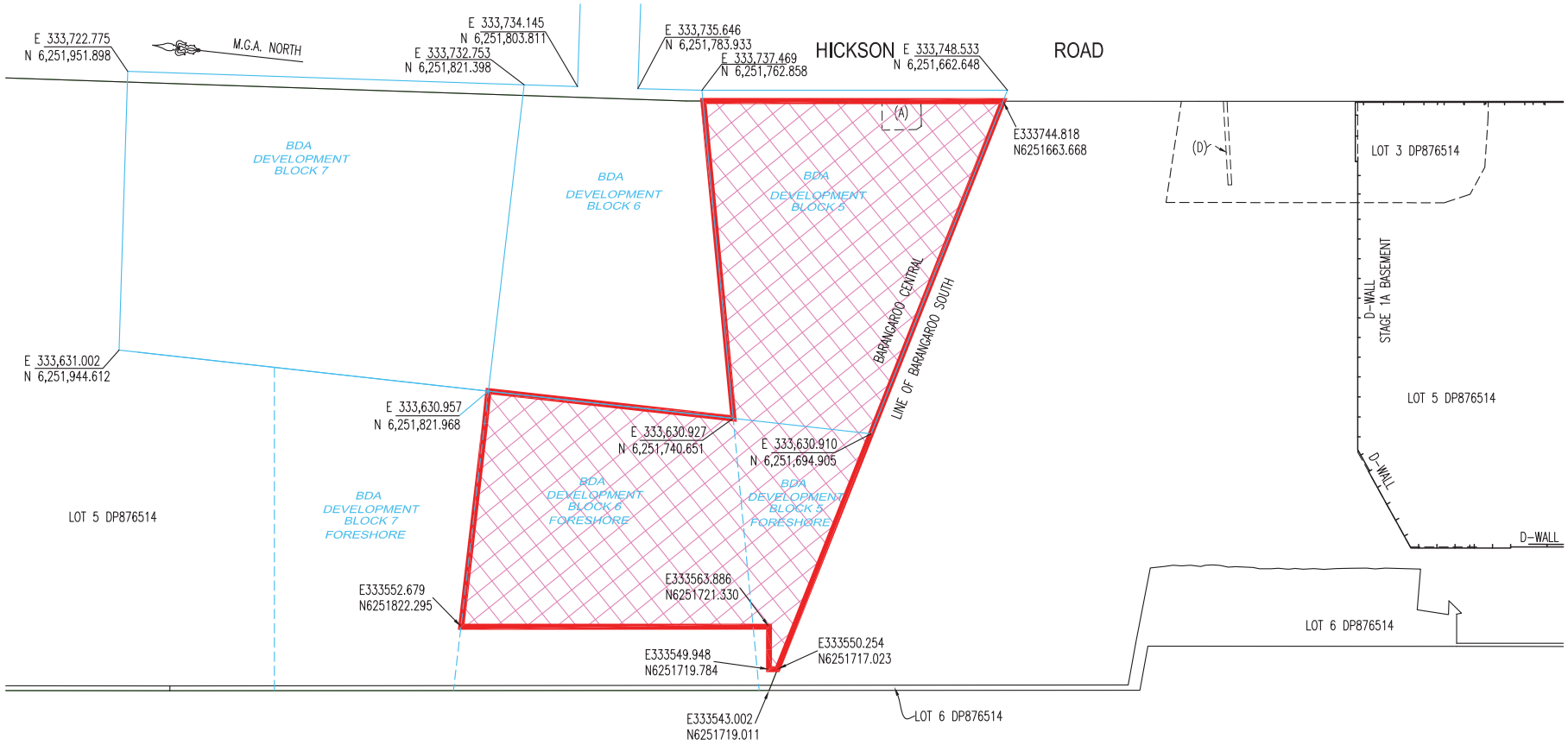

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STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
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REF: BB2_ASK_CO_0180 REV:M

03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
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STAGING LICENCE
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LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

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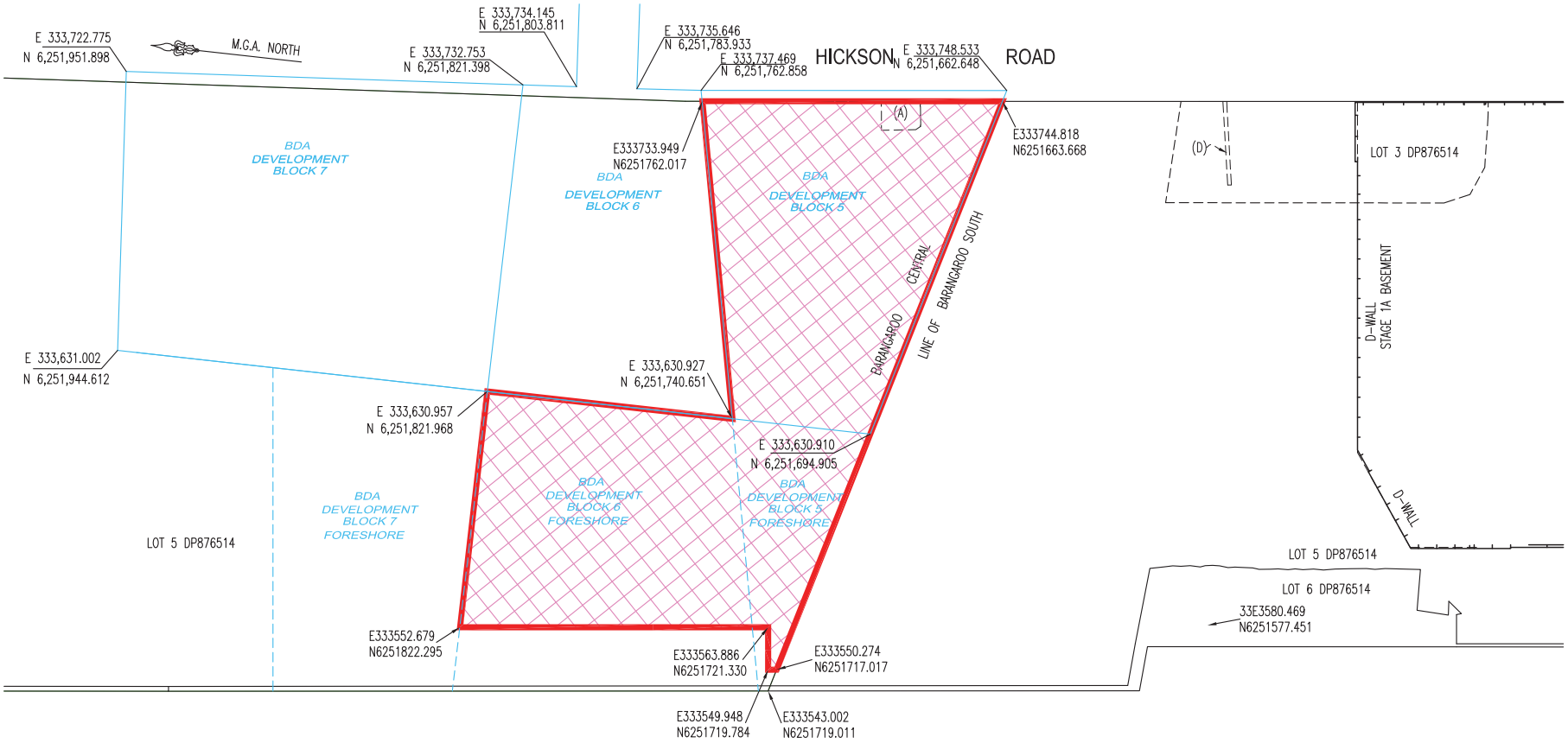

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REF: BB2_ASK_CO_0227 REV: E

REF PLAN:
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& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0228 REV: E

03	REVISED ISSUE	3/3/15
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REV.	REVISION DESCRIPTION	DATE

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DENOTES STAGING LICENCE

STAGING LICENCE [redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

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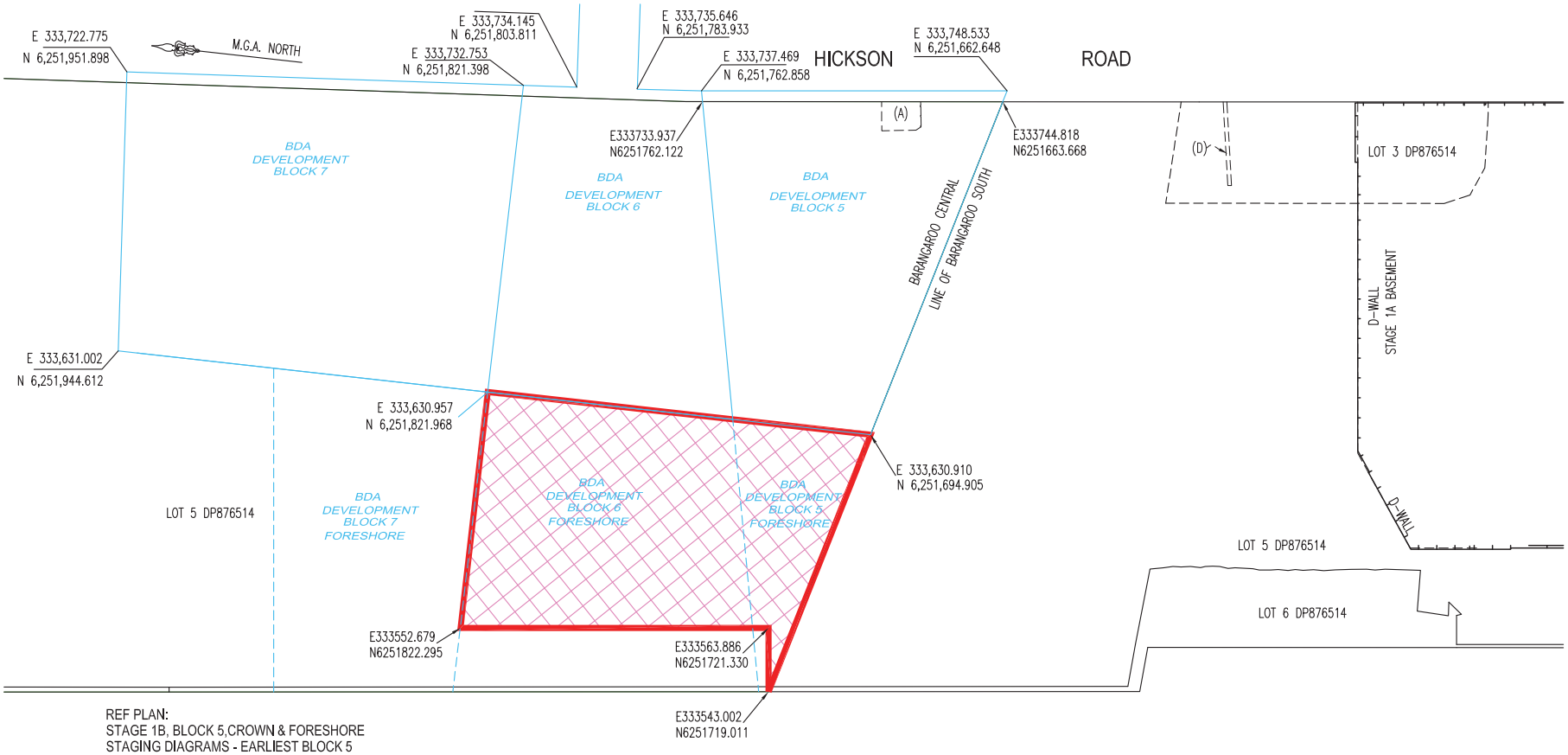

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REF: BB2_ASK_CO_0229 REV: E

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
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DENOTES STAGING LICENCE

STAGING LICENCE

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LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

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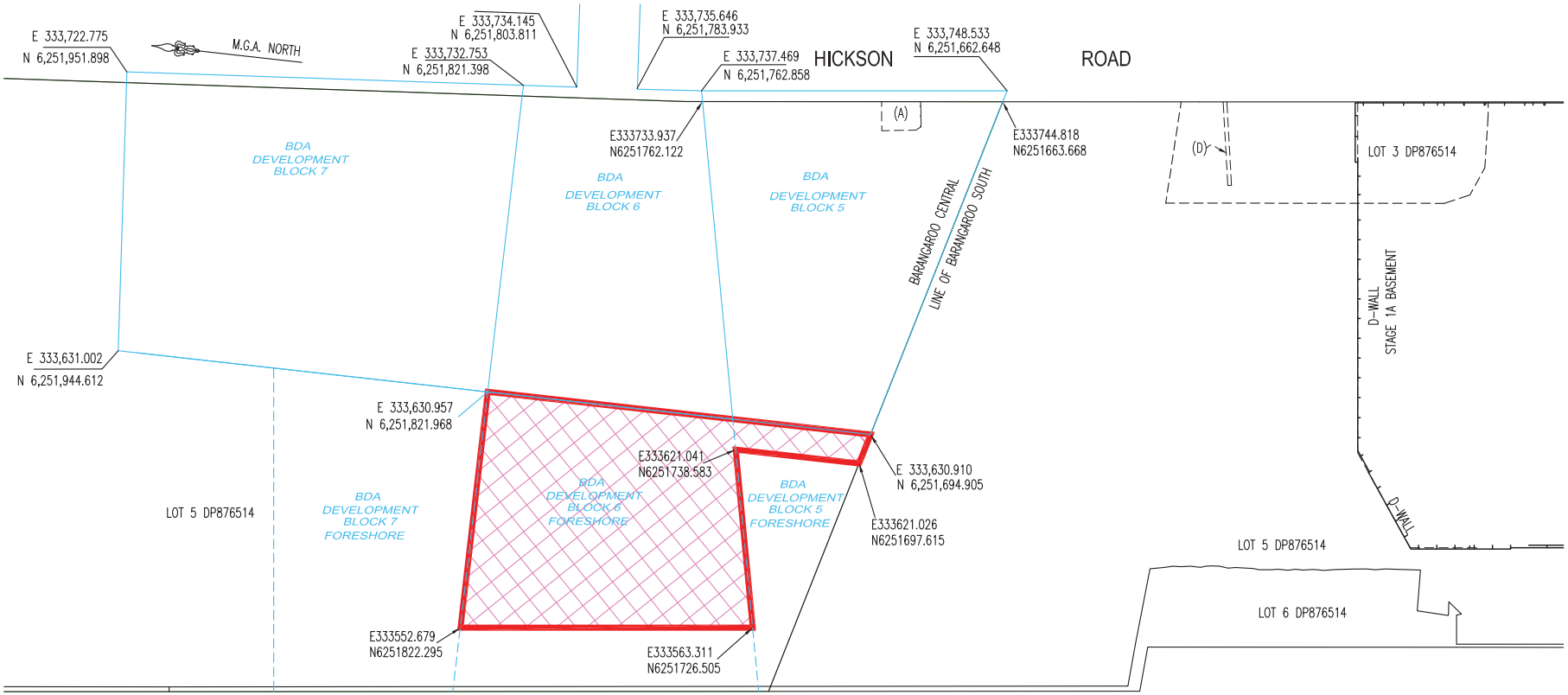

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& OFF-SITE TREATMENT OPTION
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REF: BB2_ASK_CO_0229 REV: E

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
DRAWING No. SLP 0230

Schedule 2D – Staging Licence terms for BDA Development Block 6 Foreshore (clause 13.1(aa))

The terms and conditions of the Staging Licence for BDA Development Block 6 Foreshore granted pursuant to clause 13.1(aa) are set out in this Schedule 2D.

Paragraph references in italics are paragraphs in this Schedule 2D

1. Grant of non-exclusive licence

The Authority grants to the Developer a non-exclusive licence to access and use that part of BDA Development Block 6 Foreshore shown on the Staging Plans attached to this licence:

(a) for Construction Staging applicable to BDA Development Block 6 Foreshore in accordance with the Developer's rights and obligations under this deed; and

(b) for any other use which the Authority approves in its reasonable discretion,

for the licence term in *paragraph 2*, subject to the conditions contained in this Schedule 2D.

2. Licence term

(a) The Staging Licence:

(i) commences on the Hotel Approval Date or such later date as provided in the Staging Plans; and

(ii) expires on the "End Date" (as determined pursuant to *paragraph 2(b)*).

(b) For the purposes of this Schedule 2D, the "**End Date**" is determined as follows:

(i) if on or prior to the Date for Vacation of the BDA Development Block 6 Foreshore all Significant Contamination has been Remediated on the Declaration Area, then the End Date is the Date for Vacation of the BDA Development Block 6 Foreshore;

(ii) if at any time on or after the Date for Vacation of the BDA Development Block 6 Foreshore all Significant Contamination has not been Remediated on the Declaration Area and:

A. the Declaration then in force either:

1) applies, separately to the Block 4 Declaration Area (that is the Declaration is separate and can be lifted in relation to the Block 4 Declaration Area without the need for completion of the VMP Remediation Works or the VMP Investigation Works required to be done to any other area contemplated by the Declaration); or

2) can be independently lifted in so far as it relates to the Block 4 Declaration Area while continuing to apply to any other area contemplated by the Declaration,

and;

B. the Authority gives a notice terminating the Staging Licence in accordance with clause 13.1(d),

then the End Date is the date which is 10 Business Days after the date on which Authority gives a notice terminating the Staging Licence in accordance with clause 13.1(d) (or such later date as notified by the Authority in its absolute discretion); or

(iii) if at any time on or after the Date for Vacation of the BDA Development Block 6 Foreshore:

A. all Significant Contamination has not been Remediated on the Declaration Area; and

B. the Authority has not terminated the Staging Licence in accordance with clause 13.1(d),

then the End Date is the date on which all Significant Contamination has been Remediated on the Declaration Area.

(c) If the Authority has terminated the Staging Licence in accordance with clause 13.1(d) and the End Date arises pursuant to *paragraph 2(b)(ii)*, the Authority will retake possession, step in and carry out and complete any remaining incomplete VMP Remediation Works and VMP Investigation Works required to be carried out to BDA Development Block 6 Foreshore and have the Relevant Contracts in relation to those Works novated to it. Without prejudice to the Authority's right to claim damages against the Developer under this deed, the Authority agrees that it will use reasonable endeavours to carry out and complete any such incomplete VMP Remediation Works and VMP Investigation Works within a reasonable time (at its cost).

3. Use of BDA Development Block 6 Foreshore

(a) The Developer may use BDA Development Block 6 Foreshore for any construction related purpose in connection with the development of Barangaroo South including:

(i) Stage 1B; and

(ii) by sub-licence to Crown, the Hotel Resort.

(b) It will not do anything in or about the BDA Development Block 6 Foreshore which may constitute a breach of the Developer's obligations under a Code.

(c) The BDA Development Block 6 Foreshore is a "Developer Secured Area" for the purposes of this deed.

4. Developer obligations

4.1 No proprietary interest

The Developer:

(a) does not have exclusive possession or occupation of BDA Development Block 6 Foreshore;

(b) is not a tenant of the Authority;

(c) has no caveatable interest in BDA Development Block 6 Foreshore and must not lodge a caveat against the title to any land forming part of BDA Development Block 6 Foreshore;

(d) has no right to hold over beyond the End Date; and

(e) will be a trespasser on BDA Development Block 6 Foreshore, if after the End Date, the Developer continues to access and use the Staging Area without the express written consent of the Authority.

4.2 Care of BDA Development Block 6 Foreshore

From the commencement date of the Staging Licence, the Developer:

(a) must not do anything to interfere with the access of the Authority or the Authority's Employees to the Staging Area; and

(b) must not make any structural additions to the BDA Development Block 6 Foreshore other than in accordance with this deed (or with the prior written consent of the Authority which may be given in its sole and unfettered discretion).

4.3 Vacation of BDA Development Block 6 Foreshore

On or before the End Date, the Developer must:

(a) restore BDA Development Block 6 Foreshore and any Services affected by any Works to the condition (and, in the case of Services, the location) they were in prior to commencement of those Works (subject to any permanent relocation or other permanent works agreed between the Developer and the Authority acting reasonably);

(b) vacate BDA Development Block 6 Foreshore;

(c) leave BDA Development Block 6 Foreshore in a safe and secure condition;

(d) with respect to Block 5, if requested by the Authority, give the Authority a structural engineer's certificate certifying that the backfilling of Block 5 contemplated as part of the VMP Remediation Works have been undertaken in accordance with the approved specifications;

(e) remove from BDA Development Block 6 Foreshore any equipment, materials, goods and other items; and

(f) leave BDA Development Block 6 Foreshore clean and tidy and free from rubbish.

4.4 Failure to vacate

If the Developer does not comply with its obligations under *paragraph 4.3* on time, the Authority may:

(a) re-enter and take possession of BDA Development Block 6 Foreshore, using reasonable force to secure possession;

(b) give the Developer notice to quit and vacate BDA Development Block 6 Foreshore at any time;

(c) institute proceedings for possession of BDA Development Block 6 Foreshore against the Developer; or

(d) take action under *paragraphs 4.4(a)* and *(b)* or *paragraphs 4.4(b)* and *(c)*.

4.5 Failure to comply

In addition to the Authority's rights under *paragraph 4.4*, if the Developer does not comply with its obligations under *paragraph 4.3* on time:

(a) the Authority may comply with these obligations (if necessary, in the Developer's name) at the Developer's risk and expense;

(b) the Authority may store any of the Developer's equipment, materials, goods and other items removed from BDA Development Block 6 Foreshore at the Developer's risk and expense;

(c) if the Developer does not remove any of the Developer's equipment, materials, goods and other items from BDA Development Block 6 Foreshore or from the place where it is stored by the Authority within 30 days of being asked to do so by the Authority, such items becomes the property of the Authority if the Authority so elects; and

(d) the Developer must pay the Authority on demand as liquidated damages (in addition to any other liquidated damages) a sum equal to the cost to the Authority of complying with *paragraph 4.3* and anything the Authority does under this *paragraph 4.5*.

4.6 Transfer and other dealings

The Developer must not transfer, assign, sub-licence or grant an encumbrance over or otherwise deal with the land the subject of BDA Development Block 6 Foreshore or with its licences to use BDA Development Block 6 Foreshore, other than as set out in the Crown Development Agreement.

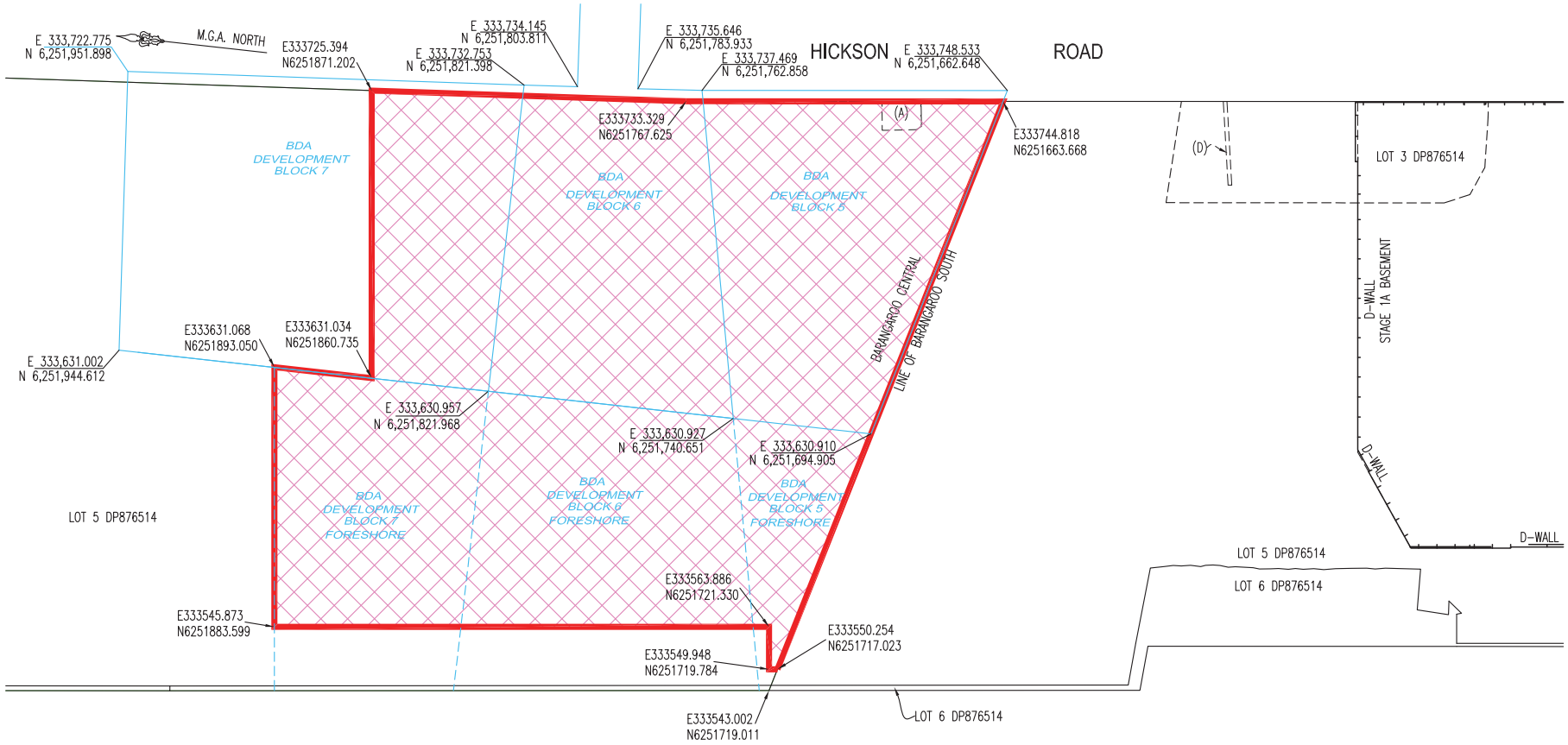
5. Indemnity and insurance

For the purposes of this licence, any reference to "Premises" or "Site" in the clauses of this deed referred to below is deemed to include BDA Development Block 6 Foreshore to the intent that those clauses are taken to be part of this licence.

(a) clause 35.3;

(b) clause 48.1; and

(c) clause 48.2.



REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5 &
OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0158 REV:J

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
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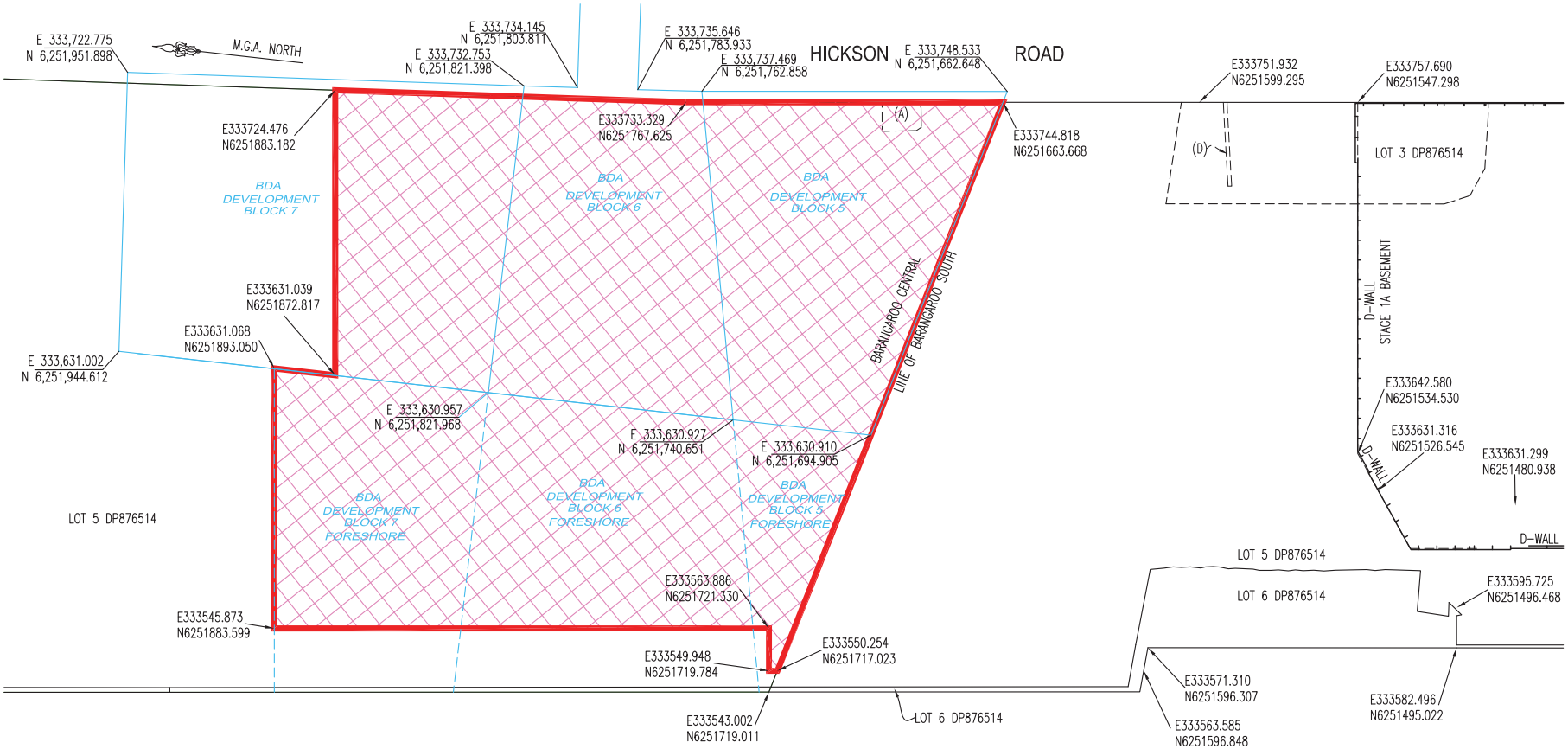


REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFFSITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0159 REV:J

03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

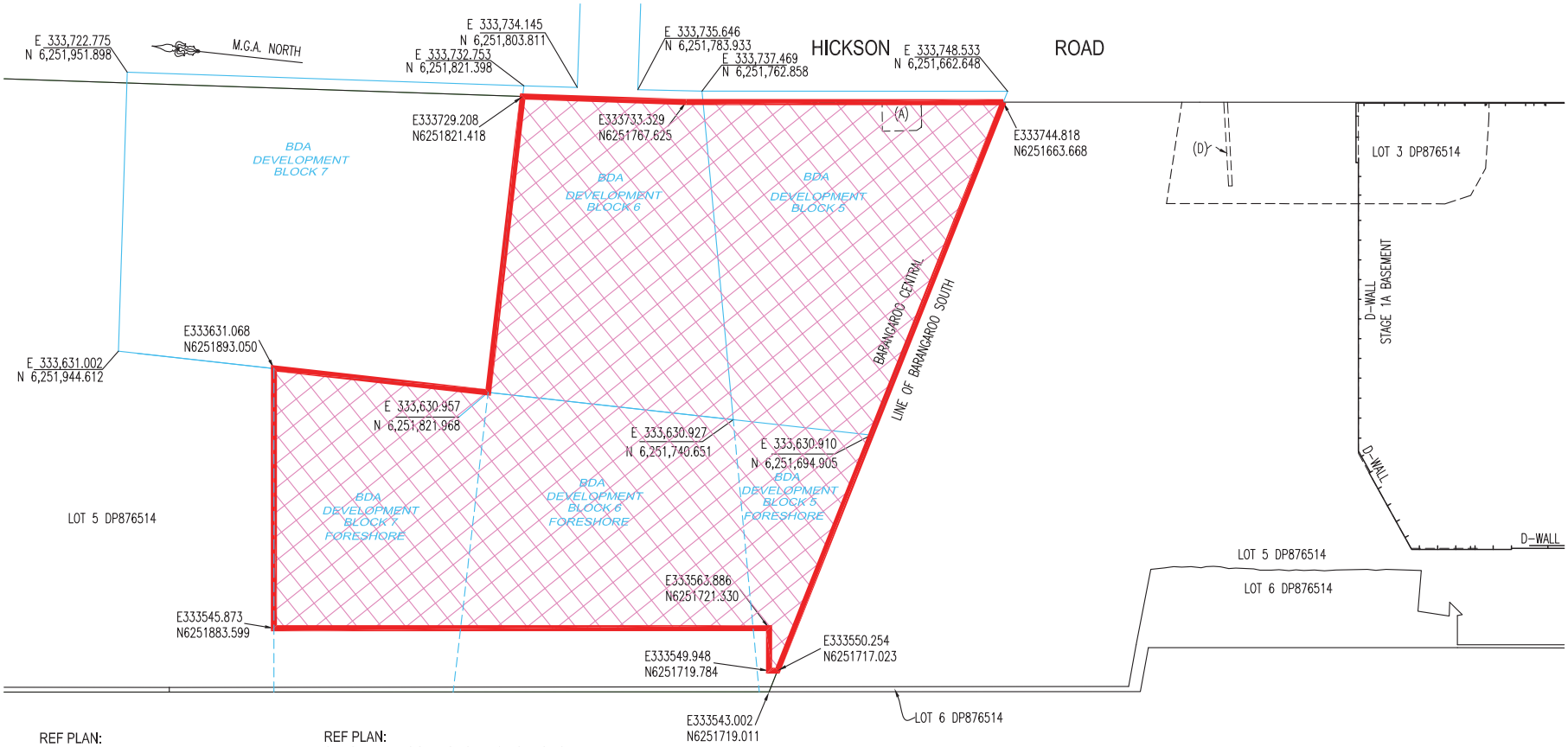
DENOTES STAGING LICENCE

STAGING LICENCE
[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
DRAWING No. CZL 0159



REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0160 REV:J

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0161 REV:J

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

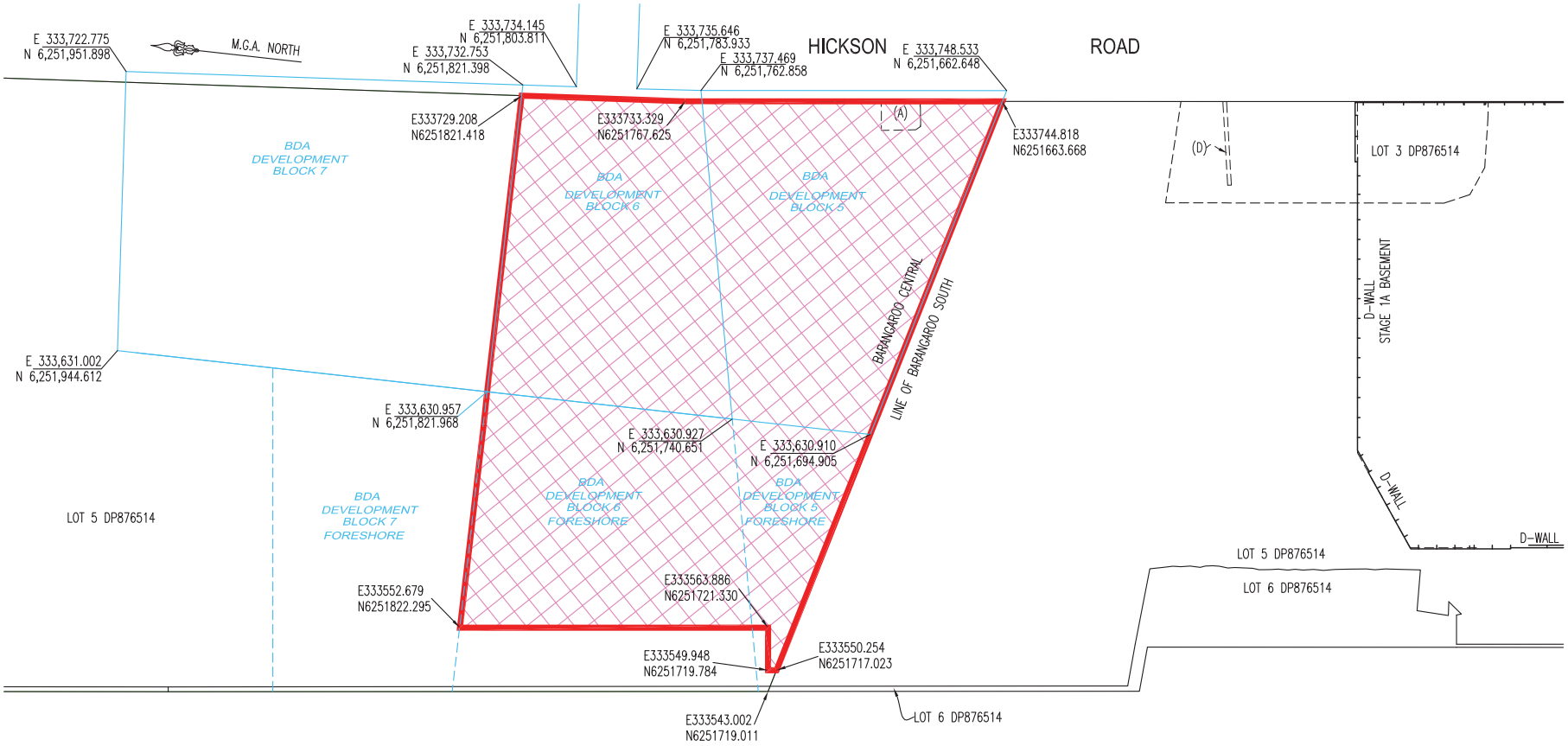
DENOTES STAGING LICENCE

STAGING LICENCE [redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
DRAWING No. CZL 0160-0161



REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0162 REV:J

REF PLAN:
STAGE1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0163 REV:J

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0164 REV:J

03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
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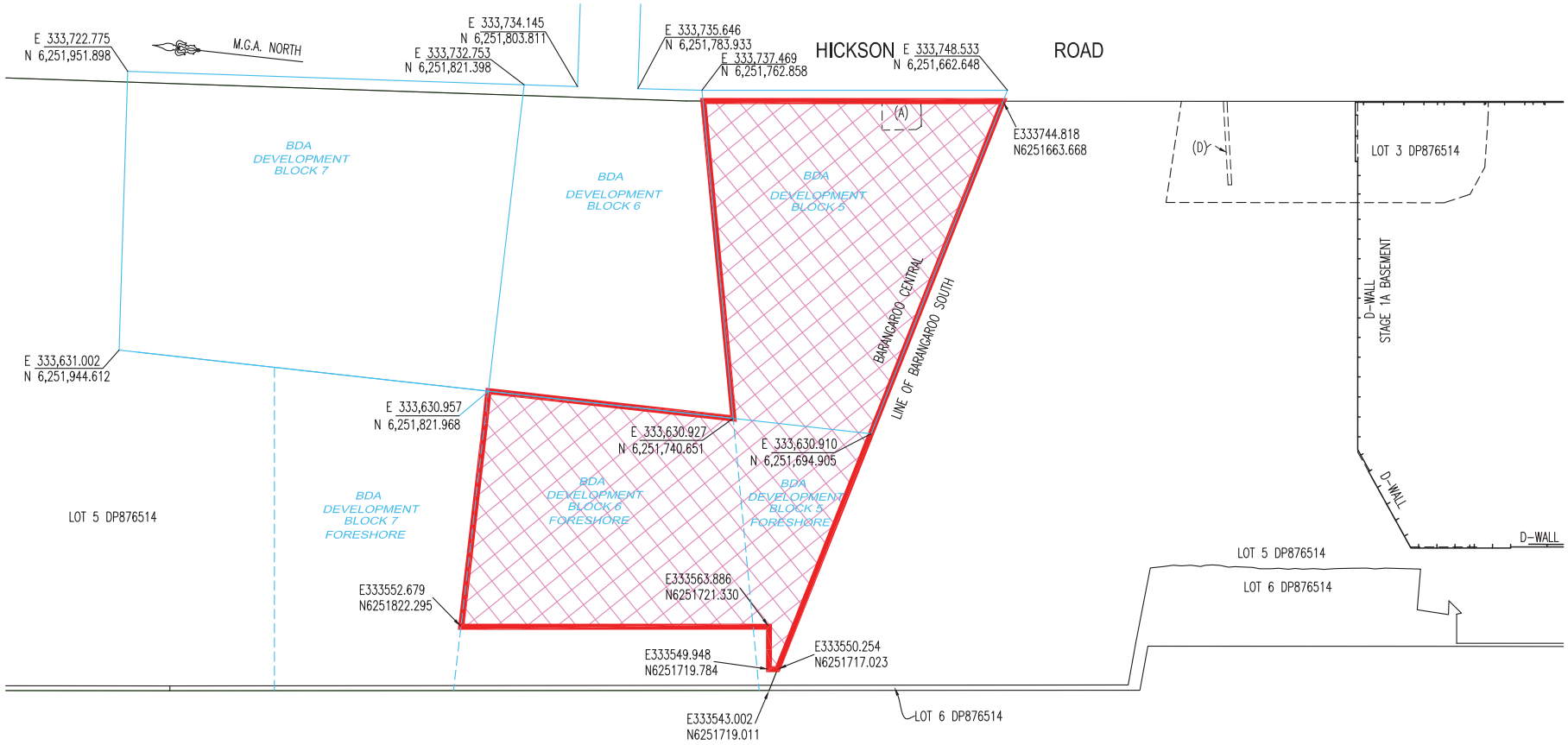

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0165 REV:J

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE
[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
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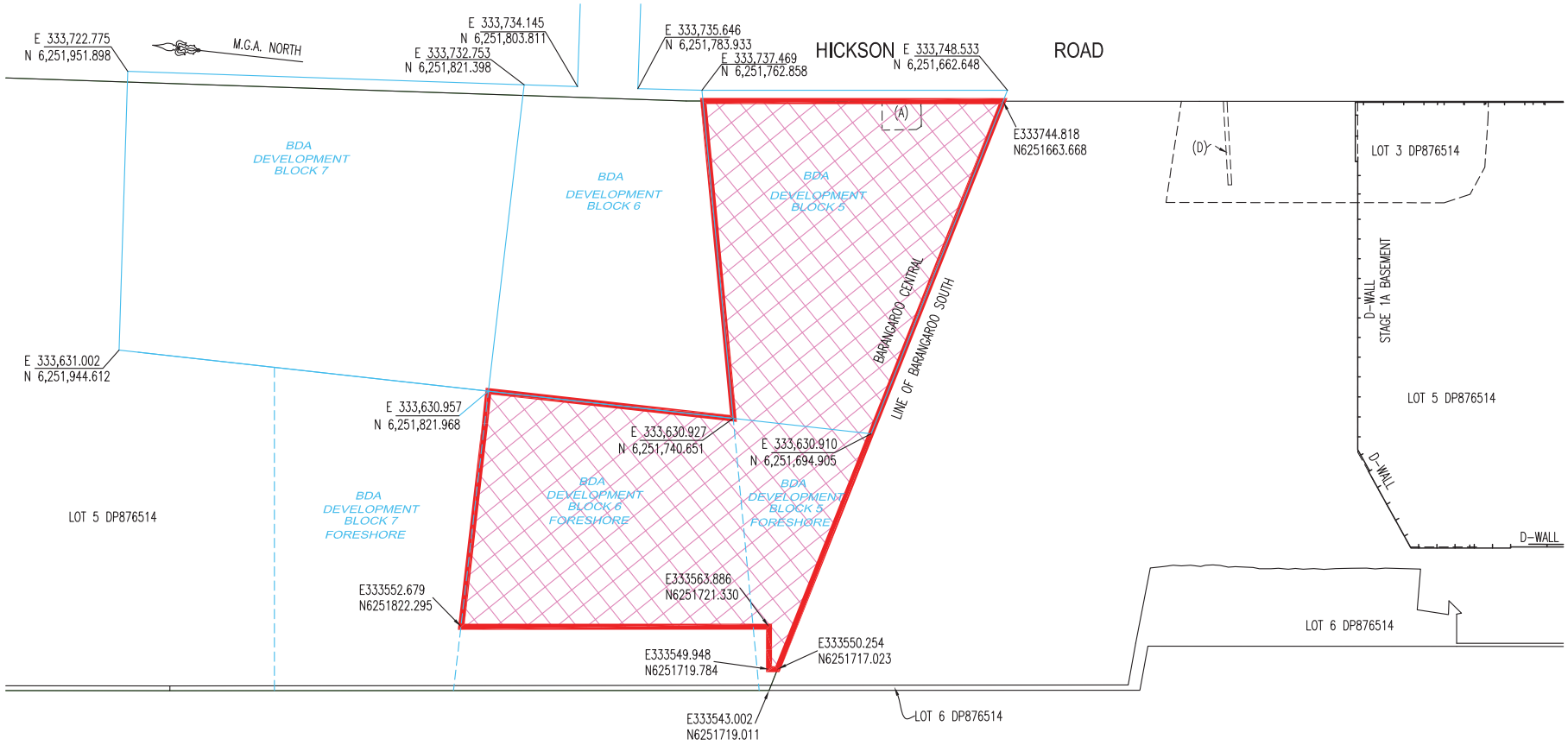

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0180 REV:M

03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
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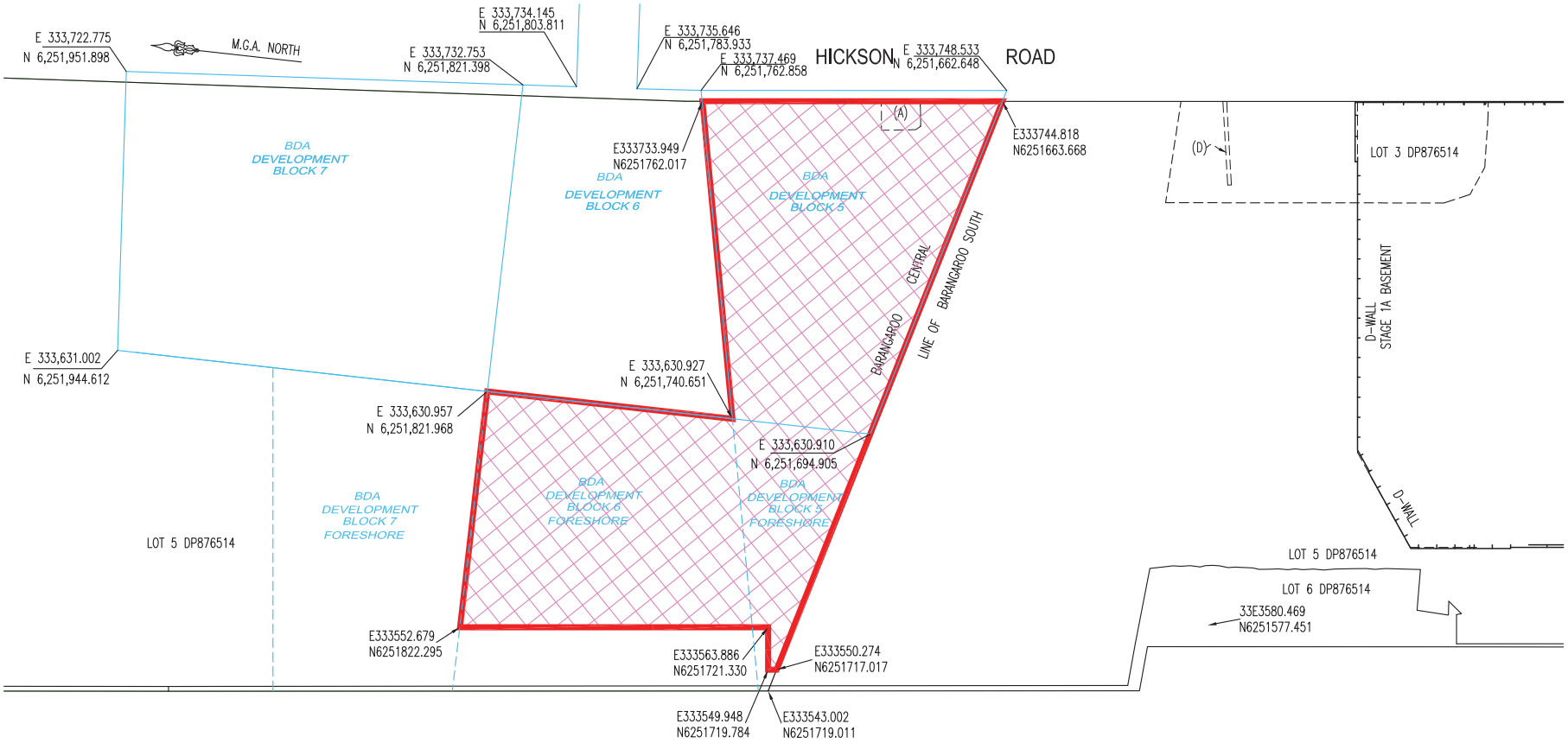

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0227 REV: E

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0228 REV: E

03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
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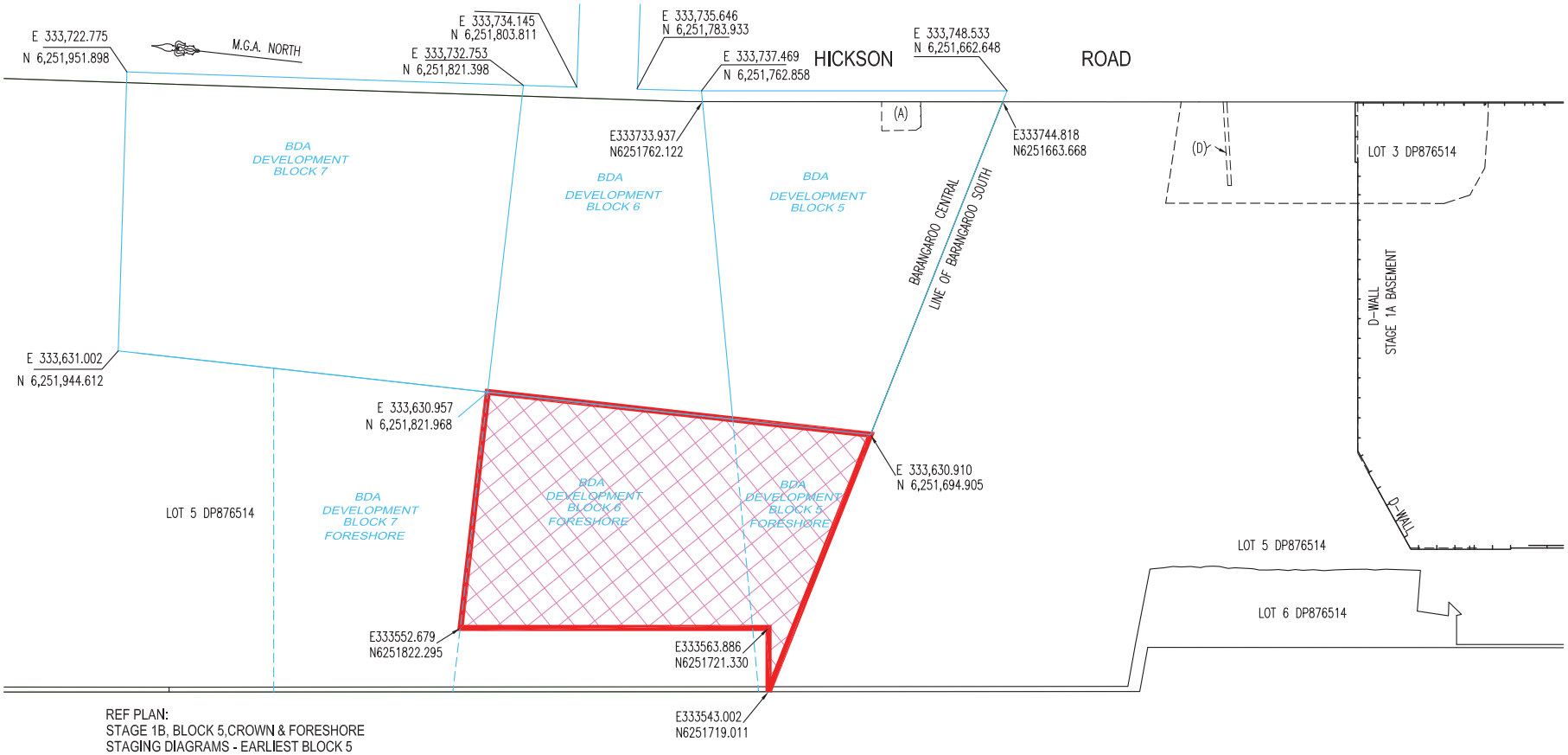

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0229 REV: E

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
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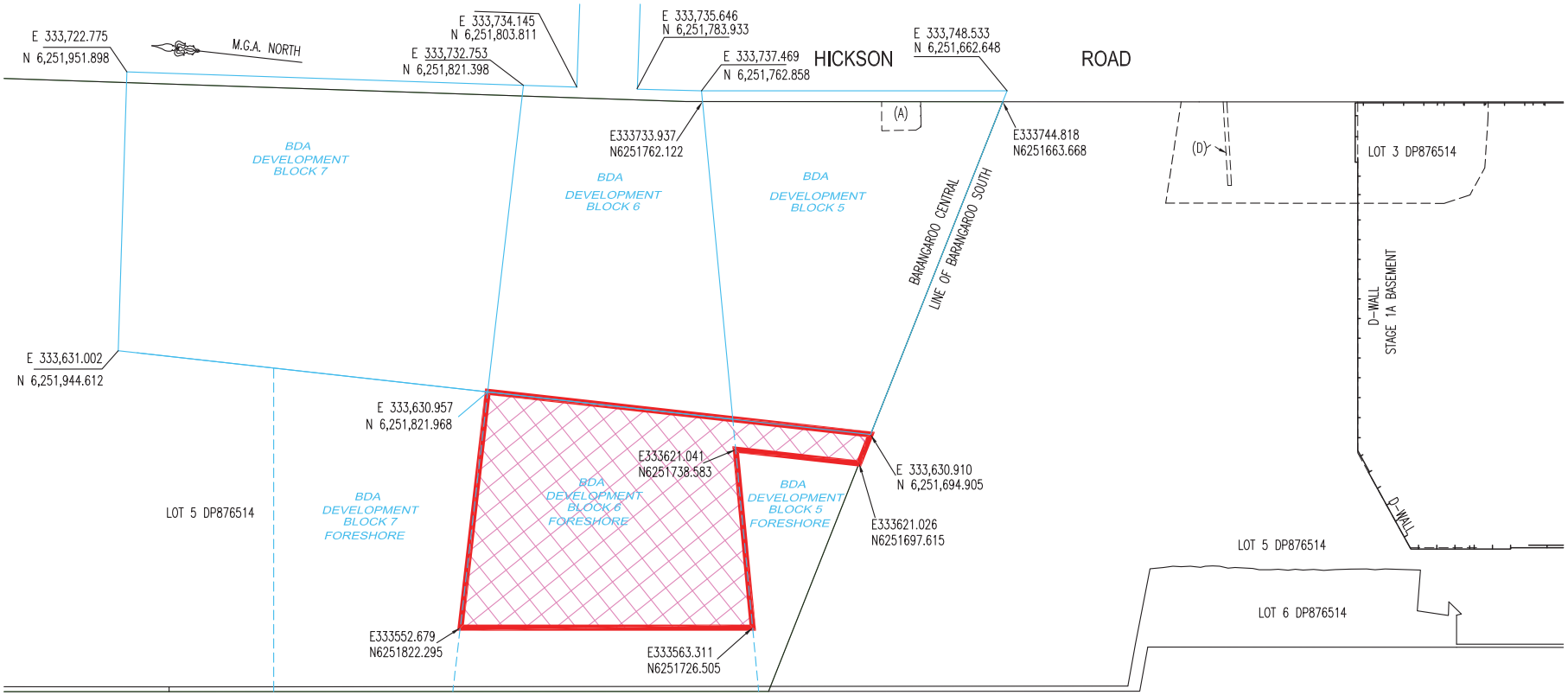


REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0229 REV: E

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE
[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
DRAWING No. SLP 0230

Schedule 2E – Staging Licence terms for BDA Development Block 7 (clause 13.1(aa))

The terms and conditions of the Staging Licence for BDA Development Block 7 granted pursuant to clause 13.1(aa) are set out in this Schedule 2E.

Paragraph references in italics are paragraphs in this Schedule 2E

1. Grant of non-exclusive licence

The Authority grants to the Developer a non-exclusive licence to access and use that part of BDA Development Block 7 shown on the Staging Plans attached to this licence:

(a) for Construction Staging applicable to BDA Development Block 7 in accordance with the Developer's rights and obligations under this deed; and

(b) for any other use which the Authority approves in its reasonable discretion,

for the licence term in *paragraph 2*, subject to the conditions contained in this Schedule 2E.

2. Licence term

(a) The Staging Licence:

(i) commences on the Hotel Approval Date or such later date as provided in the Staging Plans; and

(ii) expires on the "End Date" (as determined pursuant to *paragraph 2(b)*).

(b) For the purposes of this Schedule 2E, the "**End Date**" is determined as follows:

(i) if on or prior to the Date for Vacation of the BDA Development Block 7 all Significant Contamination has been Remediated on the Declaration Area, then the End Date is the Date for Vacation of the BDA Development Block 7;

(ii) if at any time on or after the Date for Vacation of the BDA Development Block 7 all Significant Contamination has not been Remediated on the Declaration Area and:

A. the Declaration then in force either:

1) applies, separately to the Block 4 Declaration Area (that is the Declaration is separate and can be lifted in relation to the Block 4 Declaration Area without the need for completion of the VMP Remediation Works or the VMP Investigation Works required to be done to any other area contemplated by the Declaration); or

2) can be independently lifted in so far as it relates to the Block 4 Declaration Area while continuing to apply to any other area contemplated by the Declaration,

and;

B. the Authority gives a notice terminating the Staging Licence in accordance with clause 13.1(d),

then the End Date is the date which is 10 Business Days after the date on which Authority gives a notice terminating the Staging Licence in accordance with clause 13.1(d) (or such later date as notified by the Authority in its absolute discretion); or

(iii) if at any time on or after the Date for Vacation of the BDA Development Block 7:

A. all Significant Contamination has not been Remediated on the Declaration Area; and

B. the Authority has not terminated the Staging Licence in accordance with clause 13.1(d),

then the End Date is the date on which all Significant Contamination has been Remediated on the Declaration Area.

(c) If the Authority has terminated the Staging Licence in accordance with clause 13.1(d) and the End Date arises pursuant to *paragraph 2(b)(ii)*, the Authority will retake possession, step in and carry out and complete any remaining incomplete VMP Remediation Works and VMP Investigation Works required to be carried out to BDA Development Block 7 and have the Relevant Contracts in relation to those Works novated to it. Without prejudice to the Authority's right to claim damages against the Developer under this deed, the Authority agrees that it will use reasonable endeavours to carry out and complete any such incomplete VMP Remediation Works and VMP Investigation Works within a reasonable time (at its cost).

3. Use of BDA Development Block 7

(a) The Developer may use BDA Development Block 7 for any construction related purpose in connection with the development of Barangaroo South including:

(i) Stage 1B; and

(ii) by sub-licence to Crown, the Hotel Resort.

(b) It will not do anything in or about the BDA Development Block 7 which may constitute a breach of the Developer's obligations under a Code.

(c) The BDA Development Block 7 is a "Developer Secured Area" for the purposes of this deed.

4. Developer obligations

4.1 No proprietary interest

The Developer:

(a) does not have exclusive possession or occupation of BDA Development Block 7;

(b) is not a tenant of the Authority;

(c) has no caveatable interest in BDA Development Block 7 and must not lodge a caveat against the title to any land forming part of BDA Development Block 7;

(d) has no right to hold over beyond the End Date; and

(e) will be a trespasser on BDA Development Block 7, if after the End Date, the Developer continues to access and use the Staging Area without the express written consent of the Authority.

4.2 Care of BDA Development Block 7

From the commencement date of the Staging Licence, the Developer:

(a) must not do anything to interfere with the access of the Authority or the Authority's Employees to the Staging Area; and

(b) must not make any structural additions to the BDA Development Block 7 other than in accordance with this deed (or with the prior written consent of the Authority which may be given in its sole and unfettered discretion).

4.3 Vacation of BDA Development Block 7

On or before the End Date, the Developer must:

(a) restore BDA Development Block 7 and any Services affected by any Works to the condition (and, in the case of Services, the location) they were in prior to commencement of those Works (subject to any permanent relocation or other permanent works agreed between the Developer and the Authority acting reasonably);

(b) vacate BDA Development Block 7;

(c) leave BDA Development Block 7 in a safe and secure condition;

(d) with respect to Block 5, if requested by the Authority, give the Authority a structural engineer's certificate certifying that the backfilling of Block 5 contemplated as part of the VMP Remediation Works have been undertaken in accordance with the approved specifications;

(e) remove from BDA Development Block 7 any equipment, materials, goods and other items; and

(f) leave BDA Development Block 7 clean and tidy and free from rubbish.

4.4 Failure to vacate

If the Developer does not comply with its obligations under *paragraph 4.3* on time, the Authority may:

(a) re-enter and take possession of BDA Development Block 7, using reasonable force to secure possession;

(b) give the Developer notice to quit and vacate BDA Development Block 7 at any time;

(c) institute proceedings for possession of BDA Development Block 7 against the Developer; or

(d) take action under *paragraphs 4.4(a)* and *(b)* or *paragraphs 4.4(b)* and *(c)*.

4.5 Failure to comply

In addition to the Authority's rights under *paragraph 4.4*, if the Developer does not comply with its obligations under *paragraph 4.3* on time:

(a) the Authority may comply with these obligations (if necessary, in the Developer's name) at the Developer's risk and expense;

(b) the Authority may store any of the Developer's equipment, materials, goods and other items removed from BDA Development Block 7 at the Developer's risk and expense;

(c) if the Developer does not remove any of the Developer's equipment, materials, goods and other items from BDA Development Block 7 or from the place where it is stored by the Authority within 30 days of being asked to do so by the Authority, such items becomes the property of the Authority if the Authority so elects; and

(d) the Developer must pay the Authority on demand as liquidated damages (in addition to any other liquidated damages) a sum equal to the cost to the Authority of complying with *paragraph 4.3* and anything the Authority does under this *paragraph 4.5*.

4.6 Transfer and other dealings

The Developer must not transfer, assign, sub-licence or grant an encumbrance over or otherwise deal with the land the subject of BDA Development Block 7 or with its licences to use BDA Development Block 7, other than as set out in the Crown Development Agreement.

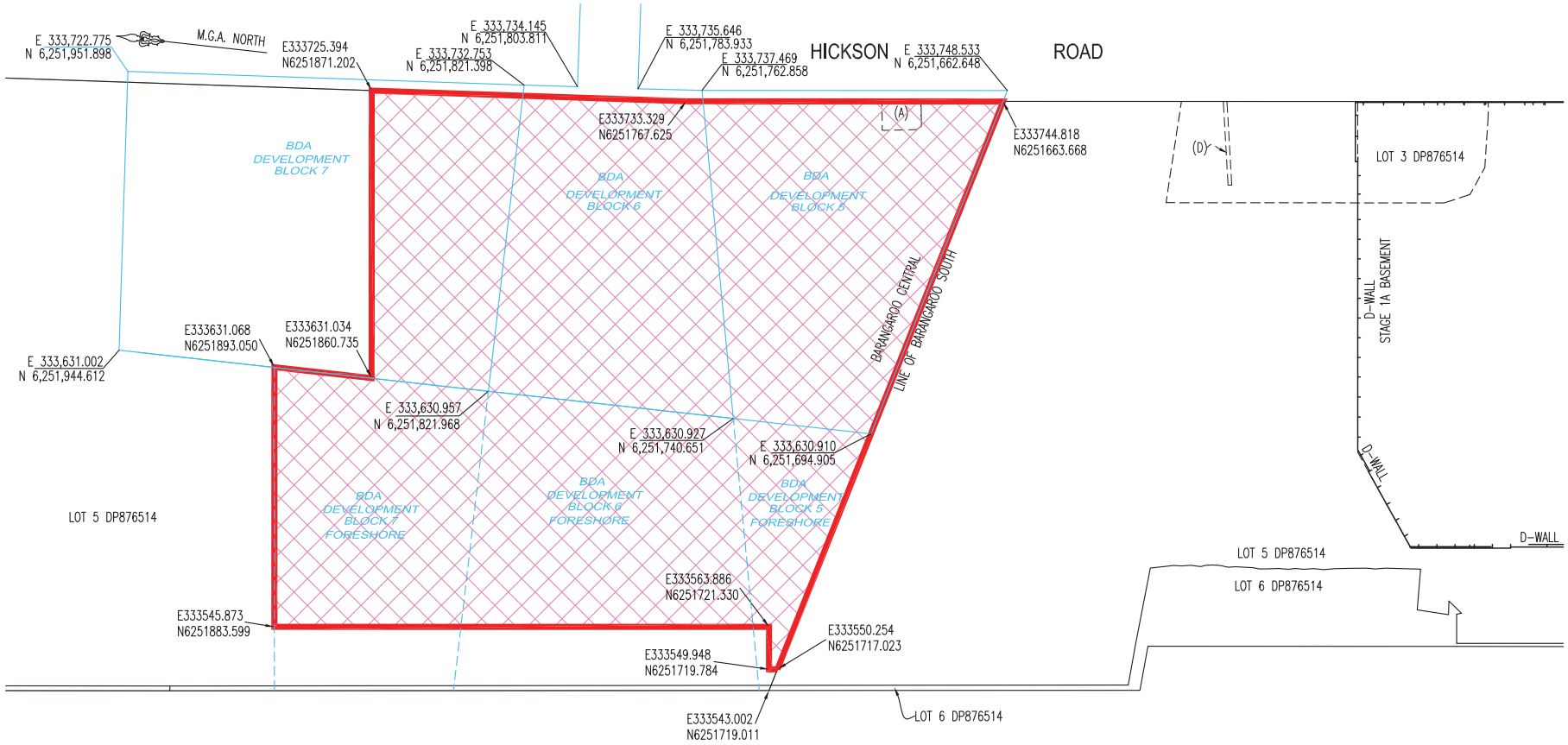
5. Indemnity and insurance

For the purposes of this licence, any reference to "Premises" or "Site" in the clauses of this deed referred to below is deemed to include BDA Development Block 7 to the intent that those clauses are taken to be part of this licence.

(a) clause 35.3;

(b) clause 48.1; and

(c) clause 48.2.



REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5 &
OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0158 REV:J

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

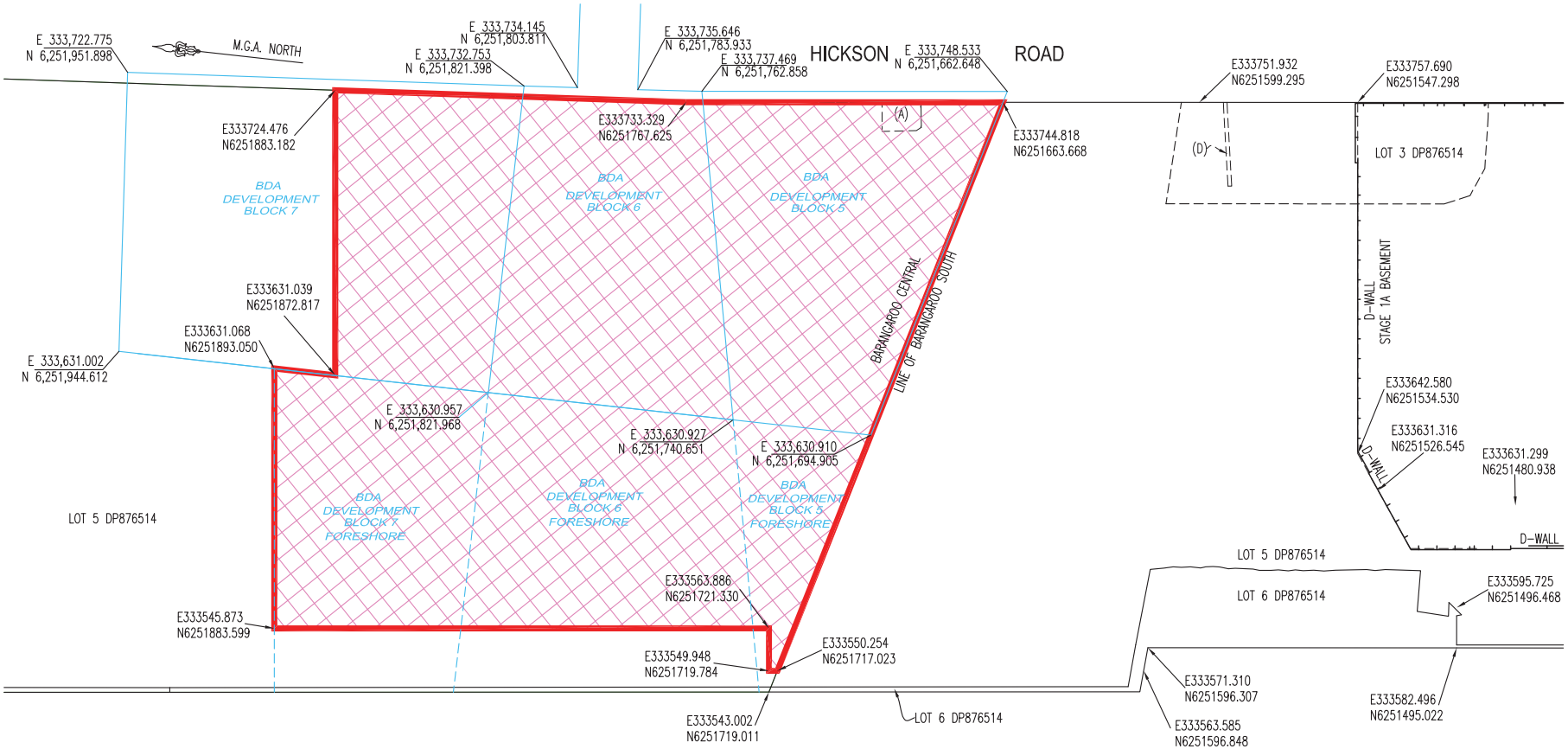
STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
DRAWING No. SLP 0158



REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFFSITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0159 REV:J

DARLING HARBOUR

03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

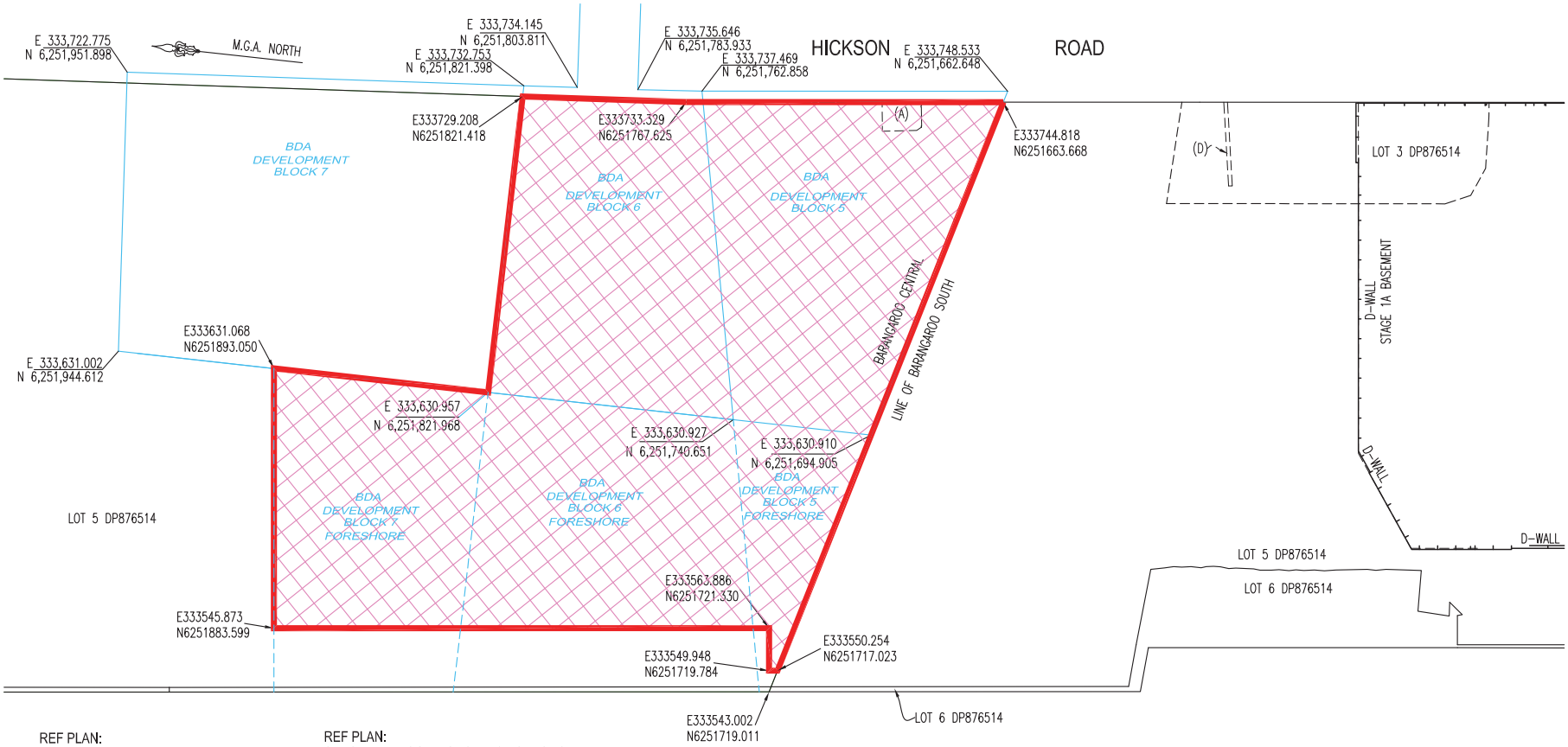
DENOTES STAGING LICENCE

STAGING LICENCE
[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
DRAWING No. CZL 0159



REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0160 REV:J

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0161 REV:J

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE [redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
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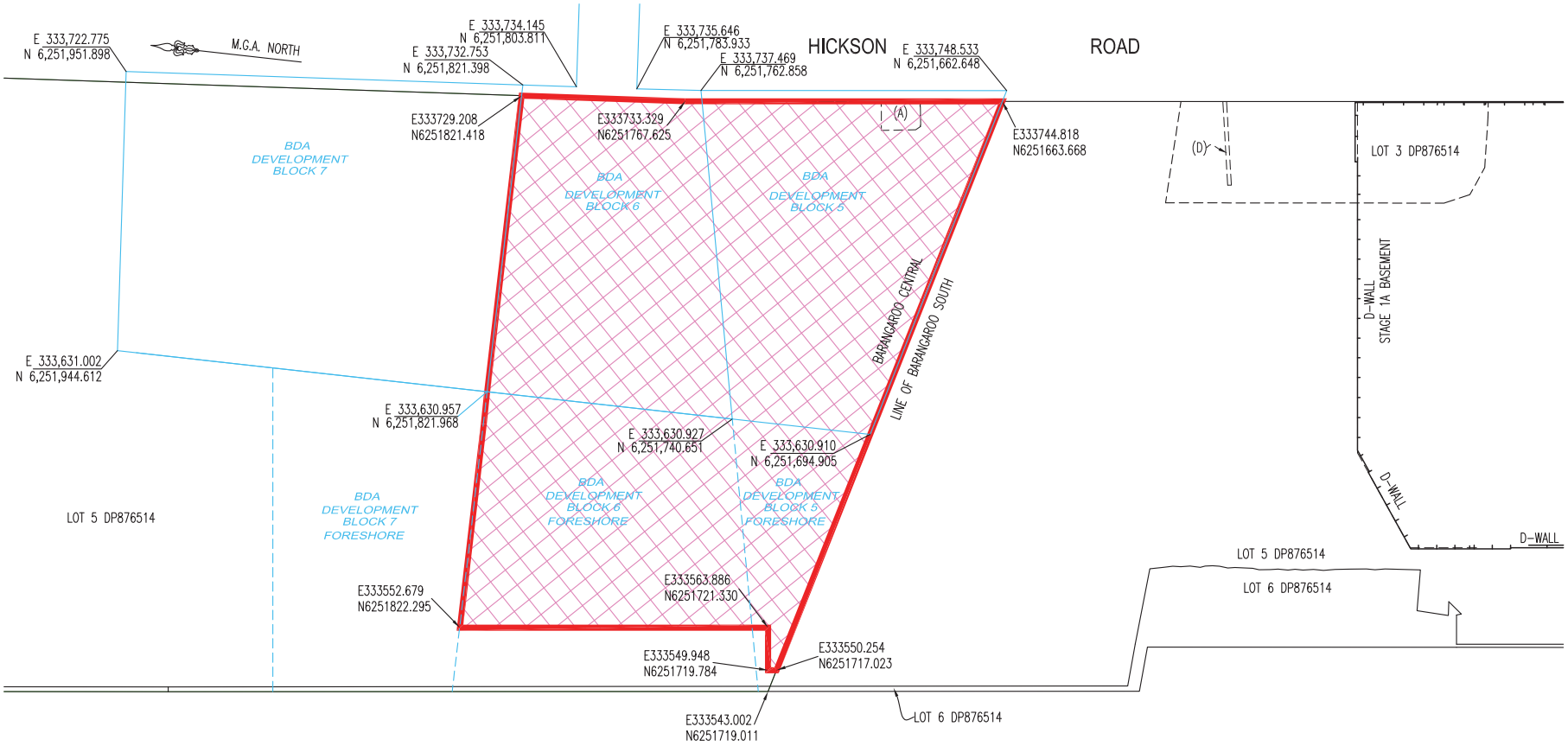

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0162 REV:J

REF PLAN:
STAGE1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0163 REV:J

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0164 REV:J

03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
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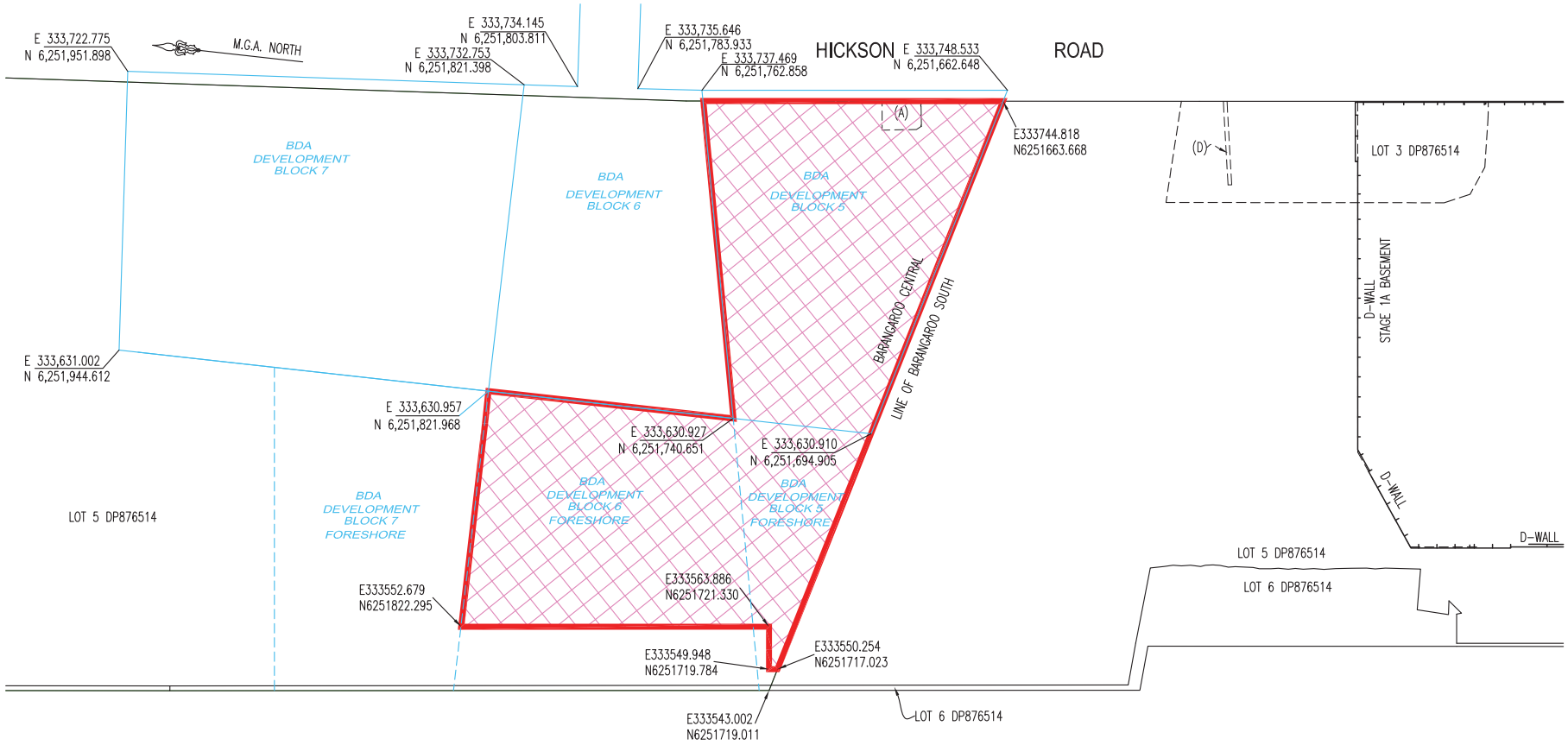

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0165 REV:J

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE
[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
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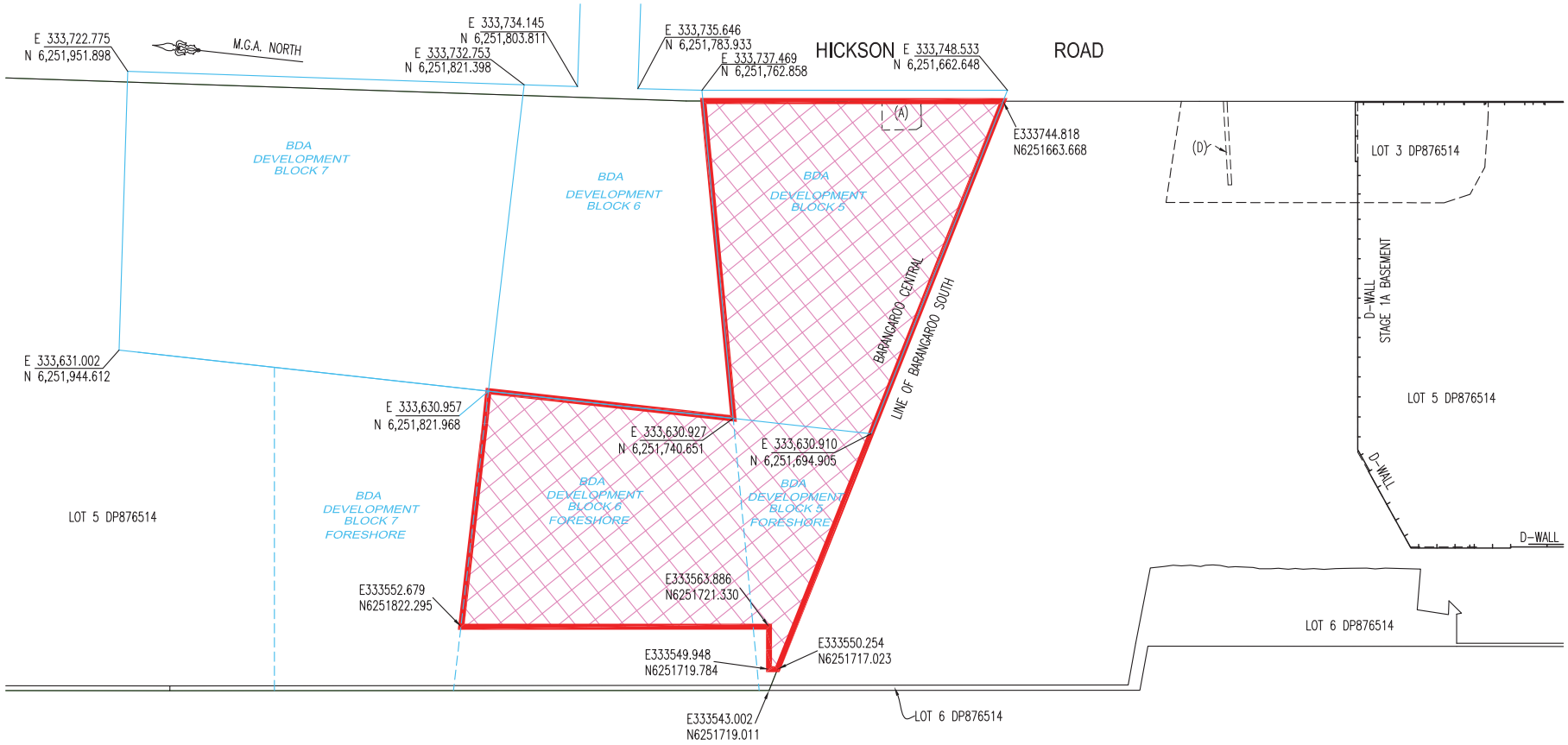

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0180 REV:M

03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE
[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
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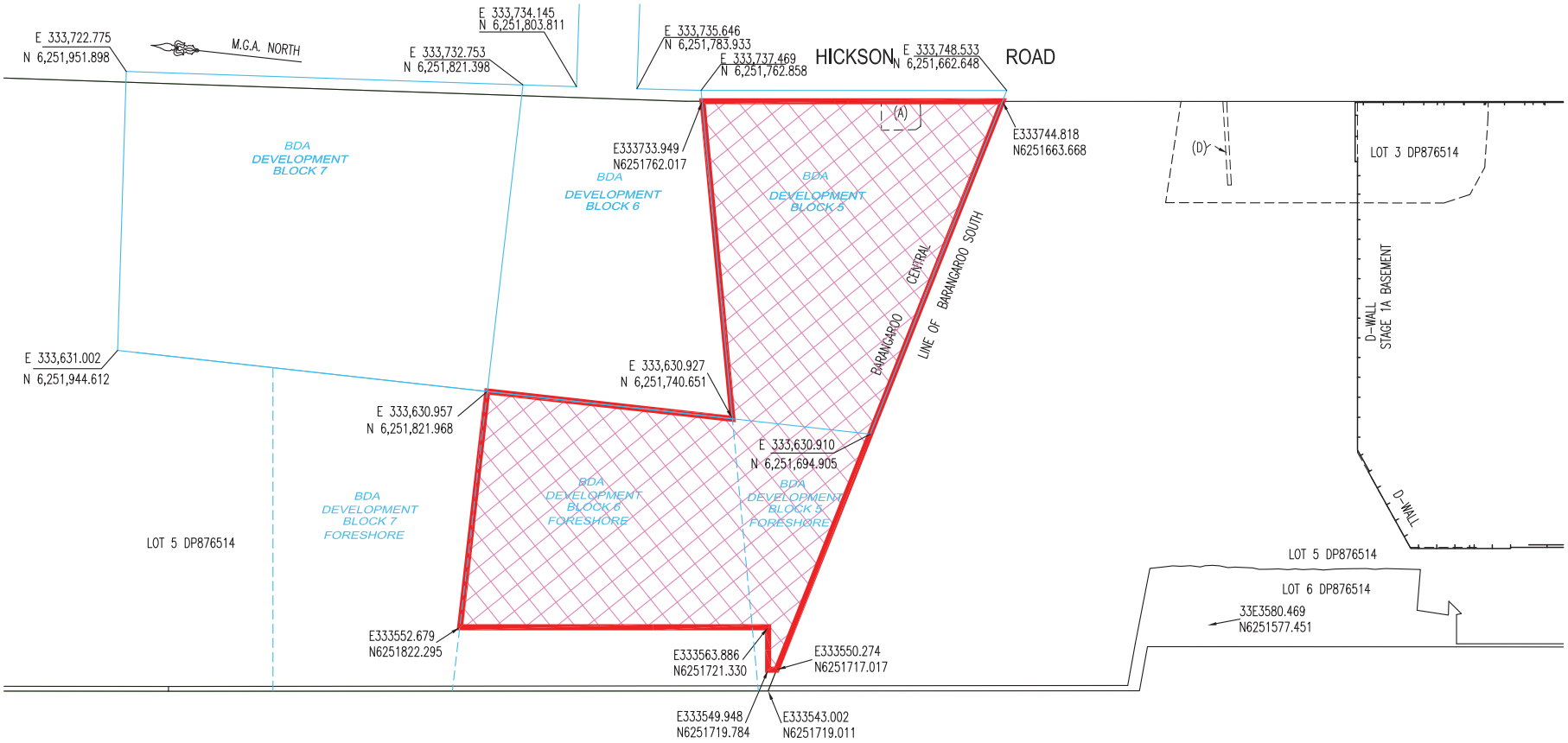

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0227 REV: E

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0228 REV: E

03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
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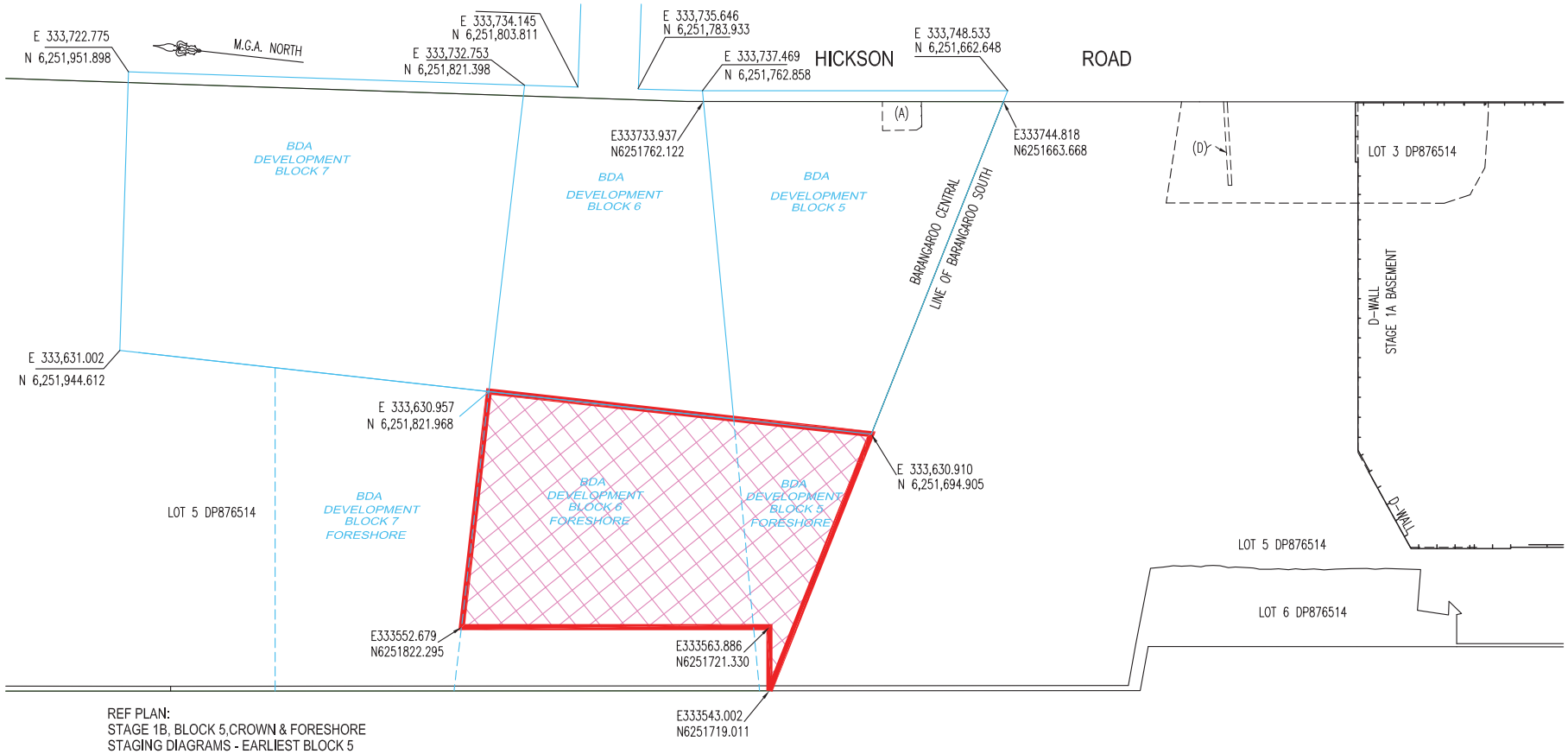

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
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REF: BB2_ASK_CO_0229 REV: E

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE
[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
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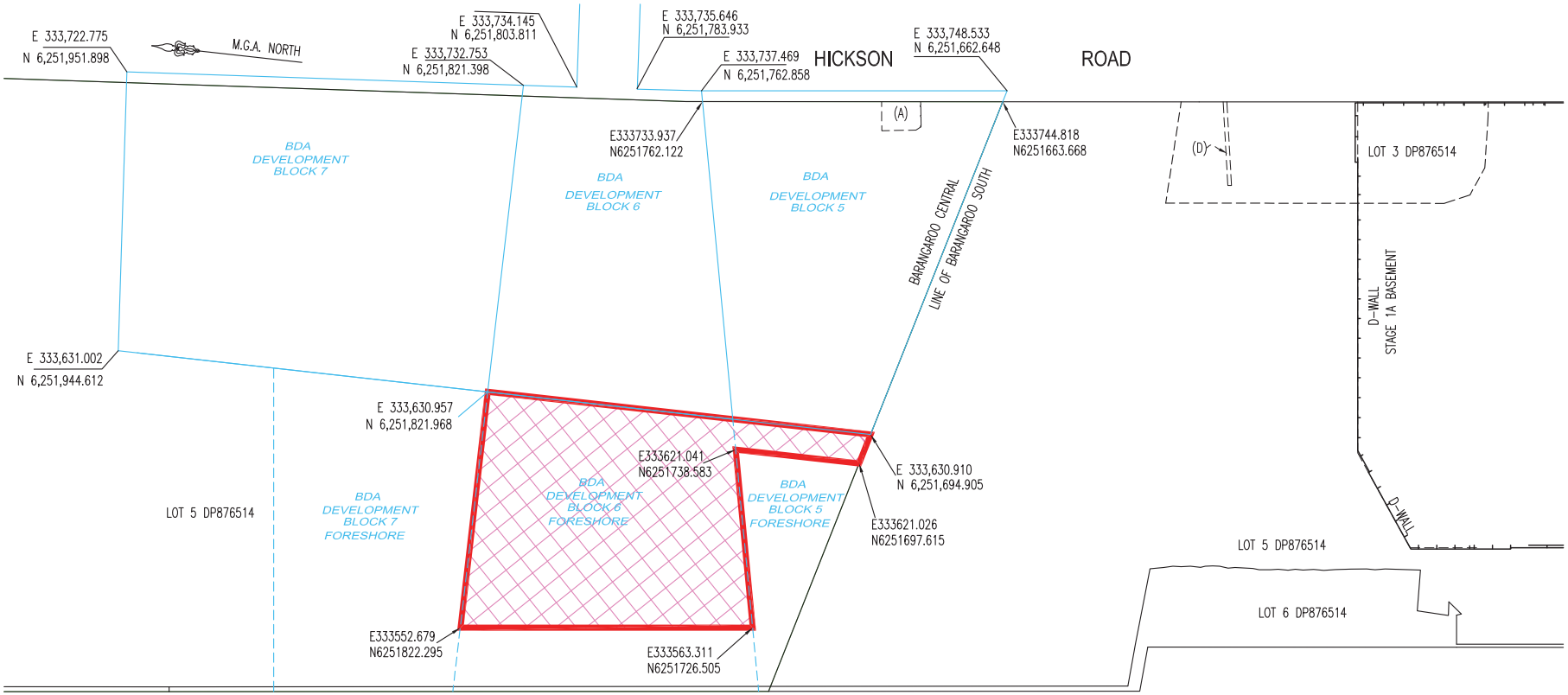


REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0229 REV: E

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE
[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
DRAWING No. SLP 0230

Schedule 2F – Staging Licence terms for BDA Development Block 7 Foreshore (clause 13.1(aa))

The terms and conditions of the Staging Licence for BDA Development Block 7 Foreshore granted pursuant to clause 13.1(aa) are set out in this Schedule 2F.

Paragraph references in italics are paragraphs in this Schedule 2F

1. Grant of non-exclusive licence

The Authority grants to the Developer a non-exclusive licence to access and use that part of BDA Development Block 7 Foreshore shown on the Staging Plans attached to this licence:

(a) for Construction Staging applicable to BDA Development Block 7 Foreshore in accordance with the Developer's rights and obligations under this deed; and

(b) for any other use which the Authority approves in its reasonable discretion,

for the licence term in *paragraph 2*, subject to the conditions contained in this Schedule 2F.

2. Licence term

(a) The Staging Licence:

(i) commences on the Hotel Approval Date or such later date as provided in the Staging Plans; and

(ii) expires on the "End Date" (as determined pursuant to *paragraph 2(b)*).

(b) For the purposes of this Schedule 2F, the "**End Date**" is determined as follows:

(i) if on or prior to the Date for Vacation of the BDA Development Block 7 Foreshore all Significant Contamination has been Remediated on the Declaration Area, then the End Date is the Date for Vacation of the BDA Development Block 7 Foreshore;

(ii) if at any time on or after the Date for Vacation of the BDA Development Block 7 Foreshore all Significant Contamination has not been Remediated on the Declaration Area and:

A. the Declaration then in force either:

1) applies, separately to the Block 4 Declaration Area (that is the Declaration is separate and can be lifted in relation to the Block 4 Declaration Area without the need for completion of the VMP Remediation Works or the VMP Investigation Works required to be done to any other area contemplated by the Declaration); or

2) can be independently lifted in so far as it relates to the Block 4 Declaration Area while continuing to apply to any other area contemplated by the Declaration,

and;

B. the Authority gives a notice terminating the Staging Licence in accordance with clause 13.1(d),

then the End Date is the date which is 10 Business Days after the date on which Authority gives a notice terminating the Staging Licence in accordance with clause 13.1(d) (or such later date as notified by the Authority in its absolute discretion); or

(iii) if at any time on or after the Date for Vacation of the BDA Development Block 7 Foreshore:

A. all Significant Contamination has not been Remediated on the Declaration Area; and

B. the Authority has not terminated the Staging Licence in accordance with clause 13.1(d),

then the End Date is the date on which all Significant Contamination has been Remediated on the Declaration Area.

(c) If the Authority has terminated the Staging Licence in accordance with clause 13.1(d) and the End Date arises pursuant to *paragraph 2(b)(ii)*, the Authority will retake possession, step in and carry out and complete any remaining incomplete VMP Remediation Works and VMP Investigation Works required to be carried out to BDA Development Block 7 Foreshore and have the Relevant Contracts in relation to those Works novated to it. Without prejudice to the Authority's right to claim damages against the Developer under this deed, the Authority agrees that it will use reasonable endeavours to carry out and complete any such incomplete VMP Remediation Works and VMP Investigation Works within a reasonable time (at its cost).

3. Use of BDA Development Block 7 Foreshore

(a) The Developer may use BDA Development Block 7 Foreshore for any construction related purpose in connection with the development of Barangaroo South including:

(i) Stage 1B; and

(ii) by sub-licence to Crown, the Hotel Resort.

(b) It will not do anything in or about the BDA Development Block 7 Foreshore which may constitute a breach of the Developer's obligations under a Code.

(c) The BDA Development Block 7 Foreshore is a "Developer Secured Area" for the purposes of this deed.

4. Developer obligations

4.1 No proprietary interest

The Developer:

(a) does not have exclusive possession or occupation of BDA Development Block 7 Foreshore;

(b) is not a tenant of the Authority;

(c) has no caveatable interest in BDA Development Block 7 Foreshore and must not lodge a caveat against the title to any land forming part of BDA Development Block 7 Foreshore;

(d) has no right to hold over beyond the End Date; and

(e) will be a trespasser on BDA Development Block 7 Foreshore, if after the End Date, the Developer continues to access and use the Staging Area without the express written consent of the Authority.

4.2 Care of BDA Development Block 7 Foreshore

From the commencement date of the Staging Licence, the Developer:

(a) must not do anything to interfere with the access of the Authority or the Authority's Employees to the Staging Area; and

(b) must not make any structural additions to the BDA Development Block 7 Foreshore other than in accordance with this deed (or with the prior written consent of the Authority which may be given in its sole and unfettered discretion).

4.3 Vacation of BDA Development Block 7 Foreshore

On or before the End Date, the Developer must:

(a) restore BDA Development Block 7 Foreshore and any Services affected by any Works to the condition (and, in the case of Services, the location) they were in prior to commencement of those Works (subject to any permanent relocation or other permanent works agreed between the Developer and the Authority acting reasonably);

(b) vacate BDA Development Block 7 Foreshore;

(c) leave BDA Development Block 7 Foreshore in a safe and secure condition;

(d) with respect to Block 5, if requested by the Authority, give the Authority a structural engineer's certificate certifying that the backfilling of Block 5 contemplated as part of the VMP Remediation Works have been undertaken in accordance with the approved specifications;

(e) remove from BDA Development Block 7 Foreshore any equipment, materials, goods and other items; and

(f) leave BDA Development Block 7 Foreshore clean and tidy and free from rubbish.

4.4 Failure to vacate

If the Developer does not comply with its obligations under *paragraph 4.3* on time, the Authority may:

(a) re-enter and take possession of BDA Development Block 7 Foreshore, using reasonable force to secure possession;

(b) give the Developer notice to quit and vacate BDA Development Block 7 Foreshore at any time;

(c) institute proceedings for possession of BDA Development Block 7 Foreshore against the Developer; or

(d) take action under *paragraphs 4.4(a)* and *(b)* or *paragraphs 4.4(b)* and *(c)*.

4.5 Failure to comply

In addition to the Authority's rights under *paragraph 4.4*, if the Developer does not comply with its obligations under *paragraph 4.3* on time:

(a) the Authority may comply with these obligations (if necessary, in the Developer's name) at the Developer's risk and expense;

(b) the Authority may store any of the Developer's equipment, materials, goods and other items removed from BDA Development Block 7 Foreshore at the Developer's risk and expense;

(c) if the Developer does not remove any of the Developer's equipment, materials, goods and other items from BDA Development Block 7 Foreshore or from the place where it is stored by the Authority within 30 days of being asked to do so by the Authority, such items becomes the property of the Authority if the Authority so elects; and

(d) the Developer must pay the Authority on demand as liquidated damages (in addition to any other liquidated damages) a sum equal to the cost to the Authority of complying with *paragraph 4.3* and anything the Authority does under this *paragraph 4.5*.

4.6 Transfer and other dealings

The Developer must not transfer, assign, sub-licence or grant an encumbrance over or otherwise deal with the land the subject of BDA Development Block 7 Foreshore or with its licences to use BDA Development Block 7 Foreshore, other than as set out in the Crown Development Agreement.

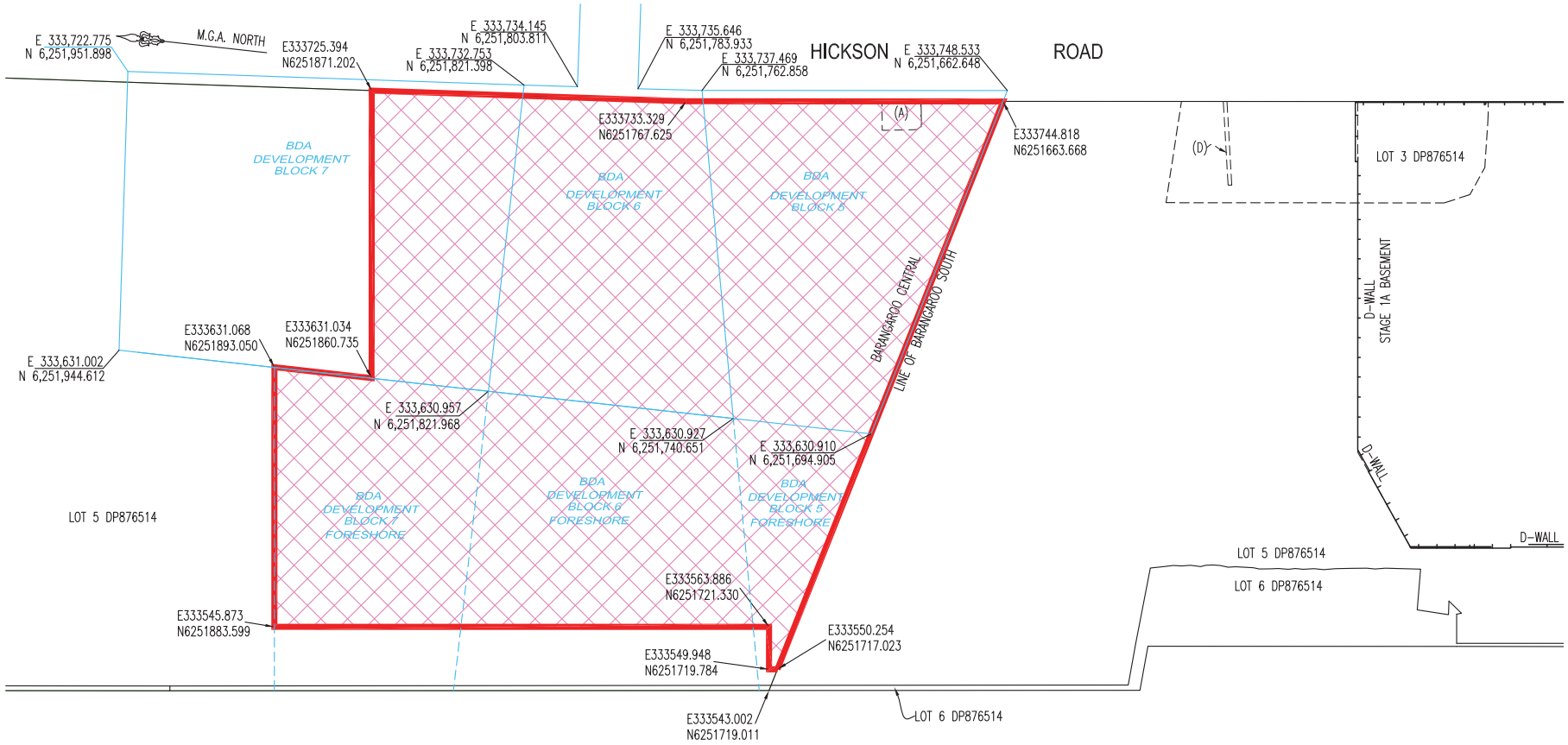
5. Indemnity and insurance

For the purposes of this licence, any reference to "Premises" or "Site" in the clauses of this deed referred to below is deemed to include BDA Development Block 7 Foreshore to the intent that those clauses are taken to be part of this licence.

(a) clause 35.3;

(b) clause 48.1; and

(c) clause 48.2.



REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5 &
OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0158 REV:J

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

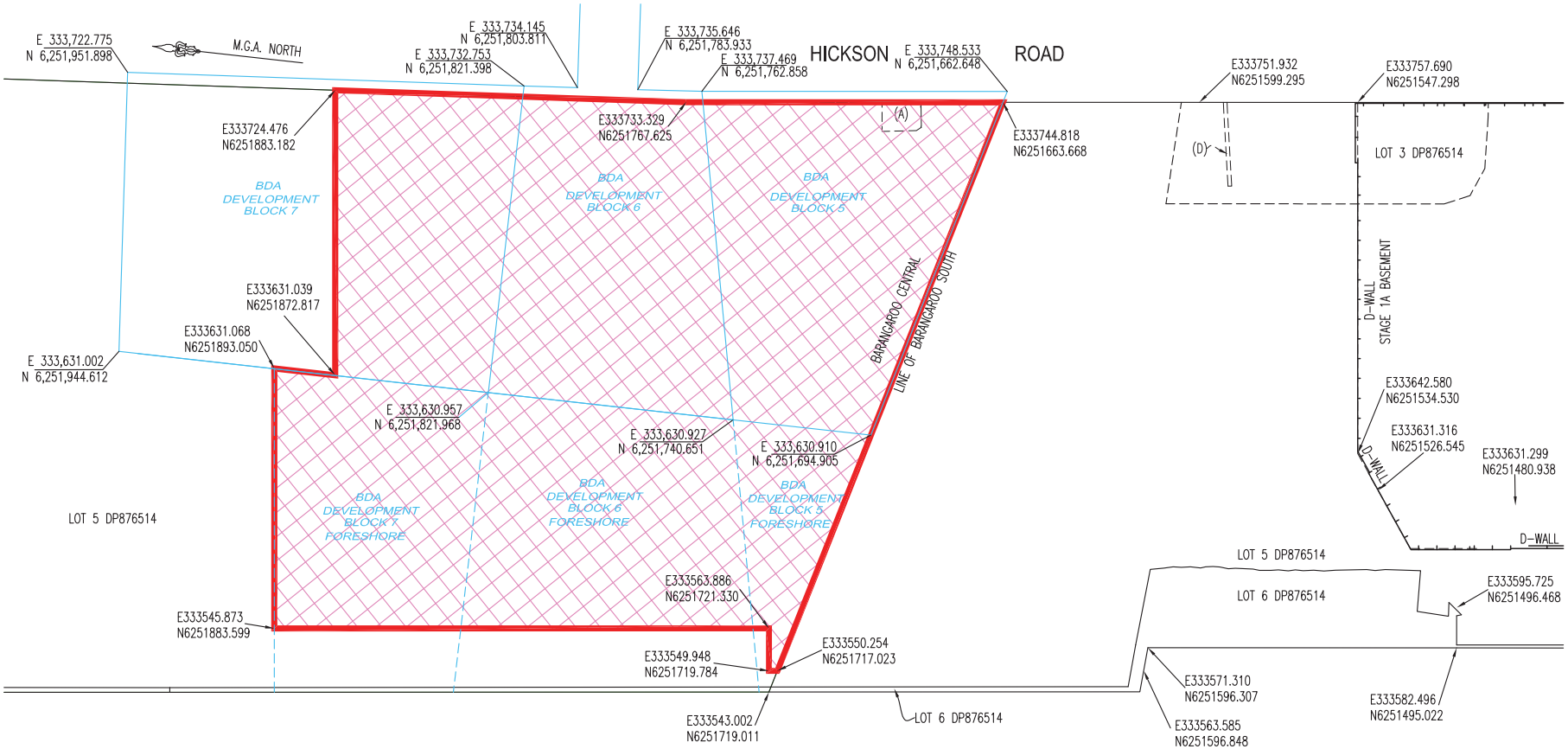
STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
DRAWING No. SLP 0158



REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFFSITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0159 REV:J

DARLING HARBOUR

03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE
[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
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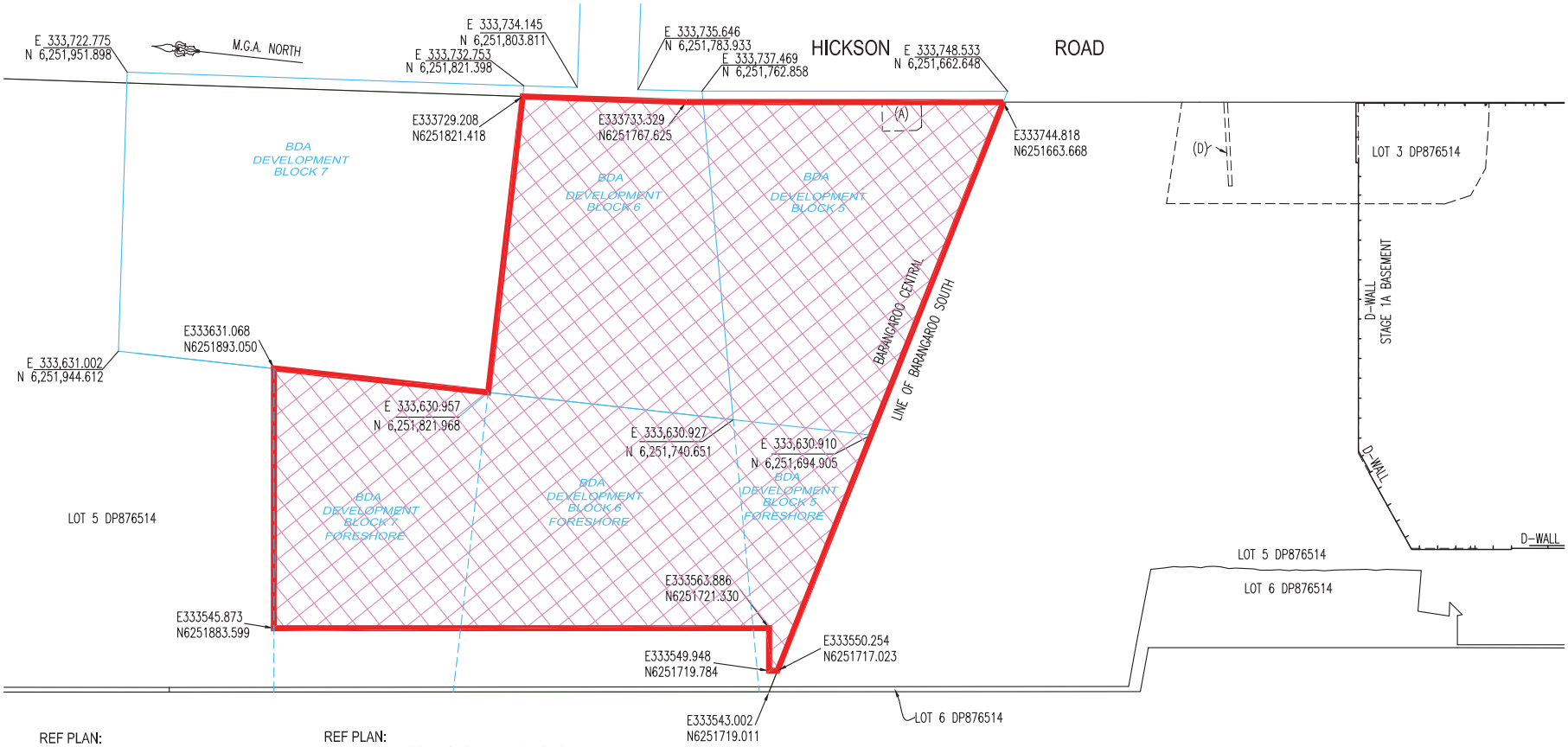


REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0160 REV:J

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0161 REV:J

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

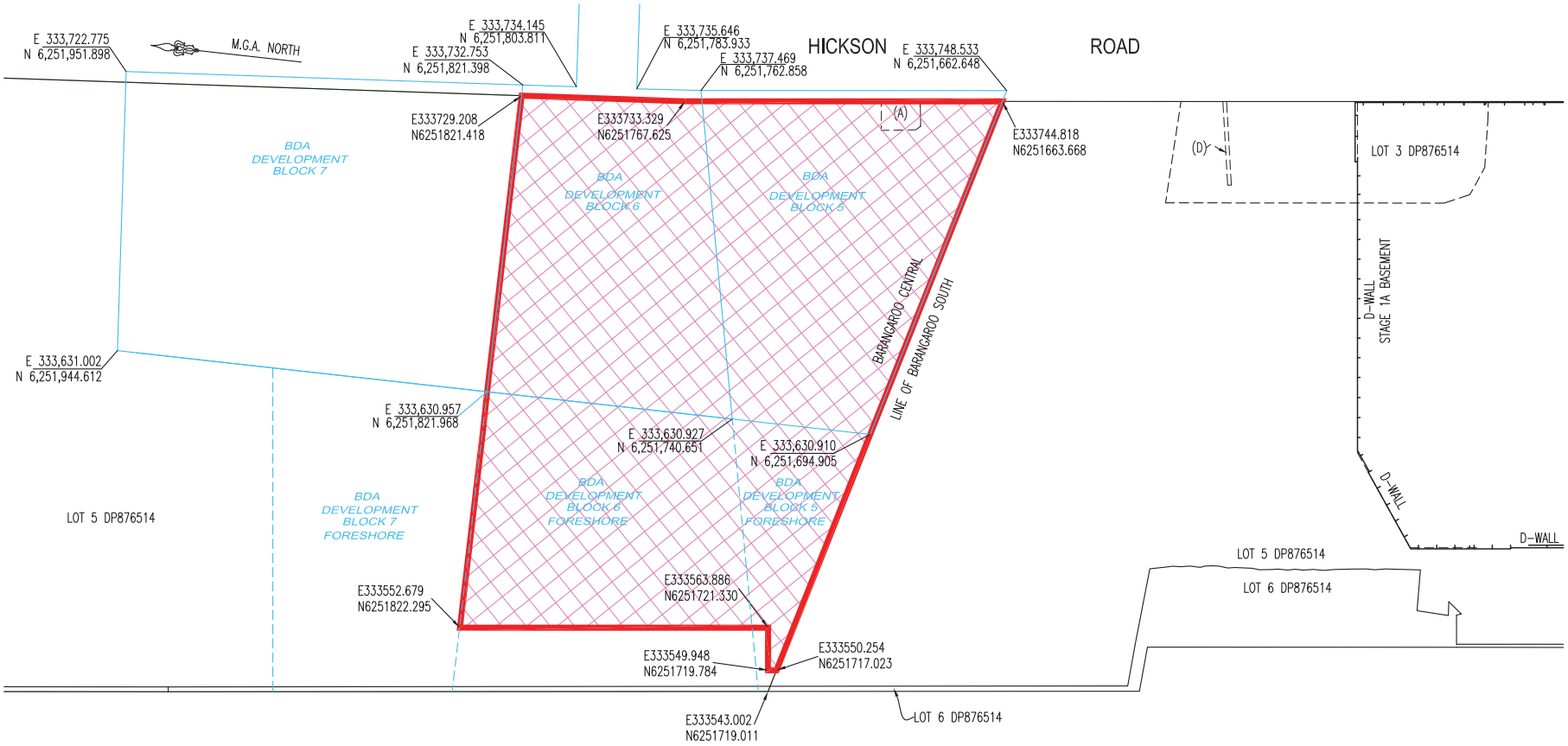
DENOTES STAGING LICENCE

STAGING LICENCE [redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
DRAWING No. CZL 0160-0161



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STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0162 REV:J

REF PLAN:
STAGE1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0163 REV:J

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0164 REV:J

03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE [redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
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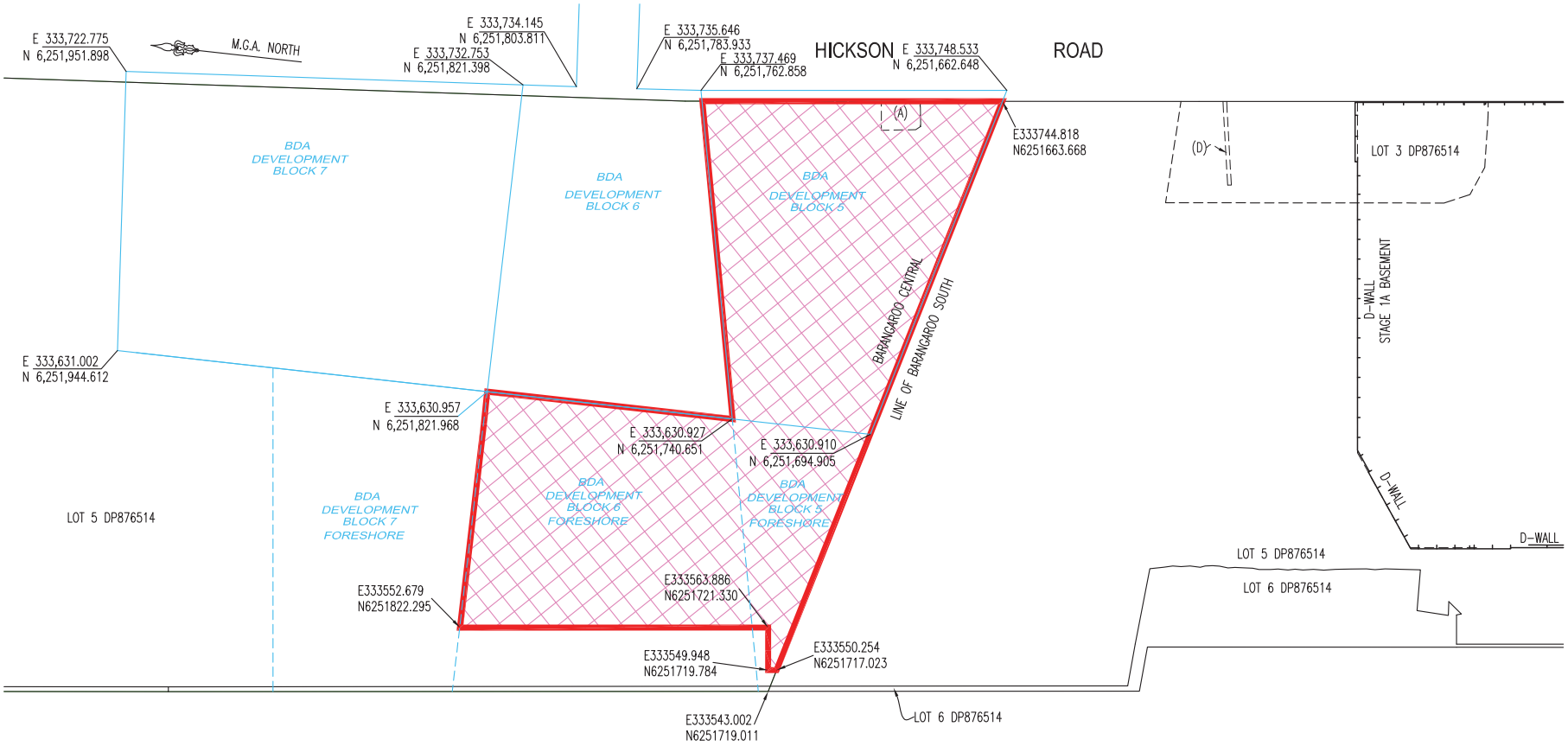

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STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
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REF: BB2_ASK_CO_0165 REV:J

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
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(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE [redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

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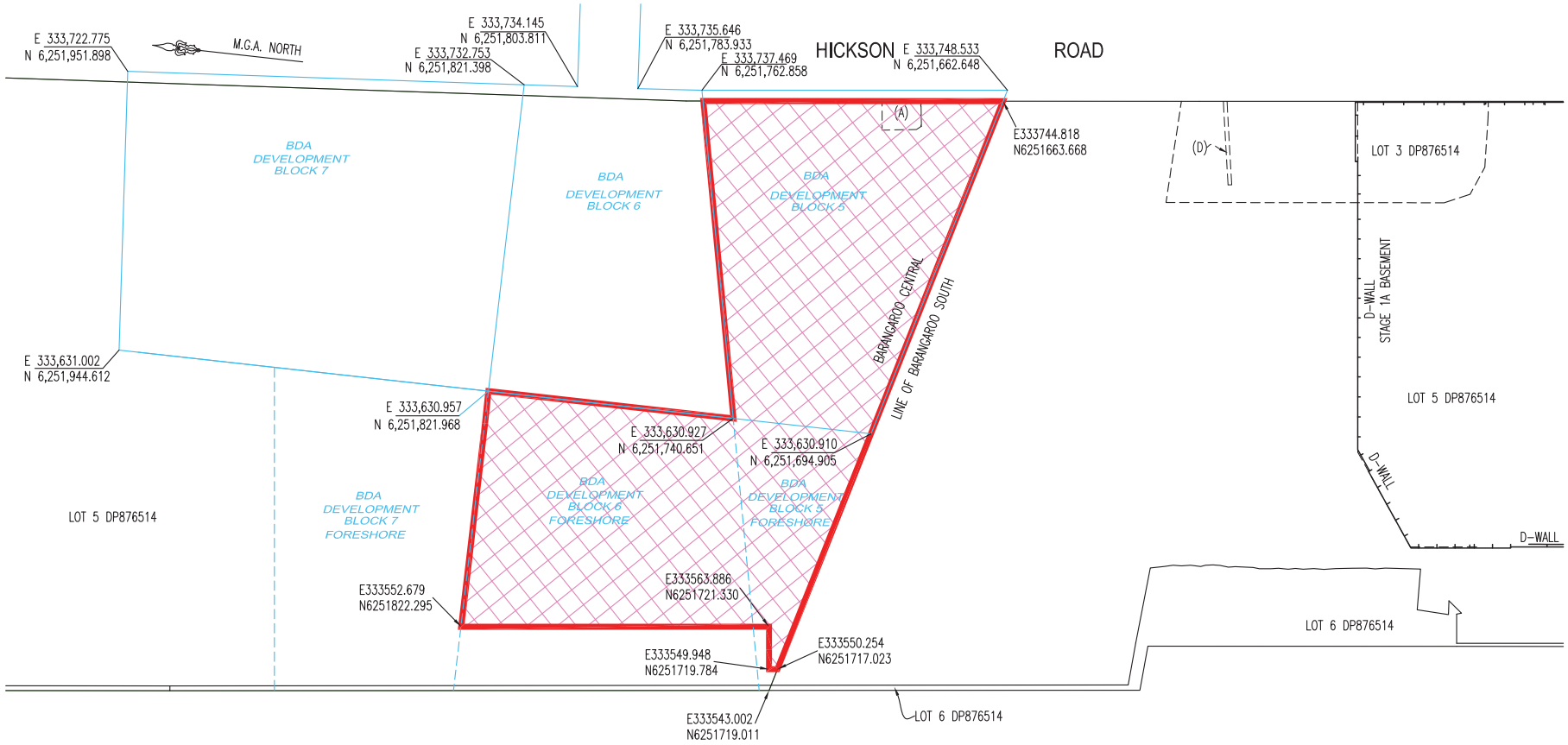

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STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
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REF: BB2_ASK_CO_0180 REV:M

03	REVISED ISSUE	3/3/15
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01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE
[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
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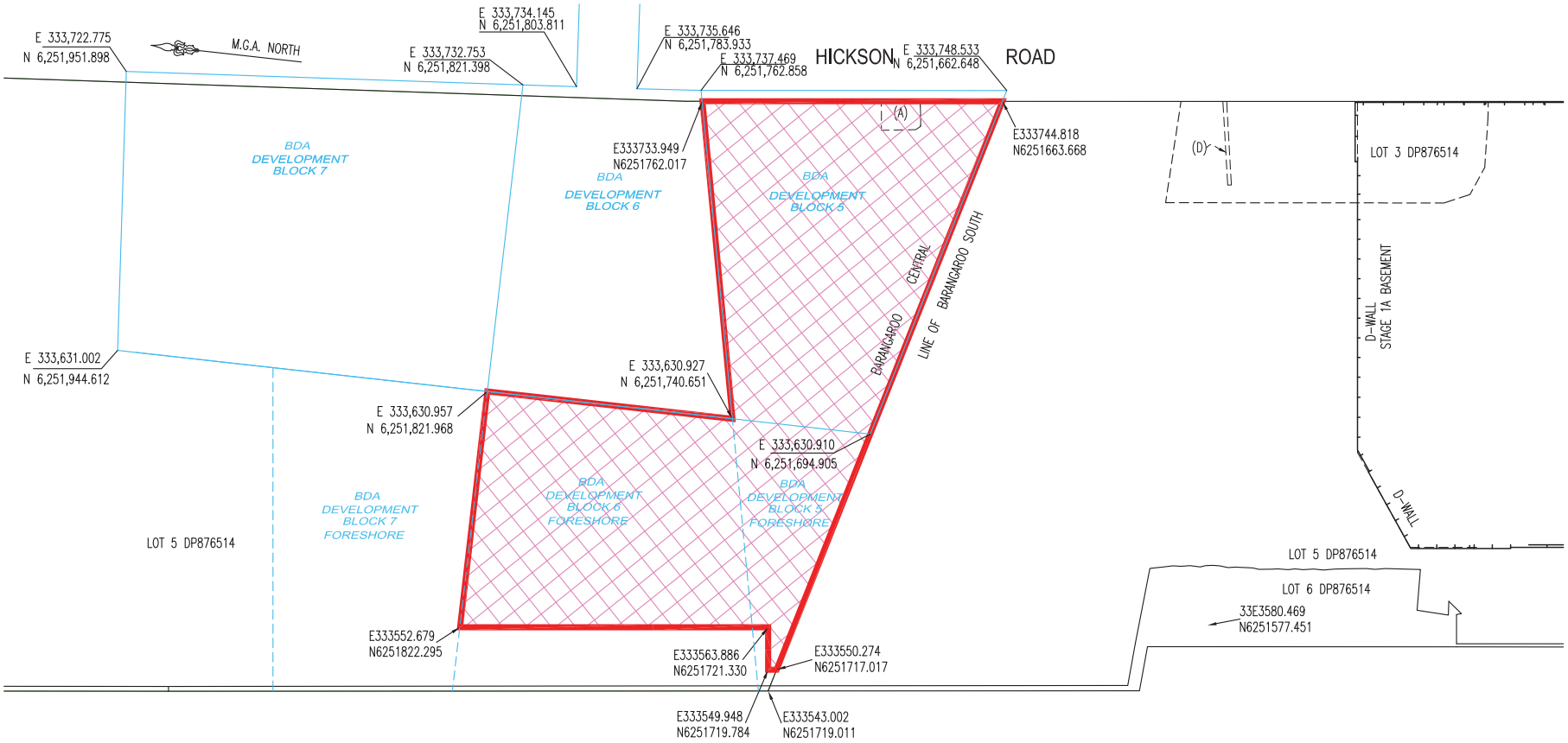

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REF: BB2_ASK_CO_0227 REV: E

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]

REF: BB2_ASK_CO_0228 REV: E

03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15
REV.	REVISION DESCRIPTION	DATE

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE [redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

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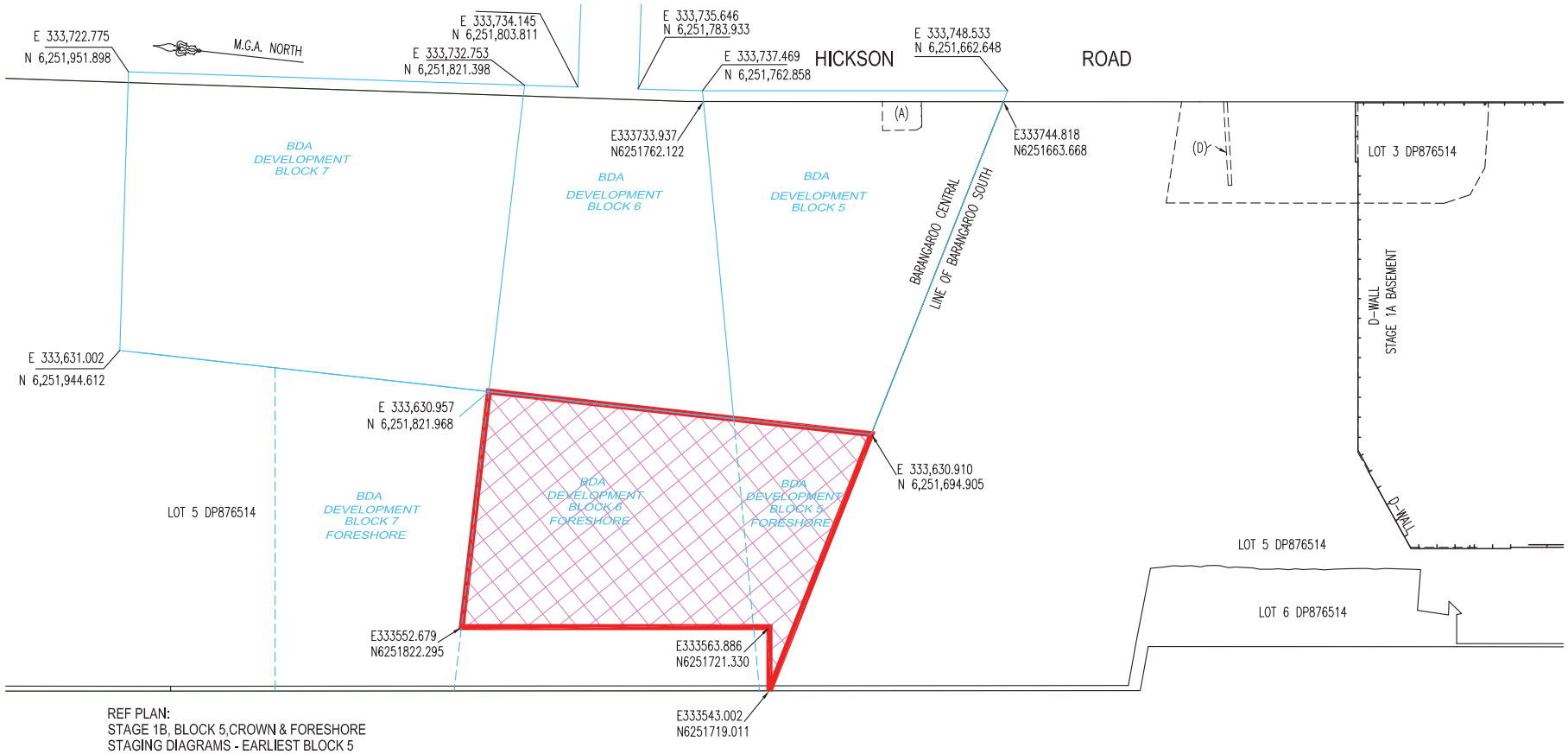

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STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
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REF: BB2_ASK_CO_0229 REV: E

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
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(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
(D) EASEMENT FOR DRAINAGE 1.22 WIDE (J23252 & DP106510)

DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
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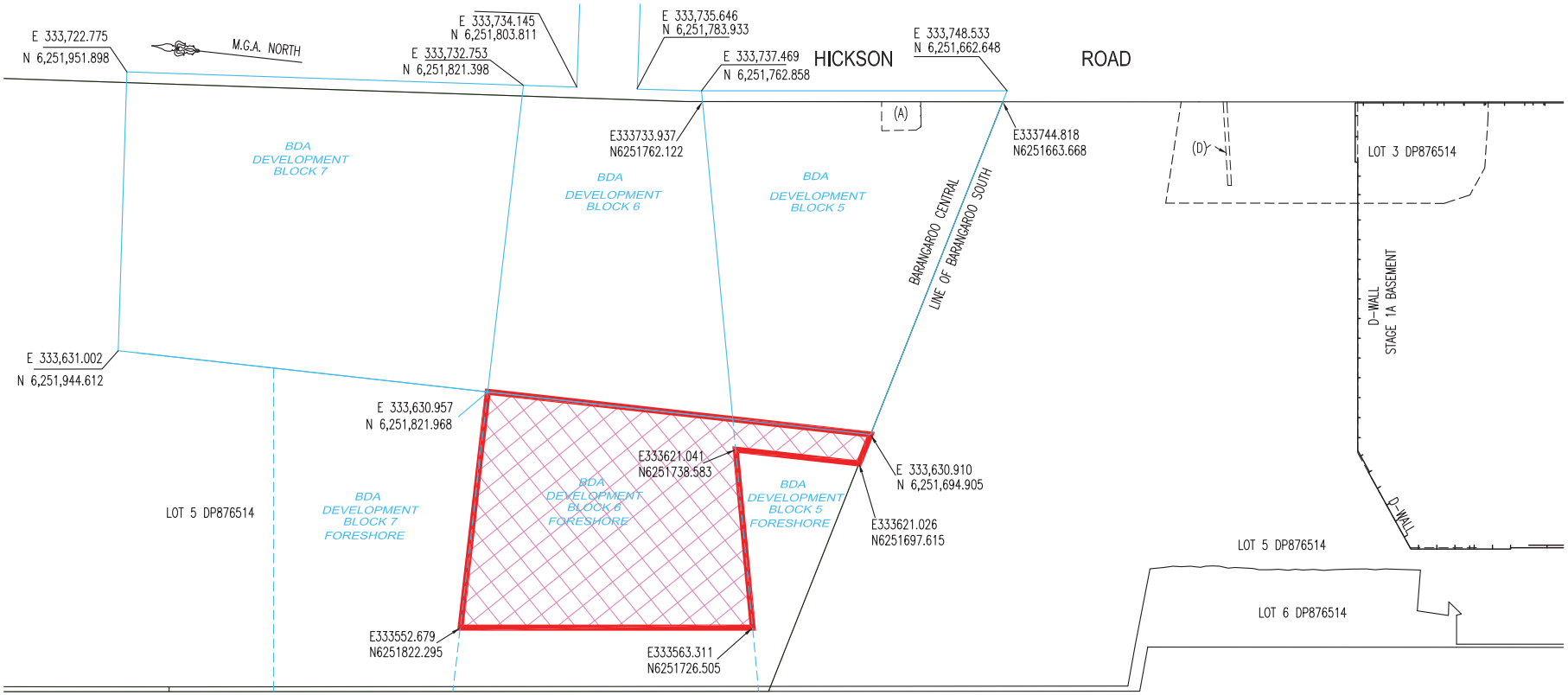

REF PLAN:
STAGE 1B, BLOCK 5,CROWN & FORESHORE
STAGING DIAGRAMS - EARLIEST BLOCK 5
& OFF-SITE TREATMENT OPTION
CROWN DA DETERMINATION ON [redacted]
[redacted]

REF: BB2_ASK_CO_0229 REV: E

REV.	REVISION DESCRIPTION	DATE
03	REVISED ISSUE	3/3/15
02	REVISED ISSUE	27/2/15
01	INITIAL ISSUE	13/1/15

(A) EASEMENT FOR SEWERAGE PUMPING STATION (DP1080540)
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DENOTES STAGING LICENCE

STAGING LICENCE

[redacted]

LEND LEASE (Millers Point) PTY. LTD.

LOCALITY: BARANGAROO

SCALE: 1:1250 | DATE: 3/3/2015
SHEET SIZE: A3 | REVISION: 03
DRAWING No. SLP 0230

Schedule 3 – Climate Positive Benchmarks

The Climate Positive Benchmarks and the relevant Climate Positive Relevant Date by which the Developer must meet or exceed each of the Climate Positive Benchmarks pursuant to clause 9.1 are set out in this Schedule 3.

Paragraph references in italics are paragraphs in this Schedule 3

1. Climate Positive Benchmarks

1.1 Water

In the case of water: relevant infrastructure is delivered, commissioned and certified as being fully operational by an independent expert reasonably acceptable to the Authority which:

(a) by the *first* Climate Positive Relevant Date, is capable of capturing, treating, storing, delivering and exporting an amount of recycled water which is not less than the amount of potable water which is used or is reasonably capable of being used in Premises having an aggregate GFA of not less than 40,000m^2;

(b) by the *second* Climate Positive Relevant Date, is capable of capturing, treating, storing, delivering and exporting an amount of recycled water which is not less than the amount of potable water which is used or is reasonably capable of being used in Premises having an aggregate GFA of not less than 240,000m^2;

(c) by the *third* Climate Positive Relevant Date for that Works Portion which has a GFA, when added to the GFA of all other Works Portions whose Climate Positive Relevant Date has previously occurred, of 430,275m^2, is capable of:

(i) capturing, treating, storing, delivering and exporting an amount of recycled water which is not less than the amount of potable water which is used or is reasonably capable of being used in Premises having an aggregate GFA of the Developable GFA, and GFA of 60,000m^2 to be located on Central Barangaroo; and

(ii) delivering recycled water to Central Barangaroo which is not less than the amount of potable water which is used or is reasonably capable of being used in built form (excluding any located in the Headland Park) having an aggregate GFA of not less than 60,000m^2.

1.2 Waste

In the case of waste:

(a) by the *first* Climate Positive Relevant Date, a waste processing and disposal agreement (on terms reasonably acceptable to the Authority) has been entered into by the Developer with an Approved Operator, under which the Approved Operator agrees to process and dispose of waste in accordance with the Climate Positive Waste Principles from that part of Stage 1 which is developed from time to time; and

(b) at each of the *second* and *third* Climate Positive Relevant Dates (respectively), either the waste processing and disposal agreement contemplated by *paragraph 1.3(a)* above continues to be binding on the relevant parties (and is being complied with and has an unexpired term of not less than 3 years) or otherwise a new waste processing and disposal agreement (on terms reasonably acceptable to the

Authority) has been entered into by the Developer with an Approved Operator, under which the Approved Operator agrees to process and dispose of waste in accordance with the Climate Positive Waste Principles from that part of Stage 1 which is developed from time to time or where paragraph (c) of the definition of 'Approved Operator' in clause 1.1 applies, in accordance with such principles which most closely satisfy the Climate Positive Waste Principles.

1.3 Carbon

In the case of carbon:

(a) for Work Portions comprising commercial buildings, by achieving a Green Star 6 Star Office As Built Rating and Green Star 6 Star Office Design Rating for that Works Portion;

(b) for Work Portions comprising residential buildings, by achieving a Green Star 5 Star Multi Unit Residential As Built Rating and Green Star 5 Star Multi Unit Residential Design Rating for that Works Portion;

(c) for Work Portions comprising retail buildings, that can be formally rated under the rating system certified by the GBCA, by achieving a Green Star 5 Star Retail As Built Rating and Green Star 5 Star Retail Design Rating for that Works Portion;

(d) for Work Portions comprising Hotel Resort buildings by procuring a NABERS base building energy rating of 5 stars;

(e) by the *third* Climate Positive Relevant Date, by developing the capacity to produce not less than the, the energy consumed by the Public Domain located within the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6) and the black water treatment plant, servicing Stage 1 from renewable energy produced on the Site or any other on site initiatives referred to in Returnable Schedule 5 of the Final Proposal;

(f) subject to clause 9.11, for all Works Portions comprising GFA, by acquiring and voluntarily retiring RECs equivalent to:

(i) by the *first* Climate Positive Relevant Date, greenhouse gas emissions generated in connection with the use (but not the fitting out) of the Works Portions that have been Practically Completed as at the *first* Climate Positive Relevant Date, from the Date of Practical Completion of each Works Portion that has achieved Practical Completion until the *first* Climate Positive Relevant Date;

(ii) by the *second* Climate Positive Relevant Date, greenhouse gas emissions generated in connection with the use (but not the fitting out) of the Works Portions that have been Practically Completed as at the *second* Climate Positive Relevant Date, from the Date of Practical Completion of each Works Portion that has achieved Practical Completion until the *second* Climate Positive Relevant Date; and

(iii) by the *third* Climate Positive Relevant Date, the greenhouse gas emissions generated in connection with the use (but not the fitting out) of Works Portions that have been Practically Completed as at the *third* Climate Positive Relevant Date, for the period from the Date of Practical Completion of each Works Portion that has achieved Practical Completion until the *third* Climate Positive Relevant Date,

after taking into account those RECs that have been purchased and voluntarily retired in satisfaction of the Additional CP Relevant Obligations as provided for in this deed;

(g) by the *second* Climate Positive Relevant Date, enter into discussions with the City of Sydney to undertake a joint feasibility study concerning the provision of a district based energy solution for Barangaroo and the surrounding CBD and contribute not less than $250,000 to the funding of such study;

(h) by the *third* Climate Positive Relevant Date, provided the City of Sydney has decided to proceed with the provision of a district based energy solution for Barangaroo and the surrounding CBD and provided that the Developer and the Authority agree (acting reasonably, having regard to reduced electricity costs for the Tenant and reduced RECs costs) that there is a benefit for the Developer, the Authority and the Tenant:

(i) make sufficient space available in the basement areas of Proposed Buildings C2, C5 or C6 to accommodate a tri-generation plant having a capacity to produce 8 MW; and

(ii) contribute not less than $[redacted] towards the funding of relevant plant and equipment for the tri-gen facility;

(i) by 31 December 2010, enter into discussions with the Council of the City of Sydney in good faith regarding the possibility of district based heating, cooling and/or blackwater solutions for Barangaroo and surrounding CBD;

(j) by 30 June 2011, prepare and provide to the Authority a feasibility study on the viability of offsite renewable energy generation for Barangaroo in accordance with a scope agreed between the Developer and the Authority on the basis that the Developer expend $200,000 (or such lesser amount agreed by the Authority) including internal and external costs based on usual and reasonable rates (plus any additional contribution from the Authority towards that feasibility study that the Developer and the Authority agree); and

(k) the parties acknowledge and agree that, as at the date of the Fifth Deed of Amendment, the obligations in paragraphs (g), (h), (i) and (j) have been discharged and satisfied in full.

2. Climate Positive Relevant Dates

The Climate Positive Relevant dates are the following:

(a) *first Climate Positive Relevant Date*: 18 months after the Date of Practical Completion of the first Works Portion comprising a Building;

(b) *second Climate Positive Relevant Date*: the Milestone Date relevant to Practical Completion of Works Portions having a cumulative GFA of not less than 240,000m^2;

(c) *third Climate Positive Relevant Date*: The Milestone Date relevant to Practical Completion of Works Portions having a cumulative GFA of not less than 430,275m^2;

(d) in the case of carbon (paragraphs *1.3(a), (b) and (c)*):

(i) in relation to Green Star Design Ratings – prior to the Date of Practical Completion of each Works Portion; and

(ii) in relation to Green Star As Built Ratings – no later than 18 months after the Date of Practical Completion of each Works Portion,

(e) in the case of *paragraph 1.3(d)*, 18 months after the date of the opening of the Hotel Resort to the public;

(f) in the case of *paragraph 1.3(i),* 31 December 2010; and

(g) in the case of paragraph 1.3(j), 30 June 2011.

Schedule 4 – Environmental Initiatives

1.1 Carbon / Energy

(a) Offsite renewable energy generation linked to site by real time monitoring and education initiatives;

(b) Behavioural demand reduction supported by education of occupants

(c) Work with the City of Sydney to investigate a district heating and cooling system

(d) Implement an extensive energy metering and sub metering to support energy monitoring

(e) Identification of suitable offsite renewable energy projects to supply RECs for the precinct

(f) Undertake a feasibility study of the Barangaroo residential solar initiative for 2300 homes in Sydney

(g) Undertake a feasibility study of the Barangaroo 23 MW solar farm initiative located in rural NSW

1.2 Water

(a) Showcase the central plant and sustainability strategies to provide an educational element for visitors

(b) Divert external stormwater passing through Stage 1 to flow north along Hickson Rd for future use in Central Barangaroo and parkland

(c) On site stormwater treatment will exceed National Best Practice standards of 80% reduction in suspended solids and 45% reduction in nitrogen and phosphorous

(d) Rainwater will be harvested from building roofs, when not used for 'green roofs'.

1.3 Waste

(a) Promote sustainable consumption and waste minimisation through education initiatives across the precinct

(b) Establish at-source segregation through precinct waste management practices

1.4 ICT Infrastructure

Facilitate precinct communication using;

(a) Fibre optic and public wi-fi networks

(b) Community web site

(c) Variable messaging systems

(d) Digital information boards and kiosks

1.5 Materials

(a) Develop an engagement strategy for key stakeholders to support material selection initiatives and focussed on:

(i) the preservation of natural resources

(ii) the protection of human health and ecosystems

(iii) supporting local industry and innovative approaches

(b) Communicate our approach and outcomes to the broader industry to inspire change.

(c) Conduct a lifecycle analysis of the top 20 materials used on the site

1.6 Landscape and Bio Diversity

Develop the Stage 1 parkland and public domain to promote a healthy, bio diverse community

1.7 Delivery

(a) Encourage workforce green skills development through implementation of:

(i) A Green Skills Exchange;

(ii) 20% of skilled trade work on site by apprentices;

(iii) All LLB project staff undertaking a sustainability core skills program (or equivalent sustainability training).

(b) Commence a community engagement strategy during the delivery phase through:

(i) A comprehensive stakeholder management plan

(ii) Information displays/message boards

(iii) A public viewing platform

(iv) Artwork incorporated into hoarding

(v) Webcam coverage

(c) 97% of construction site waste (measured by weight) diverted from landfill

(d) Develop a green travel plan for the construction phase

(e) Develop site establishment using sustainable design principles

1.8 Transport

Implement and fund the following transport initiatives as noted below to an amount not less than 75% of the indicated maximum investment.	**Maximum Investment ($M)**
(a) Pedestrian and cycling provision on and off site (subject to reaching agreement with relevant authorities)	■

Implement and fund the following transport initiatives as noted below to an amount not less than 75% of the indicated maximum investment.	**Maximum Investment ($M)**
(b) Contribution towards works supporting the ferry wharves (subject to reaching agreement with relevant authorities)	[redacted]
(c) Provision for operating subsidy to Sussex bus service (subject to reaching agreement with relevant authorities)	[redacted]
(d) Green Travel Plan (including light rail support plus any amounts which are not spent on the above transport items because of failure to reach agreement with authorities which will then be spent on the Green Travel Plan)	[redacted] (Maximum contribution to light rail $[redacted] million)

Schedule 5 – NABERS assumptions

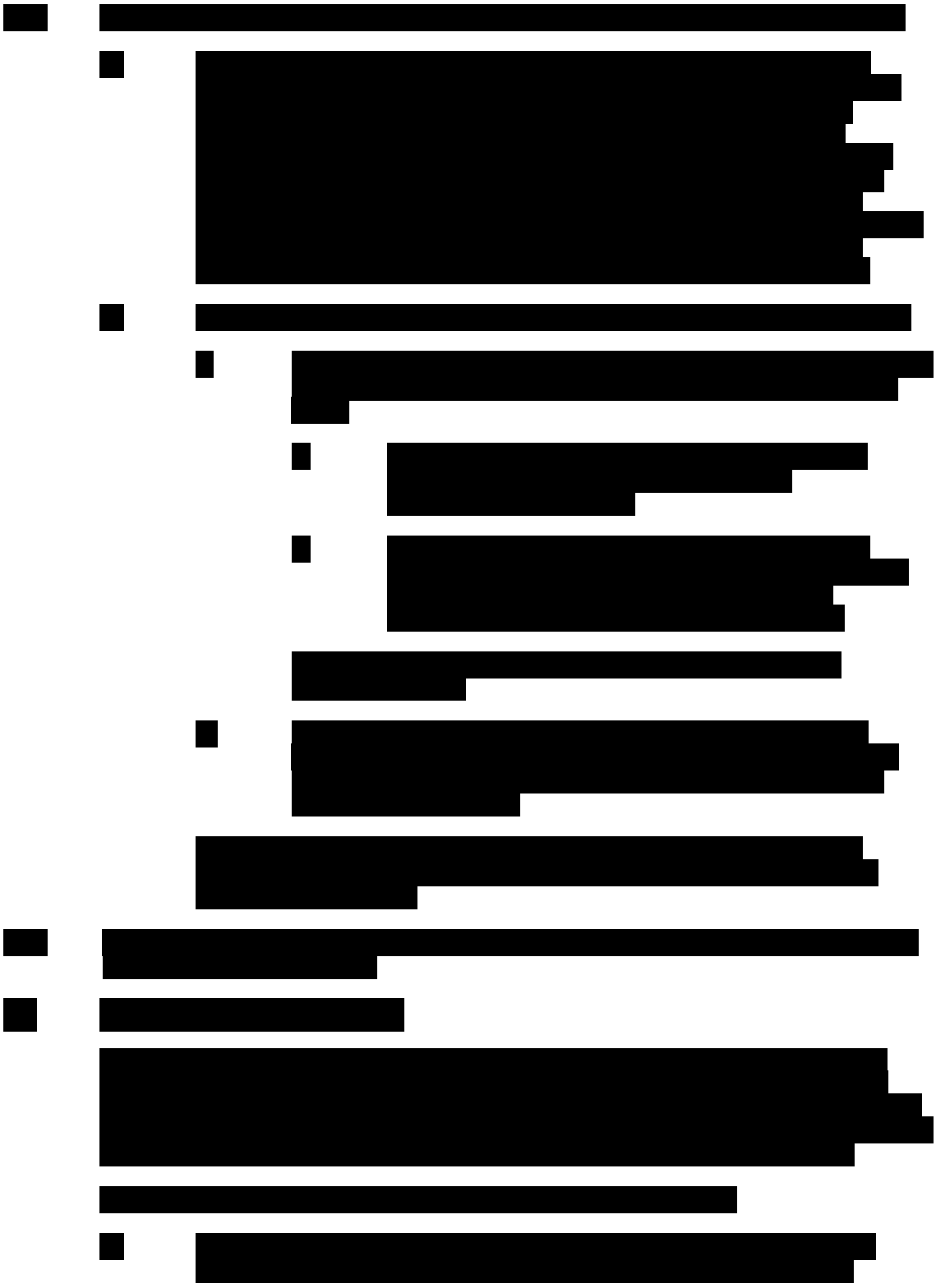
Certification under clause 9.14(b) must be based on the following assumptions:

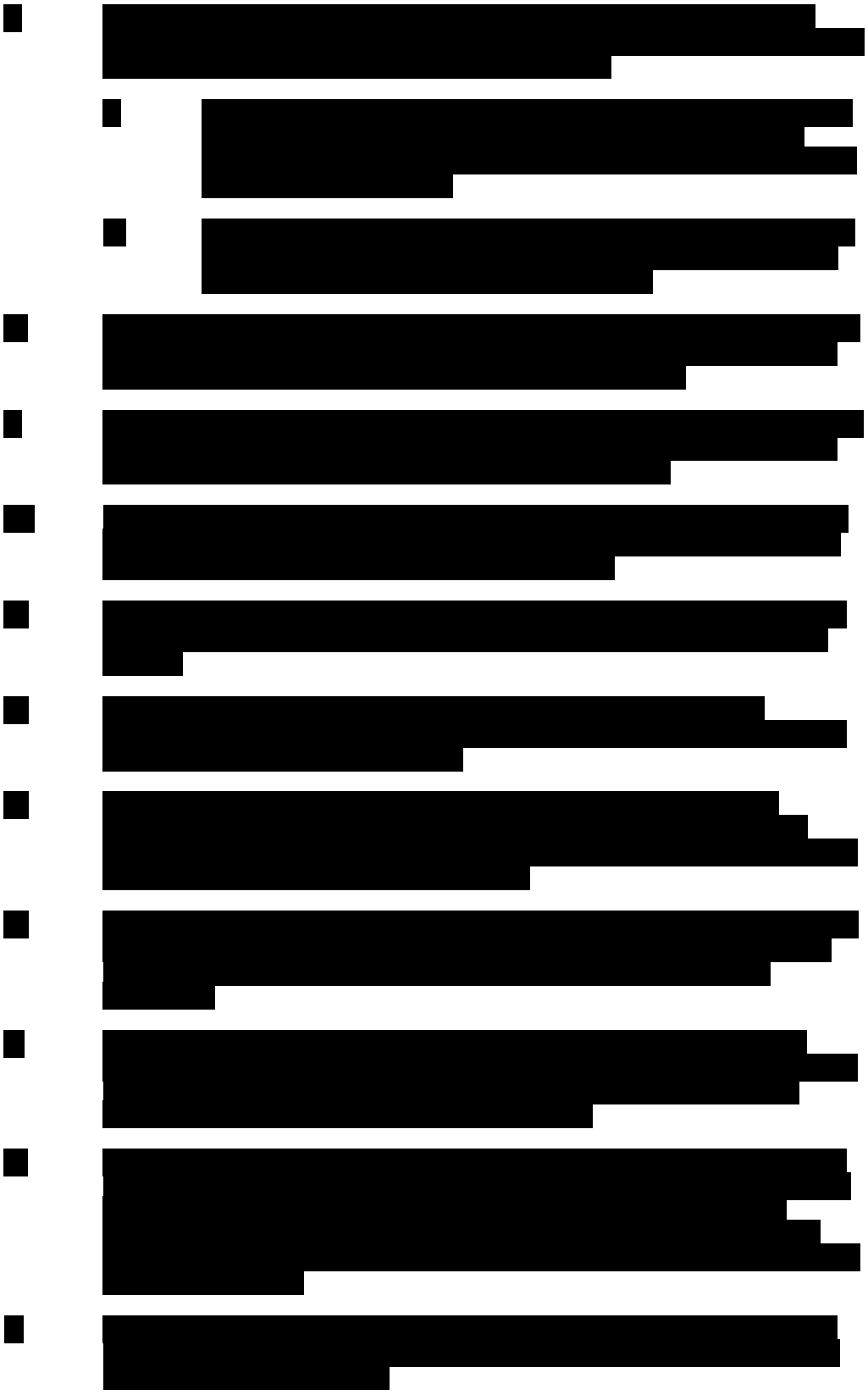
- Use of the NABERS Office Rating Calculator v 6.1, dated 29th October, 2009.
- 90% of the net lettable area of the Building (NLA) is occupied
- All tenant fit-outs are designed to achieve a 5 star or higher tenancy NABERS Energy rating
- The average lighting load for each tenancy does not exceed 5 W/m^2 (4 W/m^2 for open plan office +1 W/m^2 for fit-out)
- Combined equipment and lighting loads do not exceed 13 W/m^2
- Occupant density for the Building does not exceed 13 m^2/person
- High load areas such as meeting rooms and computer rooms are serviced by supplementary tenant systems and these loads will be omitted from the base building load for this assessment.
- Tenants provide supplementary systems for other high load areas where the heat load in any zone exceeds 10W/m^2 for lighting and 15W/m^2 for equipment
- Space conditioning requirements outside the normal business hours (7am - 7pm M - F) have been met by the tenant supplementary systems
- Normal "Established Building Hours" for each tenancy are between 50 and 60 Hrs per week (7am -7pm M-F)
- "Rated Hours" have been determined by the NABERS protocol.
- After hours air conditioning requests are limited to the equivalent of 1 hr/week over the entire NLA.
- The base building is operated and maintained in accordance with recommended maintenance regimes
- Mechanical controls are set for the Building such that cooling occurs when internal temperatures exceed 24 degrees C and heating occurs when internal temperatures are lower than 21 degrees C.
- Lift energy use is 3.75 KWh/ m^2 NLA pa
- Typical weather conditions based on heating and cooling degree days based on historical averages

Schedule 6 – Barangaroo Works Costs

Schedule 7 – Other Remaining Remediation Works

1.1 Other Remaining Remediation Works





1. Scope of PDA Remediation Works

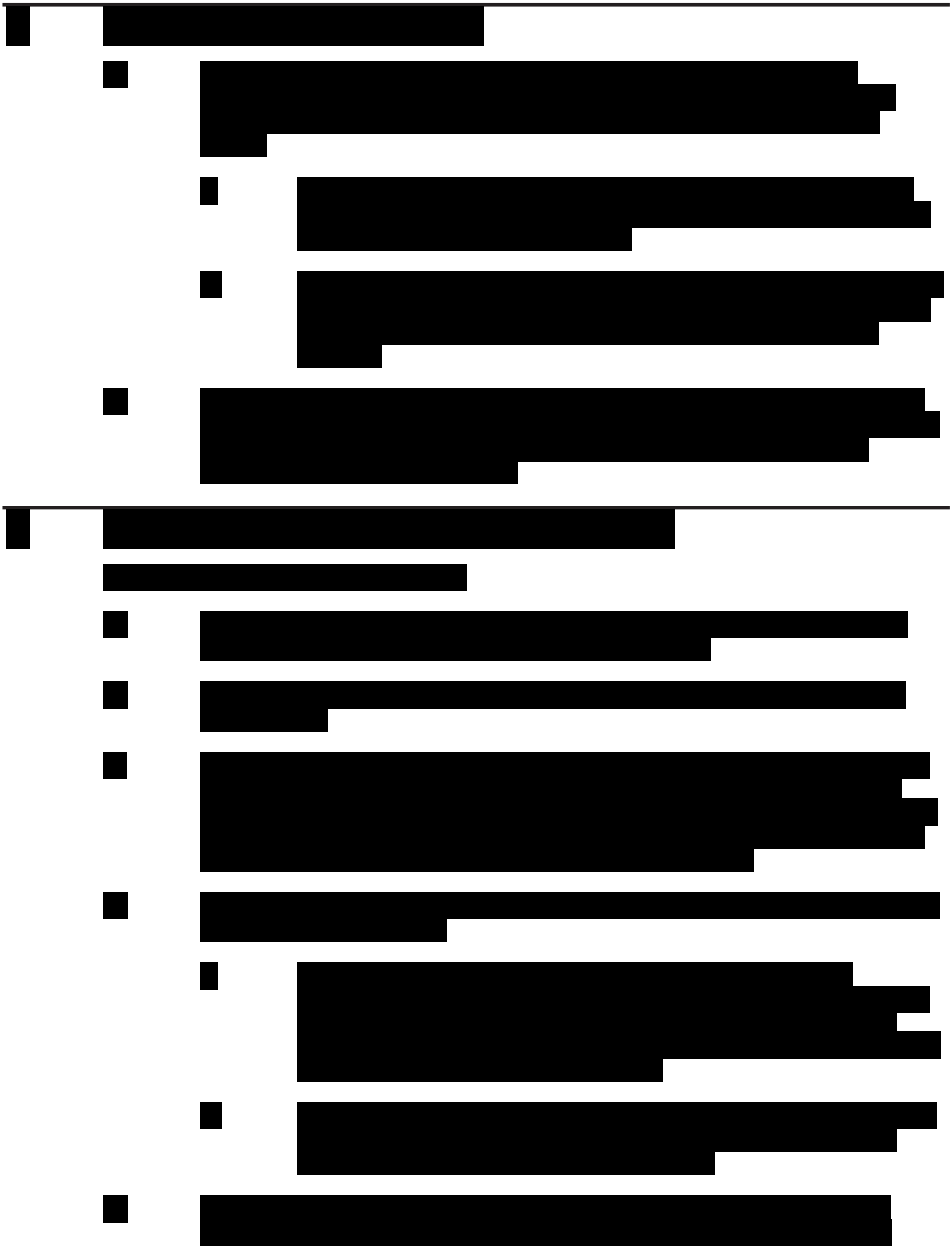
[redacted]

[redacted]

Schedule 9 –

[redacted]

[redacted]



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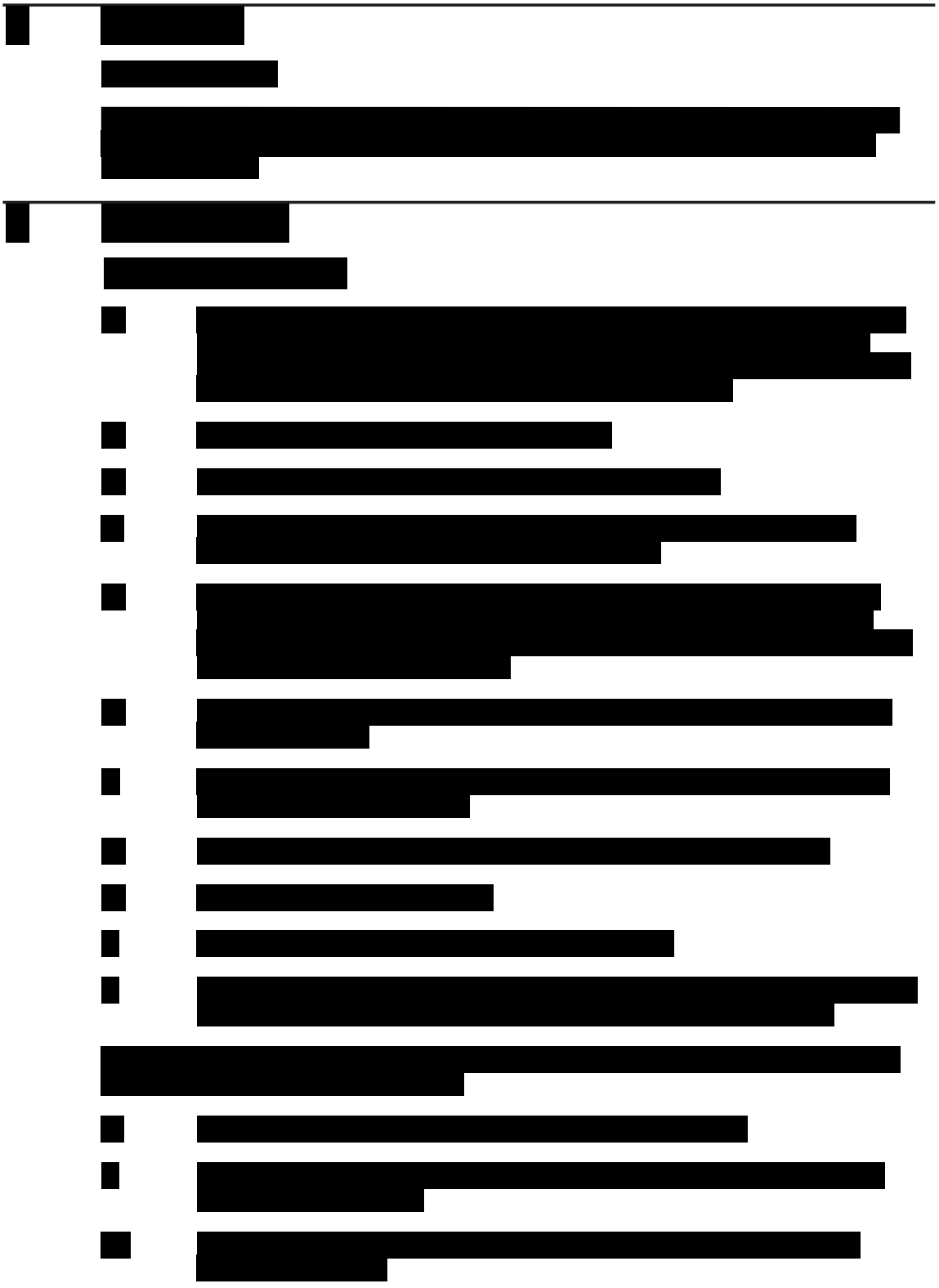
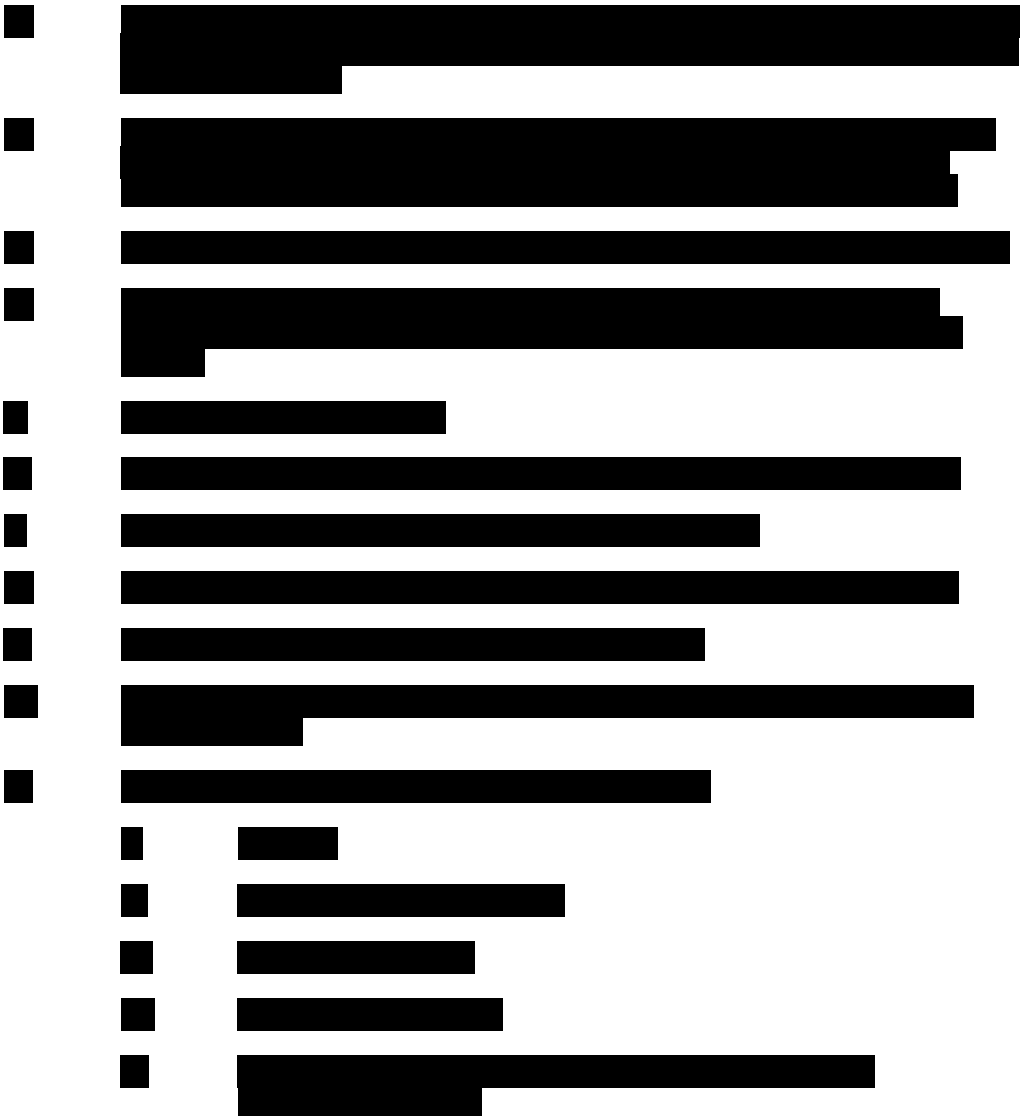


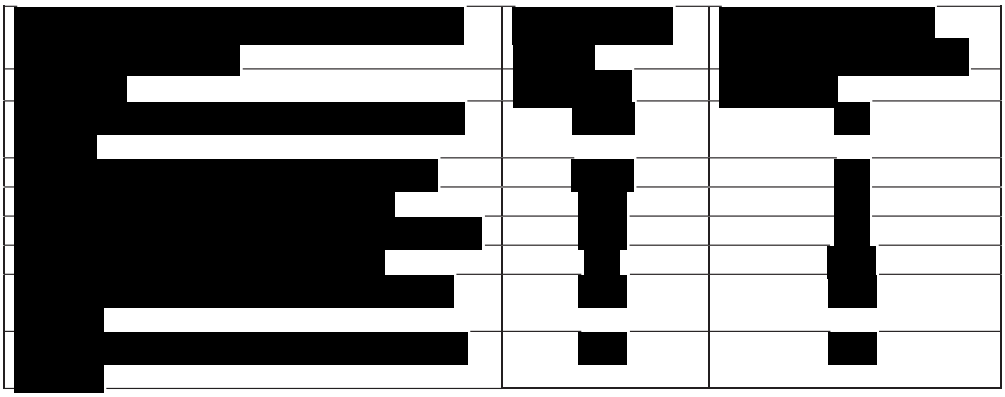


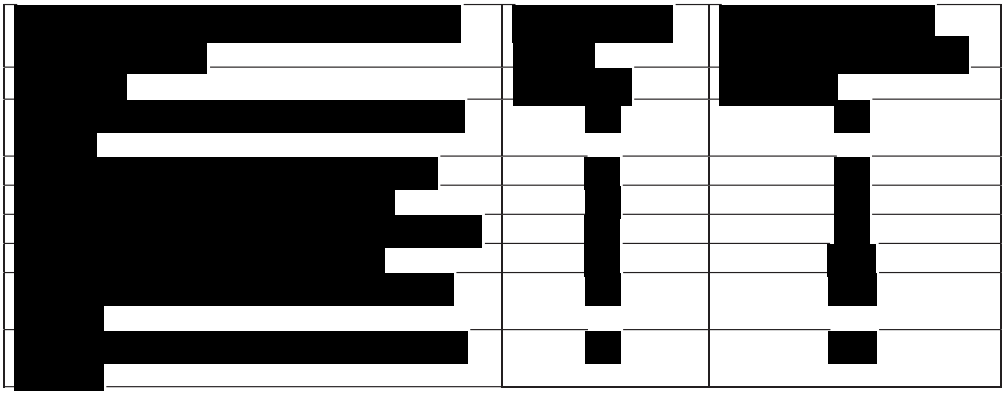
Schedule 9B – [redacted]

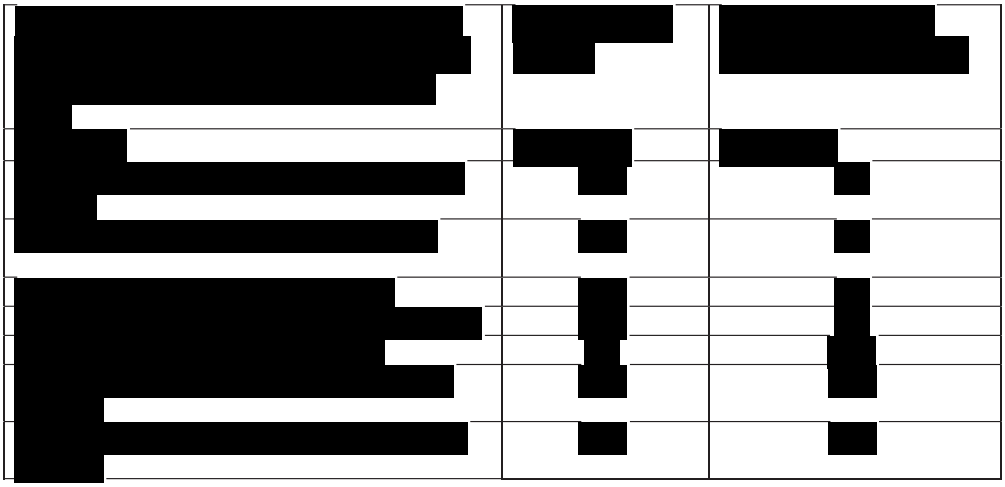
Schedule 9C –

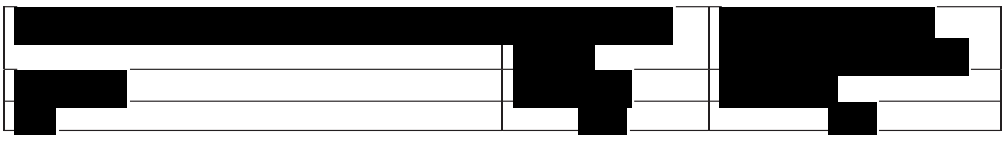
[redacted]

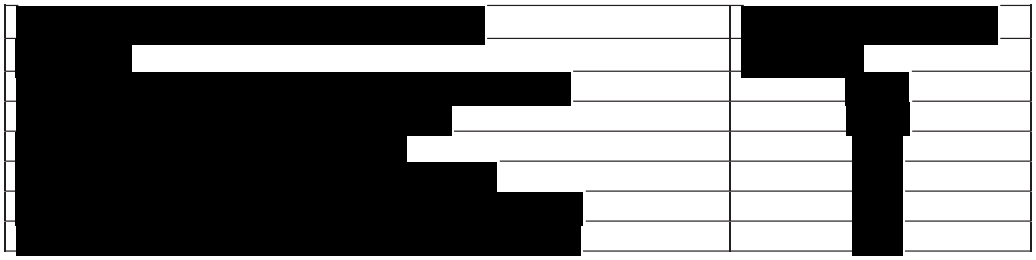
3. [redacted]











1. Definitions

Where used in this schedule, the following expressions will have the meanings ascribed to them as follows:

Invitations to Tender means the relevant documentation to be prepared by or on behalf of the Developer for the purposes of inviting tenders for the provision of the Relevant Works.

Price means the price accepted by the Authority or otherwise determined by the independent expert in accordance with this Schedule 10, at which the Builder engages a Relevant Person for works and services required to carry out the VMP Remediation Works and/or the PDA Remediation Works and/or the Other Remaining Remediation Works following an Invitation to Tender process.

Relevant Contract means a contract with a Relevant Person.

Relevant Contract Price means the price calculated in paragraph 2(t) of this Schedule 10.

Relevant Person means in respect of the Remediation Works and/or the Other Remaining Remediation Works each and any of:

(a) in circumstances where the Developer has appointed (or proposes to appoint) LLB as its contractor and LLB appoints (or proposes to appoint) a third party to carry out any part of those Works or provide consultancy services in relation to those Works, the person appointed (or proposed to be appointed) by LLB for that purpose;

(b) in circumstances where the Developer appoints (or proposes to appoint) a third party (other than LLB) to carry out any part of those Works or provide consultancy services in relation to those Works, the person appointed (or proposed to be appointed) by the Developer for that purpose; and

(c) VeruTEK.

Relevant Variation means any variation or other claim under a Relevant Contract, which increases (or is reasonably anticipated to increase) directly or indirectly, the Authority's liability by more than $10,000 (in aggregate with any other variation under that Relevant Contract);

Relevant Works means in respect of the Remediation Works and/or the Other Remaining Remediation Works) each and any of:

(a) the works or services to be provided by a Relevant Person to carry out any part of those Works excluding:

(i) any Relevant Person providing consultancy services in connection with any part of those Works, [redacted]; and

(ii) any services to be provided to the Developer by LLB;

(b) the services to be provided by VeruTEK; and

(c) environmental remediation consulting services.

Remediation Segment Program is a program for the Remediation Works or Other Remaining Remediation Works the subject of a Relevant Contract, which includes key milestone dates and a date for practical completion of the works divided, where relevant, into works:

(a) in the Hickson Road Declaration Area;

(b) in that part of the BDA Development Block 5;

(c) in that part of the BDA Development Block 5 Foreshore;

(d) in that part of the BDA Development Block 6;

(e) in that part of the BDA Development Block 6 Foreshore;

(f) in that part of the BDA Development Block 7;

(g) in that part of the BDA Development Block 7 Foreshore;

(h) in that part of Block 4 Declaration Area; and

(i) the Non-Declaration Area Remaining.

VeruTEK means each of:

(a) VeruTEK Technologies, Inc. now known as Ethicalchem (or any Associate (as defined in section 10-17 of the Corporations Act 2001) of that entity); and

(b) any other person appointed or proposed to be appointed to carry out any part of the Remediation Works (where Methodology A an in situ remediation technology is adopted) using materials and technologies similar to (or which have a similar ultimate effect as) those used by the entity referred to in paragraph (a) of this definition.

[redacted]

[redacted]

(b) Pursuant to this deed, the Developer may subcontract the whole of the procurement and delivery of the Remediation Works and Other Remaining Remediation Works to a Builder. The Developer will appoint LLB as its contractor as Construction Manager in respect of the works comprising the Remediation Works and Other Remaining Remediation Works (excluding consultancy services) [redacted]

(c) The Developer must ensure that LLB complies with the requirements of this Schedule 10 (including the requirements relating to the Invitations to Tender in paragraphs 2(a) to (e) of this Schedule 10 and the Relevant Contract approval requirements of paragraphs 2(f) and 2(g) of this Schedule 10) as if it was the Developer. The Developer's liability to the Authority will not be reduced or limited in any way as a result of such subcontracting, nor will there be any change to the determination of the Relevant Contract Price.

(d) The Developer and LLB will contract with Relevant Persons as appropriate and reasonable, having regard to the construction management arrangement.

(e) The Developer must comply with this Schedule 10 in respect of the approval of any contract it enters into with LLB in respect of works comprising the Remediation Works or Other Remaining Remediation Works as if LLB was a Relevant Person.

2. Proposed form of invitations to tender

(a) Prior to appointing any person to perform the Relevant Works, the Developer (or LLB or its Builder) must issue Invitations to Tender for the provision of those in accordance with paragraphs 2(a) to 2(e) of this Schedule 10.

Before the Developer or LLB or Builder issues to potential tenderers Invitations to Tender for any part of the Remediation Works and Other Remaining Remediation Works, the Developer must prepare the Invitations to Tender which:

A. detail the proposed scope of Works to be the subject of the Relevant Contract separated where relevant into VMP Remediation Work, PDA Remediation Work and Other Remaining Remediation Works;

B. detail the relevant assumptions (based on the in situ waste classification and having regard to conditions of all relevant Approvals) each proposed tenderer must take into account when submitting their tender. Such assumptions must include nominated volumes of the following types of Contamination:

1) Hazardous Waste;

2) Restricted Solid Waste;

3) Special Waste (Asbestos);

4) waste that is other than that described at sub-paragraph (2) above

C. to the extent that invitation relates to an In-Situ Methodology in situ remediation technology, requires the tenderers to reflect movement in the currency exchange rates between the lawful currency of Australia and the lawful currency of the United States of America (to the extent that the applicable contract price is payable in the lawful currency of the United States of America or otherwise determined (in whole or in part) having regard to the exchange rate between the lawful currency of the United States of America and the lawful currency of Australia) in the period between September 2009 and the date of the tender submission;

D. requires tenders to:

1) in the case of Other Remaining Remediation Works, price the incremental cost of the scope of Works (having regard to Schedule 7). For tenders relating to the excavation and disposal of material, tenders must price the cost of excavation and disposal of General Solid Waste and each type of Contamination;

2) exclude (or separate) pricing for works associated with:

- works the subject of the Hickson Road Relocation Costs; and
- the VMP Remediation Works;

E. requires the tenderers to submit a proposal which includes, in respect of the indicative program for the Works:

1) a detailed program for the Works (which nominates key milestones and key milestone dates) including the time for practical completion for the Works, being a period in weeks measured from the date of the grant of the Approvals required to carry out the Works;

2) a clear and detailed breakdown of how the Works are to be priced; and

3) a detailed scope of the Works;

F. a process to be followed by the subcontractor when the VMP Investigation Works and VMP Remediation Works are undertaken in order for that work and the costs of that work to be separately identified from the PDA Remediation Works and the form in which the detailed itemisation of those VMP Investigation Works and VMP Remediation Works will take;

G. requires tenderers to identify the costs of:

1) dewatering and associated treatment of water; and

2) treatment of water to meet the criteria in the POEO Licence.

After an Invitation to Tender is prepared and before it is issued to the tenderers, the Developer must provide a copy of the Invitation to Tender to the Authority for its comment and approval prior to issuing any such Invitation to Tender. The Developer must ensure that any proposed Invitation to Tender is revised to reflect any comments the Authority may have in relation to that proposed Invitation to Tender. The Developer must not issue an Invitation to Tender unless and until it has been approved by the Authority.

The parties acknowledge that despite the earlier provisions of this paragraph 2(a), the Developer and the Authority will liaise at the relevant time as to whether the timing specified in this paragraph for issuing Invitations to Tender for the Remediation Works and Other Remaining Remediation Works is the most appropriate timing having regard to all relevant factors, including the period of time from receipt of tenders to the proposed commencement date of the Remediation Works and Other Remaining Remediation Works.

(b) If Methodology B ex situ remediation is the methodology proposed to be adopted under a Relevant Contract, then Invitations to Tender must be issued to at least three potential tenderers for those Works and the Developer must provide to the Authority no less than three proposed Prices for those Works.

(c) If Methodology A is the methodology proposed to be adopted, then:

(i) in addition to issuing an Invitation to Tender to at least one potential tenderer for the carrying out of the in-situ component of that work (to the extent that component relates to materials to be used by VeruTEK as part of Methodology A and is the subject of a patent or trademark technologies relevant to that work for which the tenderer is the proprietor of or has a right to use), the Developer must (if directed by the Authority to do so) also issue Invitations to Tender:

A. to no less than three potential tenderers on the basis that the VMP Remediation Works and the PDA Remediation Works will be carried out using Methodology B ex situ remediation; and

B. to at least one other potential tenderer (being a person approved by the Authority) for the in-situ component of that work to the extent that component is not the subject of patented or trademark technologies relevant to that work.

(d) Prior to preparing such additional Invitations to Tender referred to in paragraph 2(c) above of this Schedule 10, the Developer must inform the Authority of any additional costs associated with the preparation of that additional tender documentation and obtain the Authority's approval to those additional costs. If the Authority and the Developer fail to reach agreement on such additional costs, then the amount will be determined by the independent expert pursuant to clause 45.

(e) For each Invitation to Tender for Relevant Works, the Developer must:

(i) prior to issuing the Invitation to Tender for Relevant Works, obtain the Authority's approval (acting reasonably) to the proposed invitees to receive that Invitation to Tender;

(ii) issue Invitation to Tender for Relevant Works within three weeks after the date that the Authority notifies the Developer of its approval of the proposed invitees; and

(iii) provide a copy of that Invitation to Tender to the Authority for the purpose of disclosing it to Jemena subject to Jemena entering into a confidentiality agreement with the Authority.

Proposed form of contract

(f) The Authority has the right to review and approve those terms of the Relevant Contract (and the terms of each Relevant Variation)) which ultimately have the ability to impact on the Authority's liability to the Developer under this deed (**Remediation Liability**), the Authority's liability to any third party in relation to the works the subject of that Relevant Contract or the Authority's ability to recover its costs from any third party in relation to the works the subject of that Relevant Contract, including:

(i) pricing of the Works;

(ii) timing of the Works including the time for practical completion for the Works;

(iii) scoping of the Works;

(iv) the mechanism for any variations to the pricing, timing or the scoping of the Works;

(v) the parties entering into the Relevant Contract,

each of which the contract must address in detail (and the Authority may refuse its approval to that Relevant Contract (or Relevant Variation) if such matters are not addressed in detail). The Authority's approval is not to be unreasonably refused and, in respect of a Relevant Variation, is, unless agreed otherwise, to be provided prior to works the subject of that Relevant Variation being undertaken.

The Relevant Contracts, where relevant, must:

(i) provide for very limited grounds for an extension of time being:

A. delays caused by a third party (other than LLB or the Developer); or

B. force majeure, and

provide for an Independent Certifier to assess any claims for an extension of time;

(ii) provide for a liquidated damages regime payable by the subcontractor for late completion of work under the Relevant Contract;

(iii) (where relevant) require the Relevant Person to (or, at the Authority's discretion, require the Relevant Person to provide the Authority with all requested information and assistance to) reconcile or verify the amount of EPA Levies [redacted];

(iv) provide that the Developer is not liable to pay the Relevant Person any amount in relation to any cost or delay in any way associated with the Relevant Person failing to perform its obligations in accordance with Good Industry Practice, where **Good Industry Practice** means in a sound and workmanlike manner with the degree of skill, care, prudence, foresight and practice which would reasonably be expected of a skilled and experienced person, engaged in the same or a similar type of undertaking as the Relevant Person and applying nationally accepted planning, development, construction and management procedures (as the case may be) (as the case may be) and with due expedition and without unnecessary or unreasonably delay

(v) include the provisions required by clauses 12.2, 12.3 and 12.4.

The Authority has the right to review and approve those terms,

The Relevant Contracts may include a price that includes preliminaries and supervision that are reasonably necessary for the Relevant Person (other than LLB) to perform the work under the contract. [redacted]. The Developer must act reasonably to minimise amounts for preliminaries and supervision in Relevant Contracts.

In relation to any contract between the Developer and LLB, the Authority agrees that the only terms of that contract that it has a right to approve are the terms relating to a Remediation Liability.

(g) The Developer must obtain the Authority's prior approval to those terms of the Relevant Contract (or those terms of any Relevant Variation) prior to it being entered into with the Relevant Person (unless the Authority approves an alternative

arrangement in relation to a particular Relevant Contract). The Authority agrees that if it has approved the form of the Relevant Contract as part of its approval of an Invitation to Tender (unamended) and/or as part of its acceptance of the Developer's recommendation as contemplated by paragraph (s) of this Schedule 10, then no further approval will be need for the Developer to enter into that Relevant Contract if the Relevant Contract to be entered into is the same as the form issued with the Invitation to Tender or is the same as was part of the Developer's recommendation.

(h) Despite any other provision in this deed, the Authority is not liable to the Developer for any Remediation Liability under this deed to the extent the terms of that Relevant Contract (or the terms of any Relevant Variation) were not approved by the Authority in accordance with this Schedule 10.

(i) Copies of all Invitations to Tender, proposed contracts to be entered into and contracts entered with Relevant Persons, contractors, sub-contractors, the Builder and consultants engaged or proposed to be engaged for in connection with the VMP Remediation Works (regardless of whether the Developer is a party to such contract or not) must be provided to the Authority on request for the purposes of the Authority making such contracts available for review by Jemena (and where possible, the Developer must ensure that such contracts do not contain confidentiality provisions which would prohibit such arrangement). This may include review by Jemena before the Invitations to Tender are issued and before contracts are entered into.

Assessment criteria

(j) The Developer must ensure that the assessment criteria for any Invitation to Tender for any part of the Remediation Works and Other Remaining Remediation Works is based on:

(i) pricing and risk (including timing);

(ii) the competence and certainty, capacity and capability of the tenderer to deliver the relevant Works to the required standard and on time;

(iii) the proposed program, milestones and date for practical completion;

(iv) the tenderer's compliance with the tender conditions and preparedness to enter into a sub-subcontract materially in accordance with the requirements of the Invitation to Tender;

(v) the tenderer's previous relevant experience; and

(vi) any other relevant matter nominated by the Developer and approved by the Authority.

Procurement requirements

(k) Prior to the closing date of any Invitation to Tender:

(i) the Developer must ensure that any procurement for Relevant Works is conducted on an open book basis; and

(ii) the Developer and the Authority must agree (both acting reasonably) on the rights of the Authority to participate in all material aspects of the evaluation and assessment of the tenders and the Developer must implement procedures to ensure that the Authority has the ability to participate in the manner so agreed.

Authority to receive copies of tenders

(l) Following the closing date for an Invitation to Tender, the Developer must provide to the Authority a copy of all tenders received and any other information received from any tenderer and acknowledges that the Authority may provide the tenders and any other information received from any tenderer to Jemena subject to Jemena entering into a confidentiality agreement with the Authority.

Developer's written recommendation

(m) Following the closing date for the Invitation to Tender, the Developer must provide the Authority with the Developer's written recommendation (acting reasonably) as to the tenderer it (or the Builder) wishes to engage for the provision of the Relevant Works (and confirm the Price, the date for practical completion and other terms of engagement proposed by that tenderer) and the Remediation Segment Program for the works the subject of the proposed contract. The Remediation Segment Program must contain sufficient information to allow the Developer, the Authority and the Remediation QS to properly assess extension of time claims under the Relevant Contract.

(n) Not used

Provision of information to the Authority

(o) When making the recommendation to the Authority, the Developer must provide all relevant information (on an 'open book basis') which was taken into account by the Developer in assessing tenders having regard to the evaluation criteria referred to in paragraph 2(j) of this Schedule 10. The extent and type of such information should be consistent with that which would normally be provided by a person in the same position of the Developer in accordance with usual industry practice to a government principal.

Considerations to be taken into account

(p) In assessing tenders and making the Developer's recommendation to the Authority, the Developer:

(i) must (acting reasonably) assess tenders having regard to the evaluation criteria referred to in paragraph 2(j) of this Schedule 10; and

(ii) must procure a certificate from the Remediation QS addressed to the Authority, confirming whether or not, after due enquiry, the relevant recommended tenderer's price and risk allocation is 'fair and reasonable' having regard to then market conditions (and the Developer must provide to the Remediation QS such documents and records which are reasonably required by the Remediation QS to enable it to provide such a certification),

with the Developer and the Authority acknowledging that they are seeking to minimise the costs of the Remediation Works and Other Remaining Remediation Works as far as practicable whilst complying with all relevant Remediation Approvals, any Approved Voluntary Management Proposal and the requirements of OEH.

Acceptance or rejection by Authority

(q) Within 20 Business Days of the receipt of the Developer’s Recommendation , the Authority (acting reasonably) will provide its written acceptance or rejection (providing reasons for such rejection) in respect of the Developer's recommendation relating to a tender submitted in response to an Invitation to Tender.

Consequences of acceptance

(r) If the Authority accepts the Developer's nomination in respect of a proposed tenderer, the Developer (or its Builder) may engage that tenderer. The terms of engagement for the relevant works or services to be provided by that Relevant Contractor, will be the terms tendered by that tenderer (including the Price and the Methodology proposed by that tenderer) as varied by the Developer and approved by the Authority.

Consequences of rejection

(s) If the Authority does not accept the Developer's recommendation, then:

(i) the Authority may propose an alternative person who was also invited to submit an Invitation to Tender or another person to the Developer for its approval (acting reasonably); and

(ii) the Developer must act reasonably and take into account the Authority's alternative recommendation in determining whether to appoint that alternative person on such terms as the Developer and Authority agree. If the parties cannot agree the Authority may direct the Developer to (and the Developer must comply with that direction to) either:

A. issue another Invitation to Tender to other prospective tenderers, in which case the provisions of this Schedule 10 will apply to that Invitation to Tender; or

B. enter into a contract with a specified person on the terms directed by the Authority.

Determination of Relevant Contract Price

(t) The Relevant Contract Price is (as the case may be):

(i) the Price under the Relevant Contract; and

(ii) consultants fees and charges incurred in relation to the VMP Remediation Works and/or the PDA Remediation Works and/or the Other Remaining Remediation Works to the extent not already included in sub paragraph (i) of this paragraph 2(t) and to the extent that the Authority has approved the relevant terms of any Relevant Contract proposed with that person pursuant to paragraph 2(f) of this Schedule 10,

[redacted]

Before entering into a Relevant Contract

(u) Before entering into a Relevant Contract, the Developer must give the Authority a copy of the proposed Relevant Contract and evidence satisfactory to the Authority that, if required by the Authority:

(i) the Authority, the Developer and the contractor have entered into a side deed in relation to the works or services the subject of that Relevant Contract;

(ii) the Authority and the Developer have reached agreement in relation to how any limitation of the contractor's liability under that side deed entered into in relation to that Relevant Contract is to be applied (as

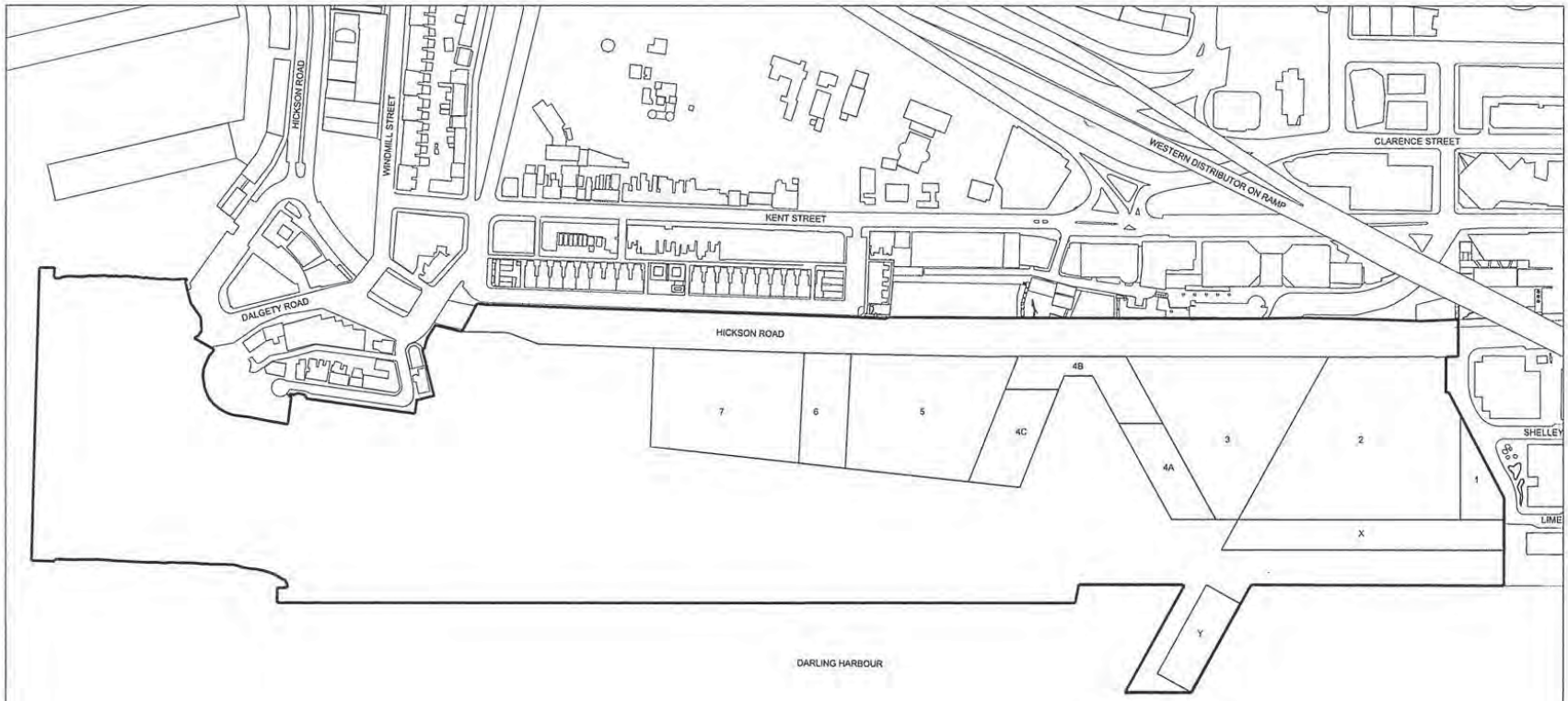
between the Developer and the Authority) in relation to the claims the Developer and the Authority may separately have against the contractor in respect of that Relevant Contract. In reaching such agreement, the Authority and the Developer will have regard to the liability of the Developer and the Guarantor to the Authority under this deed; and

(iii) a reliance letter has been executed by the contractor in favour of the Authority or a party nominated by the Authority (which may be Jemena) entitling the Authority or that party to rely on the Relevant Contract terms to the same extent as the Developer and the Authority.

(v) The Developer and the Authority agree that they will act with due expedition in performing the requirements of Schedule 10 and endeavouring to reach agreement with each other (where required) and any applicable third party and execute any document required under sub-paragraph 2(u) above.

Schedule 11 – Block Plan and Stage Diagram

INDICATIVE LAYOUT ONLY
MASTER PLAN
STAGING BOUNDARIES
Lend Lease
MP
161010 B10 AD000030
03
STAGE 1A
STAGE 1B
STAGE 1B
STAGE 1C
STAGE 2
DESIGN DECLARATION AREA
T1
T2
T3
C1
C2
R1
R4A
R4B
R5
R7
R8
R9
H1
HICKSON ROAD
SCOTCH ROW
SHIPWRIGHT LANE
MERCHANT LANE
BARANGAROO AVENUE
WATERMAN'S QUAY



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Land Application – Map

4 – SEPP Drawings

Rogers Stirk Harbour + Partners

Schedule 12 – Not used

Schedule 13 – Submitted Works Detailed Designs for Scoped Barangaroo Works

Discipline	Element	Submitted Packages	Stage
Central Plant	Electrical	Infrastructure to Chiller Plant	1A/1B
		Plant Room builders work	
	Cooling Thermal Network	Mechanical Plant and Reticulation	1A
		Builders work to HHR	1A/1B
		Plant room builders work to cogens, boilers, central chillers	1A/1B
	Recycled Water Treatment Plant	Sewer Pipes	1A/1B
		Buffer Tank	1A/1B
		Sewer Connection	1A/1B
		Blackwater treatment incl. RO	1A/1B
		Building Works	1A/1B
		Authorities	1A/1B
	Solar		1A
Electrical & Comms	Electrical	HV Incoming Feeder	1A
		HV Infrastructure	1A
		LV Consumers Mains	1A
		Conduits to Stage 2	1A/B
	ICT	Telecoms Network	1A
Hydraulics	Sewer	Sewer pipes	1A
		Sewer connection	1A
	Recycled Water	Recycled pipes	1A
	Potable Water	Potable pipework and connections	1A
	Rainwater Collection	Rainwater collection	1A
	Site Stormwater	Stormwater	1A
	Off-site Stormwater	Diversions	1A
		GPT/Swale/Other treatment	1A
	Gas	High pressure gas	1A
		Medium pressure network	1A

Schedule 14 – Hickson Road Upgrade Works

Scope of Works for the Hickson Road/Sussex Street Re-Levelling Works

The area of Hickson Road / Sussex Street covered in the scope of the re-levelling works are as per the following stages:

Stage 1

- Sussex Street - from the southern side of the Shelley Street intersection in the south to the northern side of the Napoleon Street intersection in the North.

Stage 2

- Hickson Road from the northern side of the Napoleon Street intersection in the south to the northern side of the Globe Street intersection in the north, and

Stage 3

- Hickson Road from the northern side of the Globe Street intersection in the south to the northern boundary of the Barangaroo South Stage 1B site.

The works are known as the Hickson Road/Sussex Street re-levelling works.

The scope of works excludes any design services and construction works in Napoleon Street.

Stage 1:

The Stage 1 works include the removal of the existing kerbs, footpaths and road pavement to allow the road level to be raised (maximum 900mm) to meet the level of the Barangaroo South Stage 1A buildings and public domain and to ensure that the road complies with the City of Sydney Council road standard and landscaping requirements.

Demolition Works

- The works include the demolition of the existing kerb and gutter and footpaths to both sides of Sussex Street, removal of the existing road pavement, road blisters and pedestrian islands in Napoleon Street.
- Removal of the existing trees on both sides of Sussex Street and removal of existing street furniture.

Utility Works

Adjustments to the existing utility infrastructure subsurface and surface structures including:

- Reducing the length of the existing pedestrian blister island in front of the Sussex Hotel to match the proposed TfNSW Wynyard Walk works.
- Adjust the existing stormwater pits and pit covers to suit the new road alignment and levels.
- Raising of the existing sewer maintenance chamber lids where there is a level difference less than 300mm.
- Reconstruction of the existing sewer maintenance chambers where there is a level difference greater than 300mm.
- Adjust the existing fire hydrants and water main stop valves.
- Adjust the existing Ausgrid pit covers to suit the raised road levels.
- Adjust the existing Telstra/Optus pits to suit the raised road levels.
- Adjust the levels of the existing kerb inlet pits to suit the raised road levels.
- Adjust the existing gas valves and covers to suit the raised road levels.

Stormwater

Construct the stormwater drainage management system including the pipelines and stormwater structures including:

- Pipelines - excavate, bed, supply and lay pipes and backfill.
- Pits - excavate, construct form/reo/pour in situ pits or supply and install precast pits where suitable. Install lintels, pit lids, grates and frames.
- Construct a large capture pit in the centre of Sussex St consisting of 17 x 900mm lintels below the southbound carriageway.
- Construct a capture pit on the western side of Sussex St in front of the KPMG building consisting of 10 x 900mm lintels.
- Construct a capture pit in the centre of Sussex St adjacent to the Wynyard Walk Bridge consisting of 3 x 900mm lintels below the northbound carriageway.
- Install subsoil drainage and flushing points to tree pits and kerbs.

Road works

- Kerbs – reuse the existing trachyte kerb where possible. Supply and install new granite kerb to the footpaths, supply and lay new granite kerb and paver infill to the cycle way dividing strip on the eastern side of Sussex Street.
- Footpaths – build up footpath levels on western side of the road.
- Construct new pavements to the footpaths, pram ramps/vehicular crossings, to both sides of Sussex Street.
- Construct the southbound cycle way from Napoleon Street to the pedestrian blister in front of the Sussex Hotel.
- Line marking and signage to the shared cycle and pedestrian footpath zones at the crossing below the Wynyard Walk Bridge.
- Road pavement - trim the existing subgrade, supply and place fill material to build up levels to the new road level, supply and place pavement material.
- Construct a new median strip with hard paving surface.
- Line marking and signage.

Landscaping works

- Excavation for new tree pits.
- Supply and place topsoil to the tree pits.
- Supply and install 3 Urbanite Ash trees south of the proposed City Walk Bridge.
- Supply and install 5 American Tulip trees north of the proposed City Walk Bridge.
- Supply and install City of Sydney approved tree grates to the tree pits.
- Supply and install street furniture including bins, bicycle racks and bench seats.

Street-lighting

Provide Smart Poles and street lighting to meet the City of Sydney Council guidelines.

- The works include the design and approvals for street lighting and provision of electricity/metering, construction of footings, supply and installation of the smart poles and light fittings.

Traffic signals

Provide the permanent traffic signals at the:

- Sussex Street/Napoleon Street/ Hickson Road/basement entry intersection.
- Provide mid-block pedestrian traffic signals below the Wynyard Walk Bridge

The scope includes design and obtain RMS approvals, civil works, traffic signals equipment, detector loops, controller, electrical and communication service, RMS fees.

Sydney Water Potable Water main

- Install a new 300mm diameter potable water main on the western side of Sussex St.

The scope includes saw cutting of the pavement, demolition of road pavement, excavation, existing pipe exhumation, supply and lay new pipe material and fittings, backfill, commissioning and handover.

Stage 2:

The Stage 2 works include the removal of the western kerb, western footpaths and road pavement to allow the road level to be raised (maximum 300mm) to meet the level of the Stage 1A buildings and public domain and to ensure that the road complies with the City of Sydney Council road standard and landscaping requirements.

Demolition Works

- The works include the demolition of the existing western kerb and gutter and western footpath to Hickson Road, removal of the existing road pavement, road blisters and pedestrian islands and crossing in Hickson Road.
- Removal of the existing trees on the western side of Hickson Road and removal of existing street furniture.

Utility Works

Adjustments to the existing utility infrastructure subsurface and surface structures including:

- Adjust the existing stormwater pits and pit covers to suit the new road alignment and levels.
- Raising of the existing sewer maintenance chamber lids.
- Adjust the existing fire hydrants and water main stop valves.
- Adjust the existing Ausgrid pit covers to suit the raised road levels.
- Adjust the existing Telstra/Optus pits to suit the raised road levels.
- Adjust the levels of the existing kerb inlet pits to suit the raised road levels.
- Adjust the existing gas valves and covers to suit the raised road levels.

Stormwater

Construct the stormwater drainage management system including the pipelines and stormwater structures including:

- Pipelines - excavate, bed, supply and lay pipes and backfill.
- Pits - excavate, construct form/reo/pour in situ pits or supply and install precast pits where suitable. Install lintels, pit lids, grates and frames.
- Install subsoil drainage and flushing points to tree pits and kerbs

Road works

- Kerbs - supply and install new granite kerb to the western footpath, supply and lay new granite kerb and paver infill to the cycle way dividing strip on the eastern side of Hickson Road.
- Footpaths – build up footpath levels on western side of the road.
- Construct new pavements to the footpaths, pram ramps/vehicular crossings, to both sides of Hickson road.
- Construct the southbound cycle way on the eastern side of Hickson Road.
- Road pavement - trim the existing subgrade, supply and place fill material to build up levels to the new road level, supply and place pavement material.
- Construct a new median strip with hard paving surface and tree pits.
- Line marking and signage.

Landscaping works

- Excavation for the tree pits.
- Supply and place topsoil to the tree pits.
- Supply and install 4 American Tulip trees.
- Supply and install 5 Cabbage Palms to the centre medium strip.
- Supply and install City of Sydney approved tree grates to the new and existing tree pits.
- Supply and install street furniture including bins, bicycle racks and bench seats.

Street-lighting

Provide Smart Poles and street lighting to meet the City of Sydney Council guidelines.

- The works include the design and approvals for street lighting and provision of electricity/metering, construction of footings, supply and installation of the smart poles and light fittings.

Traffic signals

Provide the permanent traffic signals at the:

- Hickson Road/ Globe Street intersection.

The scope includes design and obtain RMS approvals, civil works, traffic signals equipment, detector loops, controller, electrical and communication service, RMS fees.

Sydney Water Potable Water main

- Install a new 300mm diameter potable water main on the western side of Hickson road.

The scope includes saw cutting of the pavement, demolition of road pavement, excavation, existing pipe exhumation, supply and lay new pipe material and fittings, backfill, commissioning and handover.

Stage 3:

The Stage 3 works include the removal of the western kerb in the vicinity of the Globe Street intersection to allow a transition to the existing levels and construction of the medium strip and landscaping.

Demolition Works

- The works include the demolition of the existing western kerb and gutter in the vicinity of the Globe Street intersection to allow the transition to the existing road level and make good.
- Removal of the existing trees on the western side of Hickson Road and removal of existing street furniture.

Stormwater

Construct the stormwater drainage management system including the pipelines and stormwater structures including:

- Pipelines - excavate, bed, supply and lay pipes and backfill.
- Pits - excavate, construct form/reo/pour in situ pits or supply and install precast pits where suitable. Install lintels, pit lids, grates and frames.
- Install subsoil drainage and flushing points to tree pits and kerbs

Road works

- Kerbs - supply and install new granite kerb to the western footpath, supply and lay new granite kerb and paver infill to the cycle way dividing strip on the eastern side of Hickson Road.

- Footpaths – build up footpath levels on western side of the road in the vicinity of the Globe Street intersection and construct a new footpath along the western side of Hickson Road.
- Construct new pavements to the footpaths, pram ramps/vehicular crossings, to both sides of Hickson Road.
- Construct the southbound cycle way on the eastern side of Hickson Road.
- Construct a new median strip with hard paving surface and tree pits.
- Line marking and signage.

Landscaping works

- Excavation for the tree pits.
- Supply and place topsoil to the tree pits.
- Supply and install 8 American Tulip trees.
- Supply and install 10 Cabbage Palms to the centre medium strip.
- Supply and install City of Sydney approved tree grates to the new and existing tree pits.
- Supply and install street furniture including bins, bicycle racks and bench seats.

Street-lighting

Provide Smart Poles and street lighting to meet the City of Sydney Council guidelines.

- The works include the design and approvals for street lighting and provision of electricity/metering, construction of footings, supply and installation of the smart poles and light fittings.

Program of Works

The construction of the works will be undertaken in phases to maintain a minimum of three traffic lanes (two for northbound traffic and one for southbound traffic), the construction activities are to be delivered in two main phases for each stage/section:

- Phase 1 - Western side of the road including the medium strip and drainage works and
- Phase 2 - Eastern side of the road.

Schedule of drawings:

Civil Engineering Drawings

B10 CD0000410 06	STAGE 1A, PREFERRED HICKSON ROAD, ROADWORKS PLAN SHEET 1
B10 CD0000411 06	STAGE 1A, PREFERRED HICKSON ROAD, ROADWORKS PLAN SHEET 2

Hickson Road Landscape Drawings

B10 LD0000400 05	COVER SHEET AND DRAWING INDEX
B10 LD0000410 06	HICKSON ROAD SITE PLAN
B10 LD0000411 03	HICKSON ROAD LANDSCAPE PLAN SHEET 1
B10 LD0000412 03	HICKSON ROAD LANDSCAPE PLAN SHEET 2
B10 LD0000413 04	HICKSON ROAD LANDSCAPE PLAN SHEET 3
B10 LD0000414 04	HICKSON ROAD LANDSCAPE PLAN SHEET 4
B10 LD8800000 02	TYPICAL PAVING DETAILS
B10 LD8800001 02	TYPICAL PAVING SETOUTS
B10 LD8800002 02	TYPICAL FURNITURE DETAILS
B10 LD8800003 02	TYPICAL FURNITURE DETAILS
B10 LD8800004 02	TYPICAL TREE PIT DETAILS

Executed as a deed.

The seal of **Barangaroo Delivery Authority** is affixed by authority of the Chief Executive Officer in the presence of:

Signature of authorised person

Name of authorised person

Office held

Signature of authorised person

Name of authorised person

Office held

Signed, sealed and delivered for and on behalf **Lend Lease (Millers Point) Pty Limited ABN 15 127 727 502** as trustee of the Lend Lease Millers Point Trust ABN 96 367 164 319 by its attorney under a power of attorney dated in the presence of:

Signature of witness

Full name of witness

Signature of attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

Full name of attorney

Signed, sealed and delivered for and on behalf **Lend Lease Corporation Limited ABN 32 000 226 228** by its attorneys under a power of attorney dated in the presence of:

Signature of witness

Full name of witness

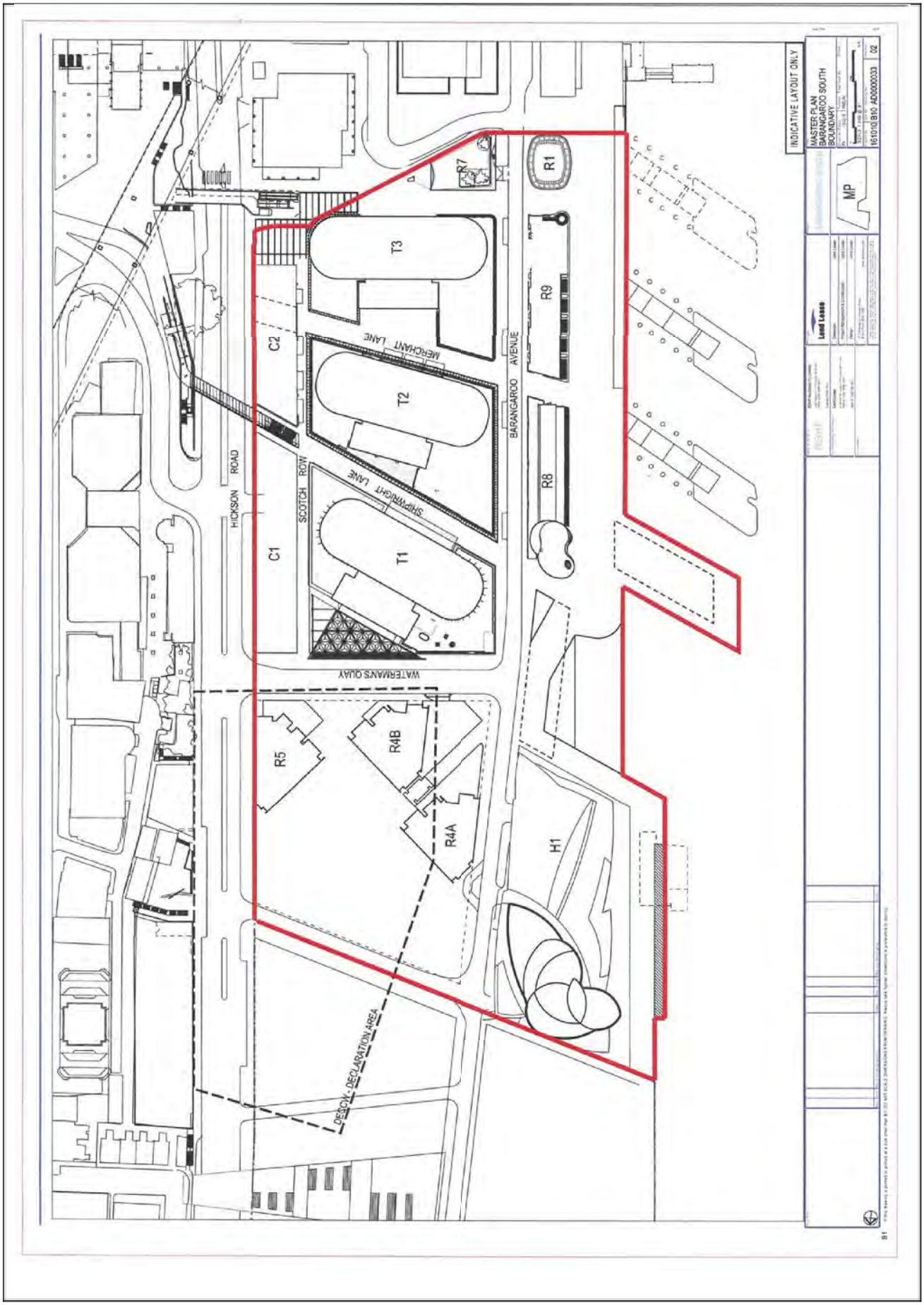
Signature of attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

Full name of attorney

Signature of attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

Full name of attorney

Annexure A – Plan


INDICATIVE LAYOUT ONLY
MASTER PLAN
BARANGAROO SOUTH
BOUNDARY
MP
R7
R1
T3
R9
C2
MERCHANT LANE
T2
BARANGAROO AVENUE
R8
HICKSON ROAD
SCOTCH ROW
SHIPWRIGHT LANE
C1
T1
WATERMANS QUAY
R5
R4B
R4A
H1
DESIGN DECLARATION AREA

Annexure B – Pro Forma Lease

CLAYTON UTZ

Barangaroo Stage 1

Lease

Barangaroo Delivery Authority
Landlord

[Tenant]
Tenant

Clayton Utz
Lawyers
Levels 19-35 No. 1 O'Connell Street Sydney NSW 2000 Australia
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Our reference 15266/15343/80090660

Legal\300394793.4

Annexure "A" to the lease between Barangaroo Delivery Authority ABN 94 567 807 277 (as Landlord) and [*Tenant*] ABN [*number*] (as Tenant) of premises known as [*address of premises*] dated [*date*]

Contents

1. Definitions and interpretation 1

1.1 Definitions 1
1.2 References to certain general terms 9
1.3 Headings 11
1.4 Inconsistent agreements 11

2. Term 11

2.1 Term of lease 11
2.2 Nature of tenancy 11

3. Rent and Outgoings 12

3.1 Rent 12
3.2 Estate Levy 12
3.3 Outgoings 12
3.4 Landlord's right to reimbursement 12
3.5 Payment despite termination 12

4. Payments 13

4.1 Method of payment 13
4.2 No demand necessary 13
4.3 Adjustment of payments 13
4.4 Obligations not affected 13
4.5 Interest on overdue money 13
4.6 Compounding 13
4.7 Tender after termination 14

5. Use and occupation of Premises 14

5.1 Permitted Use 14
5.2 No warranty as to use 14
5.3 Improvements 14
5.4 Tenant may remove some property 14
5.5 Surrounding activities 14
5.6 Further development 15
5.7 Boundary adjustments 15
5.8 Strata leasehold title 16
5.9 No objection by the Tenant 16
5.10 Title 16
5.11 Naming rights 17
5.12 Signage 17
5.13 Barangaroo Management Plan 17

6. Tenant's additional rights and obligations 18

6.1 General obligations 18
6.2 Prohibited acts 18
6.3 Securing of the Premises 18

6.4 Supply failure 19
6.5 Indirect acts 19
6.6 Tenant's Employees and Agents to comply 19
6.7 Tenant's risk 19
6.8 Consideration of nearby properties 19
6.9 Use of external parts of Premises for aerials 19
6.10 Achieving practical completion of the Building 20

7. Maintenance, repair and alteration of Premises 20

7.1 Obligation to repair 20
7.2 Premises quality 20
7.3 Non-Routine Maintenance 20
7.4 Replacement, rebuilding and redevelopment 21
7.5 Tenant's works 22
7.6 Alterations to the Premises 23
7.7 Internal alterations 23
7.8 Landlord's consent 23

8. Green Lease Provisions 24

8.1 Sustainable Building Management Committee 24
8.2 Environmental Best Practice 25
8.3 Ratings 25
8.4 Energy Management Plan 27
8.5 Metering 28
8.6 Reporting 28
8.7 Climate Positive Works Plan 28
8.8 Overriding clause 28

9. Insurances 29

9.1 Building and other insurance 29
9.2 The policy 29
9.3 Evidence of policies 30
9.4 Tenant duties 31
9.5 Premiums and deductibles 31
9.6 Review of amount of public liability insurance 31
9.7 Notices of cancellation 31
9.8 Reinstatement 32
9.9 Notifications relating to claims 32
9.10 Use of claim proceeds 32
9.11 If reinstatement not completed at settlement of claim 33
9.12 Tenant to give information 33
9.13 Settlement of claims 33
9.14 Insurer requirements 33

10. Alienation 34

10.1 Tenant not to alienate 34
10.2 Assignment 34
10.3 Assignee to comply with Tenant's obligations 35
10.4 Change of Control of Tenant 35
10.5 Tenant's right to grant a mortgage 36
10.6 Financier's side deed 36
10.7 Terms of financier's side deed 36
10.8 Leasing and charging Tenant's Property 37
10.9 Sublease conditions 37

10.10 Guarantees required in respect of assignments or changes in Control 37
10.11 Costs....37

11. Indemnities and releases....37

11.1 Indemnity 37
11.2 Environmental liabilities 38
11.3 Release....38
11.4 Continuing indemnity 39

12. Tenant's general covenants, representations and warranties....39

12.1 Representations and warranties 39
12.2 Trustee warranties 40
12.3 Head lease or other interests....41

13. Landlord's obligations....41

13.1 Quiet enjoyment....41

14. Landlord's additional rights, representations and warranties....41

14.1 Right to deal with the Land 41
14.2 Representations and warranties 42
14.3 Compliance with laws and requirements 42
14.4 Right to enter Premises 42
14.5 Prospective tenants or purchasers 43
14.6 Change of landlord 43
14.7 Agents....43
14.8 Landlord may rectify 43
14.9 Landlord not liable 44
14.10 Representatives....44
14.11 Change of representative 44
14.12 Landlord's position as an Authority....44

15. Default and termination 45

15.1 Essential terms 45
15.2 Trigger Events 45
15.3 Trigger Notice 45
15.4 Trigger Event not remedied 45
15.5 Landlord may remedy 46
15.6 Landlord's right to terminate 46
15.7 Mitigate loss....46
15.8 Indemnity for breach 46
15.9 Indemnity in connection with termination....47
15.10 Calculation assumptions....47
15.11 Waiver....47
15.12 Rights not affected....48
15.13 Due date for payment 48

16. Tenant's obligations on expiry or termination 48

16.1 Tenant to yield up 48
16.2 Removal of Tenant's Property 48
16.3 Tenant to make good....49
16.4 Tenant may not remove certain property....49
16.5 Tenant's failure 49

17. Damage or destruction 49

17.1 Total Destruction....49
17.2 Rebuilding alternatives....50
17.3 Tenant not proceeding....50
17.4 Partial Destruction....51
17.5 Last 5 years....51

18. Costs, charges and expenses....52

18.1 What the Tenant must pay....52
18.2 Independent consultants....52
18.3 Obligations at Tenant's cost....52
18.4 Consents obtained by Landlord....52
18.5 Limitations....53

19. Dispute resolution....53

19.1 Notice of dispute....53
19.2 Continuing to perform obligations....53
19.3 Further steps required before proceedings....53
19.4 Disputes for expert determination....53
19.5 Choice of expert....53
19.6 Agreeing the relevant field....54
19.7 Expert....54
19.8 Agreement with expert....54
19.9 Directions to expert....54
19.10 Role of expert....54
19.11 Complying with directions of expert....55
19.12 Expert may convene meetings....55
19.13 Meeting not a hearing....55
19.14 Confidentiality of information....55
19.15 Confidentiality in proceedings....56
19.16 Final determination of expert....56
19.17 Expert's costs....56
19.18 Expert generally not liable....56

20. Compulsory Acquisition....56

20.1 Termination....56
20.2 Part acquisition....56

21. Notices....57

21.1 Form....57
21.2 Delivery....57
21.3 When effective....57
21.4 Receipt - post....57
21.5 Receipt - fax....58
21.6 Receipt - general....58

22. GST....58

22.1 Interpretation....58
22.2 Reimbursements....58
22.3 Additional amount of GST payable....58
22.4 Variation....59
22.5 Exchange of non-monetary consideration....59
22.6 Indemnities....59
22.7 No merger....59

23. General....59

23.1 Discretion in exercising rights 59
23.2 Partial exercising of rights 60
23.3 Prompt performance 60
23.4 Approvals and consents 60
23.5 Remedies cumulative 60
23.6 Rights and obligations are unaffected 60
23.7 Variation and waiver 60
23.8 Indemnities 60
23.9 Construction 60
23.10 Acceptance of money or other acts not a waiver 60
23.11 Exclusion of statutory provisions 61
23.12 Prior breaches 61
23.13 Warranties and undertakings 61
23.14 Inconsistent law 61
23.15 Supervening legislation 61
23.16 Counterparts 61
23.17 Serving documents 61
23.18 Parties bound 61
23.19 Entire agreement 62
23.20 CGT Event F2 election 62

24. Governing law, jurisdiction and service of process 62

24.1 Governing law 62
24.2 Submission to jurisdiction 62

25. Limitation of liability 62

Attachment 1 – Provisions to apply before Practical Completion 64

Attachment 2 – Deed Poll 97

Attachment 3 – Green Star requirements 103

The Landlord and the Tenant agree as follows.

1. Definitions and interpretation

1.1 Definitions

The following words have these meanings in this lease (including Attachment 1) unless the contrary intention appears.

Application means an application for any Approval.

Approvals means all consents, approvals, major project approvals, modifications, registrations, certificates, licences and permits from any Authority necessary to carry out any proposed works to any part of the Premises or the Land including approvals under Part 3A and Part 4 of the EP&A Act.

Authorised Officer means:

(a) in the case of the Landlord, the Chief Executive Officer of the Landlord or any other person appointed by the Landlord to act as an Authorised Officer for the purpose of this lease (which at the Commencement Date includes [***insert***]); and

(b) in the case of the Tenant, a director or a secretary or a person performing the functions of either of them or person appointed by the Tenant to act as an Authorised Officer for the purpose of this lease.

Authority means a government, semi government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body or other authority or body.

Barangaroo Management Plan means ***[insert relevant description of the Plan as at the Commencement Date]***.

Building means the structures, improvements and all plant and equipment from time to time erected or placed on the Land.

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

By Law Instrument means an instrument which creates by laws under Part 5 of the Strata Schemes Management Act 1996 (NSW).

Claims Settlement Amount means an amount equivalent to $10,000,000, increased on each anniversary of the Commencement Date by an amount equivalent to 2.75% of the Claims Settlement Amount for the immediately preceding year.

Commencement Date has the meaning given on the coversheet.

Consent Authority means, in relation to an Application, the Authority having the function to determine the Application.

Consumer Price Index means the Sydney (All Groups) index published by the Australian Statistician or the index substituted for it by the Australian Statistician or, if neither of those indexes is available, an index nominated by the Landlord (acting reasonably).

Contaminant means any substance at a concentration that presents a risk of harm to humans or any other aspect of the Environment. **Contamination** has a corresponding meaning.

Control of a corporation includes the possession directly or indirectly of the power, whether or not having statutory, legal or equitable force, and whether or not based on statutory, legal or equitable rights, directly or indirectly to control the membership of the board of directors of the corporation or to otherwise directly or indirectly direct or cause the direction of the management and policies of that corporation whether by means of trusts, agreements, arrangements, understandings, practices, the ownership of any interest in shares or stock of that corporation or otherwise.

Controller has the meaning it has in the Corporations Act.

Corporations Act means the Corporations Act 2001 (Cth).

Costs includes costs, charges and expenses including those incurred in connection with advisors and (unless otherwise specified) includes reasonable internal administrative costs.

CPI Adjustment Date means each anniversary of the Commencement Date.

Current CPI means in respect of any anniversary of the Commencement Date, the Consumer Price Index number for the quarter ending immediately before that anniversary of the Commencement Date.

Deed Poll means a deed poll in the form of Attachment 2.

Developer means Lend Lease (Millers Point) Pty Limited (ABN 15 127 727 502) or such other entity holding development rights at the relevant time which have been granted to it by the Landlord to develop the Premises.

Encumbrance means any:

(a) security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement;

(b) right, interest or arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off;

(c) right that a person (other than the owner) has to remove something from land (known as a profit à prendre), easement, public right of way, restrictive or positive covenant, lease, or licence to use or occupy; or

(d) third party right or interest or any right arising as a consequence of the enforcement of a judgment,

or any agreement to create any of them or allow them to exist.

Environment includes all aspects of the surroundings of human beings.

Environmental Law means any Law concerning the Environment and includes Laws concerning:

(a) the carrying out of uses, works or development or the subdivision of land;

(b) emissions of substances into the atmosphere, waters and land;

(c) pollution and contamination of the atmosphere, waters and land;

(d) production, use, handling, storage, transportation and disposal of:

(i) waste;

(ii) hazardous substances; and

(iii) dangerous goods;

(e) threatened, endangered and other flora and fauna species; and

(f) the health and safety of people,

whether made or in force before or after the date of this lease.

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

Estate Levy means the amount of $[***insert***] per square metre per annum as applied to the Gross Floor Area of the Premises, subject to indexation in accordance with clause 3.2 (plus GST payable under clause 22).

Estate Levy Period means each of:

(a) the period from an including the Commencement Date to the day immediately before the next Quarter Date;

(b) thereafter for the remainder of the Term each period commencing from and including each Quarter Date to the day immediately prior to the next Quarter Date; and

(c) the period from and including the last Quarter Date in the Term to and including the Expiry Date.

Event of Default means a Trigger Event has occurred which:

(a) cannot be remedied or compensated for; or

(b) has not been remedied or compensated for within the time period specified in a Trigger Notice.

Expiry Date has the meaning given on the coversheet.

GFA or **Gross Floor Area** 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;

(b) habitable rooms in a basement or an attic;, and

(c) any shop, auditorium, cinema, and the like, in a basement or attic;

but excludes:

(d) any area for common vertical circulation, such as lifts and stairs;

(e) any basement;

(f) storage;

(g) vehicular access, loading areas, garbage and services;

(h) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting;

(i) car parking to meet any requirements of the Consent Authority (including access to that car parking);

(j) any space used for the loading or unloading of goods (including access to it);

(k) terraces and balconies with outer walls less than 1.4 metres high; and

(l) voids above a floor at the level of a storey or storey above.

GST has the meaning it has in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

GST Amount has the meaning given to that term in clause 22.3.

Insolvency Event means the happening of any of these events:

(a) a body corporate is (or states that it is) insolvent under administration or insolvent (each as defined in the Corporations Act);

(b) a body corporate has a Controller appointed, is under administration or wound up or has had a Receiver appointed to any part of its property;

(c) a body corporate is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the Landlord);

(d) an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that body corporate, which:

(i) is preparatory to or could result in any of paragraphs (a), (b) or (c) above; or

(ii) which results in the appointment of a liquidator or provisional liquidator in respect of a body corporate;

(e) a body corporate is otherwise unable to pay its debts when they fall due;

(f) as a result of the operation of section 459(F)(1) of the Corporations Act a body corporate is taken to have failed to comply with a statutory demand;

(g) a body corporate is, or it makes a statement from which the Landlord reasonably deduces that the body corporate is, the subject of an event described in section 459(C)(2)(b) or section 585 of the Corporations Act);

(h) a body corporate takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to a body corporate; or

(i) something having a substantially similar effect to (a) to (h) happens in connection with that body corporate under the law of any jurisdiction.

Integrated Public Art means public works of art which have been approved by the Landlord and which are integrated into the Premises.

Integrated Public Art Plan means the plan for the Integrated Public Art existing at the Commencement Date.

Interest Rate means the rate which is 4% per annum above the 90 day Bank Bill Swap Reference Rate last published on or before the date from which interest is payable under this lease in The Australian Financial Review (or if no such rate has been published, another rate set by the Landlord in good faith).

Land means the land comprising folio identifier [***to be inserted following subdivision to create separate lot***].

Landlord is defined on the cover sheet of this lease.

Landlord's Employees and Agents means each of the Landlord's employees, officers, agents, contractors, invitees and those persons who at any time are under the control of, and in or on the Premises, with the consent (express or implied) of the Landlord.

Landlord's Property means all plant and equipment, fixtures, fittings which constitute improvements to land for the purpose of any law which is located on the Premises.

Law includes all statutes, regulations, by-laws, ordinance and other delegated legislation and any rule of common law or equity from time to time.

Material Amount means an amount equivalent to $1,000,000, increased on each anniversary of the Commencement Date by an amount equivalent to 2.75% of the Material Amount for the immediately preceding year.

Naming and Signage Policy means the Landlord's signage policy as at the Commencement Date and any replacement or variation of it by the Landlord acting reasonably of which the Tenant receives at least two months' notice, provided that at all times such policy must be materially consistent with the signage policy comprised in SEPP64 as varied from time to time.

Non-Routine Maintenance means one-off maintenance or repairs made necessary because of unplanned damage to, or breakage of, part of the Premises and other one-off maintenance which is reasonably required by the Landlord from time to time, and which is necessary to keep the Premises in good repair and condition.

Outgoings means the total of amounts and Costs paid or payable by the Tenant or the Landlord in connection with the Premises including:

(a) Rates, Taxes and other charges imposed by any Authority;

(b) supplying, renting, operating, maintaining, servicing, repairing and replacing Services and upgrading Services to comply with any laws or requirements of Authorities; and

(c) charges for the supply (including charges for installation, connection and consumption) of Services to or on the Premises.

However, the amount of Outgoings will be reduced by the amount of any credit or refund of GST to which the Landlord is entitled as a result of incurring Outgoings.

Parent of a person means the person directly or indirectly exercising the decision making power of the first mentioned person including:

(a) if the first mentioned person is a corporation, a person who:

(i) controls the composition of the board of directors of the first mentioned person;

(ii) is in a position to cast, or control the casting of, more than one half of the maximum number of votes that might be cast at a general meeting of the first mentioned person; or

(iii) holds or has a Relevant Interest in more than one half of the issued share capital of the first mentioned person (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital);

(b) if the first mentioned person is a trustee of a unit trust and, in the case of the Tenant, its interest in this lease is property subject to that trust, a person who:

(i) is in a position to cast, or control the casting of, more than one half of the maximum number of votes that might be cast at a meeting of holders of units at that meeting; or

(ii) holds or has a Relevant Interest in more than one half of the issued units of that trust (excluding any of the issued units that carries no right to participate beyond a specified amount in a distribution of either profits or capital);

(c) if the first mentioned person is a trustee of a trust and, in the case of the Tenant, its interest in this lease is property subject to that trust, a person who:

(i) is a beneficiary of that trust entitled directly or indirectly to more than one half of the corpus or profits of the trust; or

(ii) is entitled to or whose consent is required to:

A. appoint or change the trustee;

B. give directions to the trustee;

C. vary the constituent document of the trust;

D. appoint or remove beneficiaries; or

E. decide to whom any distribution is made or the amount of any distribution.

A person is also a Parent of another person if a part of this definition is satisfied in respect of each trust and company in any chain of trusts or companies connecting that person and the other person.

Permitted Use means:

(a) for the first 20 years of this lease, ***[insert relevant approved use as at the Commencement Date]***; and

(b) thereafter, any use permitted by law.

Premises means the Land and the Building and includes the Landlord's Property.

Previous CPI means the Consumer Price Index number for the quarter ending immediately before the last CPI Adjustment Date before the relevant CPI Adjustment Date (or, if there has not been one, the Commencement Date).

Quarter Date means each 1 January, 1 April, 1 July and 1 October during the Term.

Rates means rates, land taxes, levies, assessments and other charges (including charges for consumption and garbage and waste removal) together with any interest, fines and penalties in connection with them (except for the those fines and penalties imposed as a result of the Landlord's or the Landlord's Employees and Agents' wrongful act, default or negligence).

Receiver includes a receiver or receiver and manager.

Recipient has the meaning given to that term in clause 22.3.

Recipient Supply has the meaning given to that term in clause 22.5.

Redevelopment Work has the meaning given in clause 7.4(c).

Relevant Interest means the power:

(a) to exercise, or to control the exercise of, the right to vote attached to a share or unit; or

(b) to dispose of, or to exercise control over the disposal of, a share or unit.

Rent means the amount of $1.00 per annum (exclusive of GST), as varied under this lease.

Required Standard means, at the relevant date, the standard of environmental and social sustainability of the Premises as provided for in this lease and the Barangaroo Management Plan.

Routine Maintenance means such repairs, maintenance and upgrades as would routinely be conducted within a premises similar to the Premises to keep the Premises in good repair and condition consistent always with the Required Standard.

Services means the services (such as water, drainage, gas, electricity, communications, fire fighting, air conditioning, lifts and escalators) running through or servicing the Premises and includes all plant, equipment, pipes, wires, cables, ducts and other conduits in connection with them.

Site Encumbrance has the meaning given to that term in clause 14.1.

Strata Documents means each or any (as the context may require):

(a) Strata Lease;

(b) Strata Management Statement; and

(c) By Law Instrument.

Strata Lease means a lease (not being a sublease) which is substantially similar to this lease but takes into account the requirements of the Strata Leasehold Act.

Strata Leasehold Act means the Strata Schemes (Leasehold Development) Act 1986 (NSW).

Strata Management Statement means a statement under section 57A of the Strata Leasehold Act.

Superannuation Fund means a 'superannuation entity' (other then a self-managed superannuation fund) as defined in the Superannuation Industry (Supervision) Act 1993 (Cth).

Supplier has the meaning given to that term in clause 22.3.

Sustainable Building Management Committee has the meaning given to that term in clause 8.1.

Taxes means taxes, levies, imposts, deductions, charges, withholdings and duties imposed by any Authority (including stamp and transaction duties), (together with any related interest, penalties, fines and expenses in connection with them, except for the those fines and penalties imposed as a result of the Landlord's or the Landlord's Employees and Agents' wrongful act, default or negligence), except if imposed on the overall net income or capital gains of the Landlord.

Tenant is defined on the cover sheet of this lease.

Tenant's Employees and Agents means each of the Tenant's employees, officers, agents, contractors, service suppliers, sub-tenants, licensees, concessionaires, invitees and those persons who at any time are under the control of, and in or on the Premises, with the consent (express or implied) of the Tenant.

Tenant's Property means property in the Premises not owned by the Landlord.

Term means the period:

(a) from and including the Commencement Date; and

(b) to and including the Expiry Date

being a period of 99 years.

Totally Destroyed means destroyed or damaged so extensively that 80% or more of the net lettable area of the Building is unable to be used as contemplated by this lease or is otherwise in the reasonable opinion of the Tenant so destroyed or damaged that it would be impractical or not commercially viable to make good such damage. **Total Destruction** has a corresponding meaning.

Transaction Documents means this lease, any document giving rise to this lease, any licence granted in connection with this lease, any consent given by the Landlord under this lease, any assignment or transfer of this lease, any instrument which the Tenant acknowledges to be a Transaction Document and any other instrument connected with any of them.

A **Trigger Event**, except as otherwise defined in Attachment 1, occurs if:

(a) the Tenant defaults in performing, observing, or fulfilling any provision of this lease (whether or not that provision is an essential term of this lease), other than for the payment of any money;

(b) the Tenant repudiates this lease and the repudiation is accepted by the Landlord; or

(c) the Tenant does not pay within 30 Business Days of a demand being made by the Landlord any money payable under this lease in the manner required under it.

Trigger Notice means a notice given under clause 15.3.

Trust means the unit trust established under the Trust Deed.

Trust Deed means the deed of settlement dated ***[ ]*** made between ***[ ]*** as settlor and the Tenant.

Trust Fund means the property held on trust by the Tenant under the Trust Deed.

Wholesale Fund means a 'managed investment scheme' all of the 'members' (as those terms are defined in section 9 of the Corporations Act (Cth)) of which are a 'wholesale client' as that term is defined in section 761A of the Corporations Act (Cth).

1.2 References to certain general terms

Unless the contrary intention appears, a reference in this lease to:

(a) (**variations or replacement**) a document (including this lease) includes any variation or replacement of it;

(b) (**clauses, annexures and schedules**) a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this lease;

(c) (**reference to statutes**) 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;

(d) (**law**) law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);

(e) (**singular includes plural**) the singular includes the plural and vice versa;

(f) (**person**) the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any Authority;

(g) (**executors, administrators, successors**) a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;

(h) (**two or more persons**) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;

(i) (**severally**) an agreement, representation or warranty by two or more persons binds each of them individually in their respective proportions;

(j) (**reference to a group of persons**) a group of persons or things is a reference to any two or more of them jointly and to each of them individually;

(k) (**dollars**) Australian dollars, dollars, A$ or $ is a reference to the lawful currency of Australia;

(l) (**calculation of time**) if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;

(m) (**reference to a day**) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;

(n) (**accounting terms**) an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;

(o) (**meaning not limited**) the words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;

(p) (**next day**) if an act under this lease to be done by a party on or by a given day is done after 5.30pm on that day, it is taken to be done on the next day;

(q) (**next Business Day**) if an event under this lease must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day;

(r) (**time of day**) time is a reference to Sydney time; and

(s) (**reference to anything**) anything (including any amount) is a reference to the whole and each part of it.

1.3 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this lease.

1.4 Inconsistent agreements

If a provision of this lease is inconsistent with a provision of a Transaction Document the provision of this lease prevails.

2. Term

2.1 Term of lease

Subject to the provisions of this lease the Landlord leases the Premises to the Tenant for the Term.

2.2 Nature of tenancy

The Landlord and the Tenant acknowledge and agree that this lease is for a term of 99 years and the Tenant:

(a) without limiting clause 3, must pay all Costs in relation to the Premises and the Landlord has no responsibility or obligation in that regard except as expressly provided to the contrary in this lease; and

(b) takes and is subject to the same responsibilities and liabilities in regard to the Premises including in respect of:

(i) persons, property, Costs and otherwise; and

(ii) capital or structural works repairs and maintenance,

which the Tenant would take and be subject to if the Tenant were the owner of the Premises,

and the provisions of this lease are to be read, interpreted and applied in the context of and incorporating those principles. The express provisions of this lease do not limit the scope of this clause 2.2.

3. Rent and Outgoings

3.1 Rent

The Tenant must pay the Rent annually in advance, with effect from the Commencement Date.

3.2 Estate Levy

(a) The Tenant must pay the Estate Levy by equal quarterly instalments in advance on the Commencement Date and thereafter on each Quarter Date.

(b) If an instalment is for a period of less than three months, then that instalment is that proportion of one quarter of the Estate Levy which the number of days in the period bears to the number of days in the Estate Levy Period in which that period begins.

(c) If, on any CPI Adjustment Date, the Current CPI exceeds the Previous CPI, then the Estate Levy from and including that CPI Adjustment Date is the amount of the Estate Levy payable immediately before that CPI Adjustment Date multiplied by the Current CPI and divided by the Previous CPI.

3.3 Outgoings

The Tenant must:

(a) pay as and when they become due for payment all Outgoings in respect of the Premises during the Term, whether assessed during the Term or not and whether or not imposed on the Landlord, the Tenant, the Land or the Premises; and

(b) if required by the Landlord, produce to the Landlord the receipts for those payments within 28 days after the respective due dates for payment.

If the Tenant does not pay the Outgoings when they become due the Landlord may, if it thinks fit, pay the same and any sum or sums so paid may be recovered by the Landlord as if the sum or sums were Rent in arrears.

3.4 Landlord's right to reimbursement

The Tenant must repay to or reimburse the Landlord on demand an amount equivalent to any moneys paid by the Landlord in respect of any liability imposed on the Tenant under or by virtue of this lease, which liability has not already been complied with by the Tenant, notwithstanding that the liability is imposed on the Landlord under a law.

3.5 Payment despite termination

The Tenant must pay the Outgoings for the Term even if the Term has expired or been terminated before the Outgoings can be calculated. In that case, payment must be made by the Tenant promptly once the actual Outgoings are known and the parties must co-operate with each other and do all things reasonably required to ascertain and calculate the amounts payable by the Tenant pursuant to this clause.

4. Payments

4.1 Method of payment

The Tenant must make payments due to the Landlord under this lease by the method the Landlord reasonably requires without set off, including equitable set-off, or counterclaim and without deduction.

4.2 No demand necessary

The Landlord need not make demand for any amount required to be paid by the Tenant under this lease unless this lease says that demand must be made.

4.3 Adjustment of payments

If the Tenant pays an amount and it is found later that the amount payable:

(a) should have been higher, then the Landlord may demand payment of the difference even though the Landlord has given the Tenant a receipt for payment of the lower amount.

(b) should have been lower, then the Landlord must repay the difference even though the Landlord has given the Tenant a receipt for payment of the higher amount.

4.4 Obligations not affected

Expiry or termination of this lease does not affect the Tenant's obligations to make payments under this lease for periods before then or the Landlord's obligation to repay amounts under clause 4.3.

4.5 Interest on overdue money

The Tenant must pay interest at the Interest Rate on any amount under this lease which is not paid on the due date for payment. That interest:

(a) accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days; and

(b) is payable on demand from the Landlord or, if no such demand is made, on the last day of each calendar month.

4.6 Compounding

Interest payable under clause 4.5 which is not paid when due for payment may be added to the overdue amount by the Landlord monthly or the last day of each calendar month. Interest is payable on the increased overdue amount at the Interest Rate in the manner set out in clause 4.5 compounding daily.

4.7 Tender after termination

Money tendered by the Tenant after the termination of this lease and accepted by the Landlord may be applied in the manner the Landlord decides.

5. Use and occupation of Premises

5.1 Permitted Use

The Tenant may only use the Premises for the Permitted Use. The Tenant may not use the Premises for any other use.

5.2 No warranty as to use

The Landlord does not warrant that the Premises are suitable, or may be used, for any purpose.

5.3 Improvements

(a) The Landlord and Tenant agree that all assets and property which constitute improvements to land for the purposes of any law relating to the right of the Tenant to claim depreciation benefits and building allowances will be and remain always for all purposes owned by the Tenant.

(b) The Landlord agrees it will not seek to claim any depreciation entitlements or building allowances in relation to those assets or that property and will not hinder the Tenant in seeking to claim such entitlements.

5.4 Tenant may remove some property

The Landlord acknowledges and agrees that the Tenant will have the right subject to clause 16.4 to remove from the Premises on termination of this lease any assets and property which are not regarded as improvements to land for the purposes of any such law.

5.5 Surrounding activities

(a) The Tenant acknowledges that it is aware that:

(i) the Premises are within a major event, entertainment and exhibition precinct;

(ii) entertainment and promotional events or activities and public festivals may be conducted within the precinct (including on adjoining land);

(iii) occupiers of land in the vicinity of the Premises may carry out other noisy activities;

(iv) roads in the vicinity of the Premises may be temporarily closed during periods when certain events or activities occur and for the purpose of carrying out maintenance and repair; and

(v) the events, activities or festivals may temporarily interfere with the Tenant's quiet enjoyment of the Premises.

(b) The Landlord must not prevent the Tenant or the Tenant's Employees and Agents, sub lessees and licensees from accessing the Premises at all times during any periods of closure or restricted access to the Premises as contemplated under clause 5.5(a)(iv) and 5.5(a)(v).

5.6 Further development

(a) The Tenant acknowledges that after the commencement of the Term:

(i) buildings and other improvements may be developed on surrounding land or on stratum lots existing above the Land;

(ii) as part of that development excavation or construction works may be carried out;

(iii) roads in the vicinity of the Premises may be temporarily closed for the purpose of carrying out that development; and

(iv) the Tenant's access to or enjoyment of the Premises may be affected by that development.

(b) The Landlord does not warrant that any development will be completed.

(c) The Landlord must not prevent the Tenant or the Tenant's Employees and Agents, sub lessees and licensees from accessing the Premises at all times during any periods of closure or restricted access to the Premises as contemplated under clause 5.6(a)(iii) and 5.6(a)(iv).

5.7 Boundary adjustments

(a) The Tenant acknowledges that at the Commencement Date the construction of improvements proposed for the Land may not be sufficiently advanced to achieve accurate boundary definitions of those improvements.

(b) If upon Practical Completion (as defined in Attachment 1) of that construction, and where the boundaries of the Land are limited in height and/or depth and they do not follow the external horizontal planes of the improvements on the Land and where relevant, the external vertical planes of the improvements, the Landlord and the Tenant must, at the cost of the Tenant, do all things reasonably necessary on their respective parts, to assist the Tenant in the adjustment of the relevant boundaries of the Land so that, if appropriate, those boundaries follow the external horizontal and vertical, as the case may be, planes of the improvements on the Land.

(c) Without limitation and at the cost of the Tenant:

(i) the Landlord agrees to grant to the Tenant (upon request from the Tenant) and the Tenant agrees to accept the grant of a further lease, where the boundary adjustment has to extend to the external vertical and/or horizontal planes of the improvement; or

(ii) the Tenant agrees to partially surrender (upon request from the Landlord) and the Landlord agrees the accept the partial surrender of this lease, where the boundary of the Land extends beyond the external vertical and/or horizontal planes of the improvement.

5.8 Strata leasehold title

(a) If the Tenant desires to register a strata leasehold plan of subdivision for the Premises, the Tenant must obtain the Landlord's prior approval to that proposed subdivision and at the same time as seeking that approval the following documents must also be submitted to the Landlord for approval (acting reasonably):

(i) the proposed strata leasehold plan of subdivision; and

(ii) the proposed Strata Documents,

for that proposed strata subdivision.

(b) Upon receipt of any comments, suggestions or objections that the Landlord (acting reasonably) may make in relation to the documents provided to it as contemplated by clause 5.8(a), the Tenant must amend those documents to take into account those comments, suggestions or objections and resubmit those documents to the Landlord for its approval.

(c) If the Landlord has approved the documents submitted to it under clauses 5.8(a) and 5.8(b) (and the proposed subdivision arrangements generally), then at the request and at the cost and risk of the Tenant, the Landlord will do all things reasonably required of it by the Tenant to enable the Tenant to register a strata leasehold plan of subdivision for the Premises.

5.9 No objection by the Tenant

The Tenant is not entitled to:

(a) object to;

(b) obstruct the proper carrying out of;

(c) seek injunctive or other relief in respect of; or

(d) claim compensation or an abatement of Rent or Outgoings in respect of,

the matters disclosed in clauses 5.5, 5.6 or 5.7.

The Tenant agrees that the matters referred to above will not constitute a breach of covenant by the Landlord under any express or implied term of this lease for breach of quiet enjoyment including clause 13.1.

5.10 Title

(a) The Tenant must at all times observe and perform the restrictions, stipulations, easements (including those granted or permitted pursuant to

clause 14.1) and covenants referred to in the folio of the register for the Land as if the Tenant were the registered proprietor of the Land.

(b) The Tenant acknowledges that it is bound by the terms of any easements and covenants referred to in clause 5.10(a) and any lease, licence or other right of occupation granted by the Landlord in respect of the Premises, to which this lease is subject or which is concurrent to this lease.

5.11 Naming rights

(a) The Landlord acknowledges and agrees that the Tenant has the naming rights in respect of each Premises.

(b) If the Tenant wishes to use (or change) any name for the Premises, the Tenant must obtain the Landlord's consent prior to the proposed name being used, such consent not to be unreasonably withheld if the proposed name is consistent with the Naming and Signage Policy.

(c) The Landlord acknowledges that in principle, it will not object to a name of a Building where the name of that Building is the name of the Tenant or a major sub-tenant in that Building.

(d) The Landlord and the Tenant acknowledge that the name of a Building might be different to the signage on the Building.

5.12 Signage

(a) Other than the signage approved pursuant to clause 5.12(b), no signs or advertisements are to be placed on any part of the Premises unless the Landlord's prior consent is obtained to the size, nature, content, colour, and location of those signs or advertisements, such consent not to be unreasonably withheld.

(b) The Landlord acknowledges that its consent is not required under this clause 5.12 for the erection of signs and advertising to the extent the details of the proposed signs and advertising were included in an Application approved by the Authority (or by a committee comprising a member representing the Authority) prior to the Commencement Date or where such signs and advertising are consistent with Approvals and the Naming and Signage Policy.

5.13 Barangaroo Management Plan

(a) Immediately upon:

(i) the Commencement Date, in respect of the Tenant; and

(ii) the date of any assignment of this lease pursuant to clause 10.2, in respect of any new tenant,

(iii) the provisions of the Deed Poll operate and bind the Tenant (and the Tenant agrees to be bound by those provisions),

notwithstanding the fact that the Tenant may not have signed the Deed Poll.

(b) On or prior to:

(i) the Commencement Date, the Tenant must deliver;

(ii) any assignment of this lease pursuant to clause 10.2, the Tenant must procure that the new tenant delivers,

(iii) a signed copy of the Deed Poll to the Landlord.

(c) The Tenant agrees:

(i) that under the Deed Poll, it will comply with all of its obligations under the Barangaroo Management Plan for the Term; and

(ii) to comply with all its obligations under the Deed Poll.

6. Tenant's additional rights and obligations

6.1 General obligations

The Tenant must:

(a) comply on time with all laws (including all Environmental Laws) and the requirements of Authorities in connection with the Premises, the Tenant's Property and the use or occupation of the Premises (including obtaining and maintaining all consents and Approvals);

(b) inform the Landlord of any material damage or significant accident in, the Premises immediately when it becomes aware of it; and

(c) give the Landlord a copy of any notice or order which may materially affect the Landlord or the Premises, or the use or occupation of the Premises, promptly after the Tenant receives the notice or order.

6.2 Prohibited acts

The Tenant may not:

(a) do anything in or around the Premises which is dangerous; or

(b) do anything to contaminate, pollute or increase toxicity in the Premises or their Environment.

6.3 Securing of the Premises

The Tenant is responsible for:

(a) arranging and maintaining the security for the Premises; and

(b) protecting against any unauthorised entry to the Premises.

6.4 Supply failure

(a) The Tenant may not terminate this lease, stop or reduce payments under it, or claim any compensation because a Service is not available or is interrupted or fails, except to the extent that the unavailability, interruption or failure of the Service is caused by the Landlord's or the Landlord's Employees and Agents wilful, reckless or negligent act or omission.

(b) The Landlord agrees to assist the Tenant as and when reasonably required by the Tenant in dealing with service providers so as to rectify an interruption or failure.

(c) The action taken by the Landlord under clause 6.4(b) will be at the Tenant's cost and risk, except to the extent that the unavailability, interruption or failure of the Service is caused by the Landlord's or the Landlord's Employees and Agents wilful, reckless or negligent act or omission.

6.5 Indirect acts

If the Tenant may not do something in connection with this lease, then it may not do anything which may result in it happening.

6.6 Tenant's Employees and Agents to comply

The Tenant agrees to ensure, so far as it is legally able to do so, that the Tenant's Employees and Agents comply, if appropriate, with the Tenant's obligations under this lease.

6.7 Tenant's risk

The Tenant accepts all risks in connection with the use and occupation of the Premises including that a law or a requirement of an Authority may affect the use or occupation of the Premises.

6.8 Consideration of nearby properties

The Tenant must:

(a) reasonably consider the occupiers of nearby properties in the Tenant's use and occupation of the Premises; and

(b) endeavour to minimise inconvenience to adjacent occupiers of land when it carries out any construction works on the Premises.

6.9 Use of external parts of Premises for aerials

(a) The Tenant may not install aerials on the roof or walls of the Premises without the consent of the Landlord, such consent not to be unreasonably withheld if the Landlord, acting reasonably, considers the aerials:

(i) do not have an adverse visual impact on the Premises or the surrounding improvements; and

(ii) do not interfere with the development of surrounding land or on stratum lots existing above the Land as contemplated by clause 5.6.

(b) The Tenant must make good any damage caused to the Premises in installing and removing the aerials.

6.10 Achieving practical completion of the Building

The Tenant must comply with the provisions of Attachment 1 where the Building is not Practically Complete (as defined in Attachment 1) as at the Commencement Date.

[Completion Note: This clause 6.10 and Attachment 1 are to be deleted in circumstances where the Lease is being granted after PC of the relevant Works Portion]

7. Maintenance, repair and alteration of Premises

7.1 Obligation to repair

The Tenant:

(a) must keep the Premises in good repair and condition structurally sound and wind and water-proof;

(b) must maintain and keep in good order and repair all Integrated Public Art in accordance with the Integrated Public Art Plan; and

(c) acknowledges that the Landlord is not responsible for any structural and capital maintenance, replacement and repair in respect of the Premises.

7.2 Premises quality

The Tenant must undertake reasonable Routine Maintenance.

7.3 Non-Routine Maintenance

(a) The Landlord may, at any time during the Term, notify the Tenant of any necessary Non-Routine Maintenance item of which it has become aware, in respect of the façade of the Building or lobby or external areas of the Building accessible by the general public.

(b) On receipt of a notice from the Landlord in accordance with clause 7.3(a), the Tenant may either:

(i) notify the Landlord within 10 Business Days that it has conducted, or will within a reasonable period conduct, the Non-Routine Maintenance referred to in the Landlord's notice; or

(ii) notify the Landlord within 10 Business Days that it requires representatives of the Landlord to meet with its representatives to discuss the item in the Landlord's notice and the work which may reasonably be required to be undertaken by the Tenant to restore

the façade of the Building or lobby or external areas of the Building accessible by the general public.

(c) Where the Tenant notifies the Landlord in accordance with clause 7.3(b)(ii), the parties must meet and use their reasonable endeavours to agree the works that may reasonably be required to be undertaken and the Tenant must, upon agreeing such works, perform such works as soon as practicable.

(d) If the parties fail to reach agreement under clause 7.3(c), then either party may issue a notice of dispute under clause 19.1. Once the works the subject of that dispute are determined under clause 19, the Tenant must perform such works as it is required to undertake, as soon as practicable.

7.4 Replacement, rebuilding and redevelopment

(a) Subject to the requirements of this clause, the Tenant will have the right to redevelop, replace or rebuild (more than once) the Building (or any part of it) during the Term.

(b) The Tenant cannot replace or rebuild the Building to a standard which is less than the Required Standard.

(c) Where the Tenant proposes to replace or rebuild the Building so that such replacing or rebuilding is at least to the Required Standard (in the reasonable opinion of the Landlord) (**Redevelopment Work**), then:

(i) the Tenant must first obtain the consent of the Landlord, which must not be unreasonably withheld;

(ii) the Landlord and the Tenant (both acting reasonably) must agree upon the plans and specifications for the proposed new Building prior to any Application being lodged with the Consent Authority, provided that the Landlord's consent is not required in relation to such parts of the plans and specification for the proposed new Building which are not related to:

A. the achievement of the Required Standard;

B. the external appearance of the Building, including any increase in height;

C. in a material way, the Services to the Premises;

D. any part of the Premises accessible to the general public including foyers and carpark entry;

E. Integrated Public Art;

(iii) the Tenant must ensure that the Redevelopment Work meets the requirements of Attachment 3;

(iv) if the proposed Redevelopment Works:

A. do not result in an increase of GFA of more than 2%, then no additional Rent will be payable as a condition of the Landlord's consent; or

B. do result in an increase of GFA of more than 2%, then the Landlord must advise the Tenant of the additional Rent referable to that increased GFA that it requires to be payable as a condition of the Landlord's consent.

The Landlord, acting reasonably, may request additional information from the Tenant relating to the proposed Redevelopment Work promptly after receiving the Tenant's plans and specifications (and the Tenant must promptly provide that information).

The Landlord must notify the Tenant whether it has granted or withheld its approval as contemplated by clause 7.4(c)(i) within 40 Business Days after it receives the Tenant's plans and specifications for the proposed Redevelopment Work (as contemplated by clause 7.4(c)(ii)).

(d) The Tenant shall provide the Landlord, on request, with such security for the completion of the Redevelopment Work, which the Landlord shall reasonably require having regard to the financial capacity of the Tenant and the nature, scope and anticipated cost of the Redevelopment Works.

(e) If the Tenant carries out Redevelopment Work in accordance with clause 7.4(c)(iv)B, then the Rent payable by the Tenant under this lease on and from the date the Redevelopment Work is completed will be that advised by the Landlord pursuant to clause 7.4(c)(iv)B (in addition to any other Rent payable prior to that Redevelopment Work being completed).

7.5 Tenant's works

Without limiting clause 7.4, the Tenant agrees to ensure that any works it does which affect or relate to Premises or any part of the Premises are done

(a) in a proper and workmanlike manner;

(b) in accordance with all laws and the requirements of Authorities;

(c) without unduly disturbing other occupiers of or visitors to the Premises or land located near the Premises; and

(d) if they are works for which the Landlord's consent is required under clause or 7.6

in accordance with any plans, specifications and schedule of finishes required and approved by the Landlord (such approval not to be unreasonably withheld).

7.6 Alterations to the Premises

Without limiting clause 7.4, the Tenant shall not make or suffer or permit to be made any alterations, additions or installations which require an Application, in or to the Premises affecting:

(a) the structure of the Building;

(b) any external part of the Premises;

(c) any part of the Premises accessible to the general public (including foyers and car park entry);

(d) in a material way, the Services to the Premises; or

(e) the Integrated Public Art,

without the Landlord's prior approval (not to be unreasonably withheld).

7.7 Internal alterations

(a) Subject to clause 8, the Tenant has the right to make alterations affecting the interior of the Building without requiring the consent of the Landlord, provided such alterations do not affect or relate to external appearance of the Premises or the interface between the Building and any publicly accessible areas.

(b) Any alterations carried out pursuant to this clause must be done so in accordance with all applicable laws and Approvals.

7.8 Landlord's consent

If the Tenant requests the Landlord's approval to a proposed alteration, addition or installation referred to in clause 7.6:

(a) the Tenant must submit plans and specifications of the proposed work to be carried out to the Premises together with a list of the persons (if any) from whom the Tenant proposes to call tenders for the proposed work. The Landlord must keep confidential the information provided by the Tenant to the Landlord in accordance with this paragraph;

(b) if any of the proposed works requires lodgement of an Application with the Consent Authority, then at least three months before the Tenant lodges an Application, the Tenant must seek the Landlord's consent, and provide to the Landlord such details as the Landlord reasonably requires;

(c) the Landlord will (unless it notifies the Tenant otherwise) require as a condition of its approval that:

(i) the Tenant demonstrates to the Landlord's reasonable satisfaction that any such work will be carried out in accordance with all relevant codes, standards and regulations;

(ii) the Tenant pays on demand all reasonable Costs incurred by the Landlord in considering (acting reasonably) the proposed works, and their supervision including the reasonable fees of architects or other building consultants employed by the Landlord;

(d) subject to the Landlord providing its consent to the carrying out of the works:

(i) the Tenant must obtain from any Authority all Approvals to enable such proposed work to be lawfully effected;

(ii) the Tenant shall on request by the Landlord produce for inspection to the Landlord copies of all such Approvals from any such Authority; and

(iii) the Tenant must not commence the works until all Approvals have been received from all relevant Authorities;

(e) upon completion of the works the Tenant must obtain and produce to the Landlord any certificates of compliance issued by any such Authority; and

(f) the Tenant shall reimburse the Landlord for any cost or expense as may be reasonably incurred by the Landlord as a result of any such alteration addition or installation including any resulting modification of or variation to the Building.

For the avoidance of doubt, the Tenant and Landlord acknowledge and agree that clause 7.6, does not give the Tenant any rights to redevelop, replace or rebuild the Building, being the rights contained in clause 7.4.

8. Green Lease Provisions

8.1 Sustainable Building Management Committee

(a) The Landlord and the Tenant must, promptly after the Commencement Date, establish a building management committee for the discussion and review of matters relating to the environmental sustainability of the operation of the Building (**Sustainable Building Management Committee**).

(b) The Sustainable Building Management Committee will consist of one representative of each of the Landlord and the Tenant.

(c) The Landlord or the Tenant may, from time to time, replace a person appointed by it to the Sustainable Building Management Committee under - clause 8.1(b) by written notice to the other of them.

(d) The purpose of the Sustainable Building Management Committee is to:

(i) monitor progress;

(ii) provide information and advice;

(iii) discuss matters; and

(iv) make recommendations,

relating to the operation of the Building insofar as it relates to environmental sustainability. The Sustainable Building Management Committee is not a decision making body and its resolutions are not contractually binding on the parties.

(e) The Sustainable Building Management Committee must meet 6 monthly from the Commencement Date.

(f) The Tenant must, as soon as practicable before each Sustainable Building Management Committee meeting, give the Landlord the proposed agenda for the Sustainable Building Management Committee meeting.

(g) The Tenant must:

(i) convene and chair each Sustainable Building Management Committee meeting; and

(ii) as soon as practicable after the Sustainable Building Management Committee meeting, give the Landlord minutes of the meeting.

8.2 Environmental Best Practice

The Tenant must:

(a) use reasonable endeavours to reduce, to the extent that it is reasonably practicable to do so in the circumstances, the adverse environmental impact caused by the operation of the Building;

(b) be proactive in the sustainable management of the Building; and

(c) set and regularly review (and, if necessary, update) reasonable targets and benchmarks for the environmental management of the Building, having regard to best practice in the market from time to time.

8.3 Ratings

(a) In this clause 8:

(i) **NABERS** means the National Australian Built Environment Rating System for office buildings published by the New South Wales Department of Environment and Climate Change;

(ii) **Minimum Base Building Rating Requirements** are (subject to clause 8.3(f)) the requirements for achieving the following ratings in respect of the base building of the Building (measured having regard to the relevant ratings current as at ***[insert date]***):

A. in respect of NABERS Energy: [to be completed at Lease Commencement Date] stars;

B. in respect of NABERS Indoor Environment Quality: [to be completed at Lease Commencement Date] stars;

C. in respect of NABERS Water: [to be completed at Lease Commencement Date] stars; and

D. in respect of NABERS Waste: [to be completed at Lease Commencement Date] stars;

Completion note: the standards to be adopted at Lease Commencement Date must be not less than a standard which is equivalent to 5 star rating as at November 2009

(iii) **Minimum Fitout Rating Requirements** are (subject to clause 8.3(f)) the requirements for achieving the following ratings in respect of the fitout of premises in the Building (measured having regard to the relevant ratings current as at [insert date 2009]):

A. in respect of NABERS Energy: [to be completed at Lease Commencement Date] stars;

B. in respect of NABERS Indoor Environment Quality: [to be completed at Lease Commencement Date] stars;

C. in respect of NABERS Water: [to be completed at Lease Commencement Date] stars; and

D. in respect of NABERS Waste: [to be completed at Lease Commencement Date] stars.

Completion note: the standards to be adopted at Lease Commencement Date must be not less than a standard which is equivalent to 5 star rating as at November 2009

(b) The Tenant must use reasonable endeavours to:

(i) satisfy or exceed the Minimum Base Building Rating Requirements by ***[to be completed as at Lease Commencement Date]***;

(ii) manage and operate the Building (including managing its energy and water consumption, waste disposal) so that it continues to satisfy or exceed the Minimum Base Building Ratings Requirements during the Term;

(iii) if the Tenant intends to fitout the Premises, design and construct its fitout so as to satisfy or exceed the Minimum Fitout Rating Requirements.

(c) The Tenant must ensure that each of the sub-leases it grants of premises in the Building imposes obligations on the sub-lessee to:

(i) use reasonable endeavours to design and construct its fitout so as to satisfy or exceed the Minimum Fitout Rating Requirements; and

(ii) co-operate with the Tenant and use reasonable endeavours to manage its energy and water consumption, waste disposal and the operation of its business in the Premises to support the Tenant's ability to satisfy or exceed the Minimum Base Building Rating Requirements.

(d) The Tenant must take reasonable steps to procure its sub-lessees to comply with the obligations referred to in clause 8.3(c).

(e) The Tenant must ensure that its service and maintenance contracts (and where relevant the service and maintenance contracts entered into by any sub-lessee) contain obligations on the contractors with respect to performance of Building services having regard to the Minimum Base Building Rating Requirements.

(f) Not less than once every 2 years at a meeting of the Sustainable Building Management Committee the Landlord and the Tenant must discuss (with a view to agreeing) whether the Minimum Base Building Rating Requirements and the Minimum Fitout Rating Requirements should be altered to reflect best practice in the field of the environmentally sustainable development and management of office buildings. If the parties agree in writing to vary any or all of:

(i) the Minimum Base Building Rating Requirements; or

(ii) the Minimum Fitout Rating Requirements,

clause 8.3(a) is deemed to be amended to refer to the varied rating requirements.

8.4 Energy Management Plan

(a) The Tenant must:

(i) develop an energy management plan for the Building, including strategies for achieving the Minimum Base Building Rating Requirements and the Minimum Fitout Rating Requirements and obtain the Landlord's approval to that plan (not to be unreasonably withheld); and

(ii) review and, if appropriate, amend to the energy management plan for the Building at least once every 2 years to reflect changes in the field of environmentally sustainable management of office buildings and submit any such amended plan to the Landlord for its approval (not to be unreasonably withheld);

(b) The Tenant must use reasonable endeavours to:

(i) comply with; and

(ii) procure its sub-lessees to comply with,

the Tenant's energy management plan for the Building which is current from time to time.

(c) The Tenant must report to the Sustainable Building Management Committee at least annually in respect of the compliance (or non-compliance) with the then current energy management plan by the Tenant and its sub-lessees.

8.5 Metering

The Tenant must ensure that the Premises are separately metered for electricity, gas and water.

8.6 Reporting

(a) The Tenant must:

(i) promptly carry out after every 30 June an audit of energy and water usage, waste generation and indoor Environment quality in respect of the Building; and

(ii) promptly (after the audit has been carried out) provide to the Landlord information about the results of the audits referred to in clause 8.6(a)(i).

(b) The Tenant must maintain all the information, plans, documents, service contracts, specifications and maintenance reports necessary to enable an assessor to authorise a rating of the base building of the Building.

(c) The Tenant must allow the Landlord to have reasonable access to the information referred to in clause 8.6(b) on reasonable prior notice from time to time.

(d) The Tenant must provide to the Landlord regular reports (on not less than an annual basis) on energy and water consumption, waste generation and compliance with the Tenant's obligations under this clause 8.

(e) The Landlord must keep confidential all information provided to it or to which it has access in connection with this clause 8.6.

8.7 Climate Positive Works Plan

[Completion Note: Insert provisions here to address any requirement or commitment in the Climate Positive Work Plan which is applicable to the Tenant or the Premises the subject of this Lease where those requirements or commitments arise or continue after Practical Completion of the Building (unless such requirements or commitments are otherwise addressed in the Barangaroo Management Plan)]

8.8 Overriding clause

Despite any other provision of this Lease, the Landlord is not entitled to terminate this Lease for a breach of this clause 8 by the Tenant.

9. Insurances

9.1 Building and other insurance

The Tenant must effect and maintain, or must procure to be effected and maintained, throughout the Term:

(a) public liability insurance written on an occurrence basis with a limit of indemnity of not less than **$*[insert amount which is determined at the start of each lease, being an amount which is within market parameters at that time]*** or any other amount reasonably required by the Landlord, for any one occurrence which covers liability (including to the Landlord) in respect of:

(i) damage to, loss or destruction of, or loss of use of, any real or personal property; and

(ii) the personal injury of, disease or illness (including mental illness) to, or death of, any person,

occurring in and around the Premises and arising out of or in connection with the business carried on at the Premises;

(b) insurance which insures against any liability for death of, or any injury, damage, expense, loss or liability suffered or incurred by any person employed by the Tenant at the Premises giving rise to a claim under any statute relating to workers' or accident compensation in New South Wales or at common law;

(c) industrial special risks insurance covering the Premises and all contents (including plant and equipment, all external and internal glass and hazardous goods stored at the Premises, which are material to the Tenant's ability to undertake its business conducted at the Premises) of the Tenant, against the risks of loss, damage or destruction by all insurable risks to the reasonable satisfaction of the Landlord for their full replacement or reinstatement value (including extra costs of reinstatement, consultant's fees and removal of debris);

(d) other insurances required of it, or of a contractor or subcontractor of it, by the Landlord, acting reasonably, in connection with works carried out by the Tenant under clause 7; and

(e) other insurances which, in the Landlord's reasonable opinion, a prudent tenant would effect over time having regard to the nature of the Premises and this lease and which are consistent with prudent industry practice at the time.

The Tenant must ensure that each insurance required by this lease is in force on the Commencement Date and is maintained during the Term.

9.2 The policy

The Tenant must ensure that:

(a) the insurances referred to in clause 9.1(a) (relating to public liability) provide that:

(i) all insurance agreements name as insureds and operate as if there was a separate policy of insurance covering the Landlord and the Tenant;

(ii) failure by any insured to observe and fulfil the terms of the policy or to comply with the duty of disclosure or misrepresentation does not prejudice the insurance of any other insured; and

(iii) the insurer waives all rights, remedies or relief to which it might become entitled by way of subrogation against insureds;

(b) the insurance referred to in clause 9.1(c) (relating to industrial special risks) provides that:

(i) all insurance agreements name as insureds and operate as if there was a separate policy of insurance covering the Landlord and the Tenant for their respective rights and interests;

(ii) failure by any insured to observe and fulfil the terms of the policy or to comply with the duty of disclosure or misrepresentation by any insured does not prejudice the insurance of any other insured; and

(iii) the insurer waives all rights, remedies or relief to which it might become entitled by way of subrogation against insureds; and

(c) each insurance required by this lease except for the insurance referred to in clause 9.1(b) (relating to workers compensation insurance) is effected:

(i) with reputable insurers with a rating of A- or better by Standard and Poors or the equivalent rating with another rating agency;

(ii) on terms and conditions (including deductible amounts) approved in writing by the Landlord, which approval by the Landlord must not be unreasonably withheld; and

(iii) once approved by the Landlord, the terms of the insurance is not changed without the Landlord's prior written approval (not to be unreasonably withheld). The Tenant must pay the Landlord for its reasonable legal and other Costs (if any) associated with determining whether or not to approve any such requested changed.

9.3 Evidence of policies

(a) The Tenant must, in respect of each insurance required to be effected and maintained in accordance with this lease give the Landlord (promptly upon written request from the Landlord) copies of the relevant cover notes, policies (other than policies that are effected under a global insurance program

covering the primary insured's other business activities), certificates of currency and renewal certificates.

(b) If the Tenant does not comply with its obligation to effect and maintain the insurances required by this lease, or if the Tenant fails to provide evidence that such insurances have been effected, the Landlord may, but is not obliged to, effect the relevant insurances and may recover the cost of doing so as a debt due from the Tenant.

9.4 Tenant duties

The Tenant must ensure that in relation to any insurance policy required to be effected and maintained by the Tenant in accordance with this lease it:

(a) does not do anything or fail to do anything or (insofar as it is reasonably within its power) permit anything to occur which prejudices any insurance;

(b) if necessary, rectifies anything which might prejudice any insurance;

(c) reinstates an insurance policy if it lapses;

(d) does not cancel, vary or allow an insurance policy to lapse without the prior written consent of the Landlord, not to be unreasonably withheld;

(e) gives full, true and particular information to the insurer of all matters and things the non-disclosure of which might in any way prejudice or affect any such policy or the payment of all or any benefits under the insurance; and

(f) complies with the terms of each insurance policy.

9.5 Premiums and deductibles

The Tenant must punctually pay all premiums in respect of all insurances required by this lease. Any deductibles payable under any of the insurances required by this lease shall be the responsibility of the Tenant.

9.6 Review of amount of public liability insurance

The Landlord may at five yearly intervals computed from the Commencement Date by notice require the Tenant to change the amount of public liability insurance required to be maintained by the Tenant to such amount as is adequate for a corporate with the same risk profile as the Tenant having regard to then current market practice for companies carrying on the same type of business as the Tenant or having similar assets.

9.7 Notices of cancellation

The Tenant must immediately give notice to the Landlord whenever an insurer of any of the insurances required by this lease gives the Tenant a notice of cancellation or any other notice in respect of the relevant policy of insurance or the Tenant serves a notice of cancellation on the insurer.

9.8 Reinstatement

All insurances required by this lease, except for workers compensation insurance referred to in clause 9.1(b), must be endorsed by the insurer to note and allow for the Tenant's obligations under clause 17 and clause 9.10, to the effect that compliance with the provisions of that clause will not prejudice the Tenant's or any other insured's rights to indemnity under the insurances.

9.9 Notifications relating to claims

The Tenant must notify the Landlord if an event occurs which gives rise, or may give rise, to:

(a) a claim under any insurance policy required under clause 9.1 in excess of the Material Amount or any number of claims under any one such insurance policy in excess of the Material Amount;

(b) such an insurance policy being cancelled, lapsing or being avoided; or

(c) a claim under any insurance policy required under clause 9.1 is refused either in part or in full.

9.10 Use of claim proceeds

Subject to clause 17.3:

(a) the Tenant must use the proceeds of any insurance under clause 9.1(c) (relating to industrial special risks) to replace or reinstate the Premises;

(b) if the proceeds of an insurance under clause 9.1(c) are insufficient to replace or reinstate the Premises, the Tenant must, to the extent of the insufficiency, complete the replacement or reinstatement using its own funds; and

(c) any proceeds which remain after the replacement or re-instatement of the Premises must be held by the Tenant in a separate account in the names of the Landlord, the Tenant and, if reasonably required by the Landlord, any other person who has an interest in such proceeds, and paid:

  (i) first, to settle claims arising from or in connection with the event insured against; and

  (ii) second, in equitable portions (having regard to their respective interests in the Premises or the effect on them of the event insured against) to the Landlord, the Tenant and, if reasonably required by the Landlord, any other person who has an interest in such proceeds.

However, if as a result of the application of clause 17.3, the Premises are not to be replaced or reinstated, then clause 9.10(c) will apply to any proceeds of an insurance under clause 9 as if they were proceeds which remain after the replacement or re-instatement of the Premises.

9.11 If reinstatement not completed at settlement of claim

(a) Subject to clause 17.3, upon settlement of a claim under any insurance relating to damage or destruction required under this lease, if the Tenant has not completed reinstatement of the Premises, or any part, the Tenant agrees to pay proceeds of an insurance claim (even under a policy in the Tenant's name only in breach of clause 9.2) into a separate joint account in the names of the Tenant and the Landlord and, if reasonably required by the Landlord or the Tenant, any other person who has an interest in such proceeds. As the Tenant proceeds to reinstate the loss or damage, the Landlord will consent to moneys being progressively drawn from the joint account for the purpose of satisfying the Costs of such reinstatement, such Costs to be agreed by the Tenant and the Landlord and failing any agreement determined in accordance with the procedures set out in clause 19.

(b) The parties agree that amounts will not be withdrawn from the joint account unless the Landlord is reasonably satisfied that the money remaining in that joint account is not less than the amount which the Landlord from time to time reasonably determines or otherwise accepts is sufficient to pay all Costs of completing all such reinstatement works.

9.12 Tenant to give information

The Tenant must give full, true and particular information to the insurer of all matters and things the non-disclosure of which might in any way prejudice or affect any such policy or the payment of all or any benefits under the insurance.

9.13 Settlement of claims

The Tenant may not compromise, settle, prosecute or enforce a claim under any insurance relating to damage or destruction, where the claim is in excess of the Claims Settlement Amount (or where there are a number of claims, the claims total in excess of the Claims Settlement Amount) without the prior consent of the Landlord (acting reasonably) or otherwise on such basis as the Landlord and the Tenant agree in writing from time to time.

9.14 Insurer requirements

The Tenant must comply with the requirements of any insurer in relation to:

(a) anything placed or intended to be placed by the Tenant in the Premises; and

(b) alarms, sprinklers and other fire warning or prevention equipment.

10. Alienation

10.1 Tenant not to alienate

(a) The Tenant must not dispose of, deal with, assign its estate and interest in the Premises or its rights and powers as Tenant under this lease, including by way of sub-lease or concurrent lease, where the result of sub sub-lease or concurrent lease is an effective disposal or assignment of the Tenant's rights under this lease.

(b) For the purposes of clause 10.1(a), unless the Tenant or a Parent of the Tenant is a company or trust listed on the Australian stock exchange or the trustee of a Wholesale Fund or Superannuation Fund, a person becoming or ceasing to be a Parent of the Tenant will be deemed to be a disposal of the Tenant's estate and interest in the Premises.

10.2 Assignment

Despite clause 10.1:

(a) prior to Practical Completion (as defined in Attachment 1) the Tenant may dispose of, deal with, assign its estate and interest in the Premises or its rights and powers as tenant under this Lease to the Developer or a nominee of the Developer that satisfies the requirements of clause 10.2(b); and

(b) after Practical Completion, the Tenant may assign its estate and interest in the Premises and its rights and powers as a Tenant under this lease with the consent of the Landlord, which must not be unreasonably withheld, provided that, before the proposed transaction takes effect:

(i) the Tenant gives to the Landlord not less than 15 days notice of its intention to assign or transfer which sets out:

A. the name and address of the proposed assignee or transferee; and

B. if the proposed assignee or transferee is a company, the names and addresses of its directors;

(ii) the Tenant proves to the reasonable satisfaction of the Landlord that the proposed new tenant is a respectable, responsible and solvent person capable of duly and punctually observing and performing the obligations of the Tenant under this lease;

(iii) the Landlord, the Tenant and the proposed new tenant sign a deed relating to the transfer or assignment in a form reasonably required by the Landlord under which:

A. the Tenant and the Landlord each release the other from their respective obligations under this lease arising after the transfer or assignment;

B. the Tenant and the Landlord each release the other from all claims in respect of, or in any way arising from, this lease except in respect of any matter or thing which occurs before the date of transfer or assignment; and

C. the proposed new tenant agrees to comply with this lease as if it were the Tenant in respect of

all obligations imposed on the Tenant which arise on or after the transfer or assignment; and

(iv) any Trigger Event or Event of Default by the Tenant, notice of which has been given by the Landlord to the Tenant prior to the Tenant's clause 10.2(b)(i) notice, has been remedied by the Tenant or waived by the Landlord;

(v) the proposed new tenant satisfies the Landlord that it has effected the insurances required under clause 9;

(vi) the Tenant and the proposed new tenant pay the Landlord's reasonable Costs, including legal Costs, of considering the proposed assignment; and

(vii) any guarantee required under clause 10.10 is provided in accordance with that clause.

10.3 Assignee to comply with Tenant's obligations

By taking an assignment or transfer, the assignee or transferee is taken to have agreed with the Landlord to comply with the obligations of the Tenant under this lease relating to the period after the assignment or transfer takes effect.

10.4 Change of Control of Tenant

(a) If the Parent of the Tenant is:

(i) a company or trust listed on a recognised stock exchange; or

(ii) a Wholesale Fund or a Superannuation Fund

this clause 10.4 will not apply to any change in the Parent of the Tenant.

(b) A person may become or cease to be a Parent of the Tenant if, before the proposed event occurs:

(i) the Tenant gives to the Landlord 15 days' notice of the proposal for a person to become or cease to be a Parent of the Tenant which sets out:

A. the name and address of the proposed Parent; and

B. if the proposed Parent is a company, the names and addresses of its directors;

(ii) the Tenant proves to the reasonable satisfaction of the Landlord that the Tenant will be financially capable of complying with the Tenant's obligations under this lease;

(iii) the Tenant has remedied, or the Landlord has waived, any Trigger Event and any Event of Default which has occurred, notice of which has been given by the Landlord to the Tenant prior to the Tenant's clause 10.4(b)(i) notice;

(iv) the Tenant pays the Landlord's reasonable Costs, including legal Costs, in connection with considering the proposed change of Control; and

(v) the Tenant and the proposed Parent of the Tenant and the person proposing to cease being a Parent of the Tenant comply with all reasonable requirements of the Landlord.

10.5 Tenant's right to grant a mortgage

The Landlord and the Tenant acknowledge that, subject to clause 10.8, nothing in this lease restricts the Tenant's right to grant a mortgage, charge or other Encumbrance over the Tenant's interest in this lease.

10.6 Financier's side deed

The Landlord acknowledges that:

(a) the Tenant may want to obtain financial accommodation and grant a mortgage, charge or other encumbrance over the Tenant's interest in this lease; and

(b) it may be a condition of that financing that the Landlord enters into a financier's side deed and, perhaps, other agreements with the financier.

10.7 Terms of financier's side deed

The Landlord agrees to be reasonable in negotiating the terms of the financier's side deed referred to in clause 10.6 if:

(a) there is no material derogation of the Landlord's rights under this lease, or any other Transaction Document; and

(b) the Tenant pays all Costs reasonably incurred by the Landlord arising out of, or in connection with, those agreements (including negotiating them),

provided that any such financier's side deed contains an undertaking from the financier in favour of the Landlord that if the financier exercises its power of sale over this lease under any security, it must as a condition of that sale, comply with all the conditions of clause 5 of the Deed Poll, mutatis mutandis, as if the financier was the Tenant.

10.8 Leasing and charging Tenant's Property

The Tenant may not mortgage, charge, lease or otherwise deal with any Tenant's Property which requires the Landlord to sign a landlord's waiver without first obtaining the consent of the Landlord, which consent will not be unreasonably withheld or delayed if:

(a) the Tenant uses the Landlord's standard form of waiver or, if relevant, the form of waiver previously agreed to by the Tenant; and

(b) the Tenant pays the Landlord's reasonable Costs (including legal Costs).

10.9 Sublease conditions

For the avoidance of doubt, except as expressly provided in clause 10.1, nothing in clause 10.1 prevents the Tenant from granting any sublease or licence of the whole or any part of the Premises, in its discretion, without obtaining the Landlord's consent.

10.10 Guarantees required in respect of assignments or changes in Control

(a) If asked to do so by the Landlord on reasonable grounds and as part of its consideration of the matters referred to in clause 10.2(b)(ii), the Tenant must procure that a guarantee or a guarantee and indemnity in connection with the obligations to be assumed by the proposed new tenant under this lease (in the case of a proposed assignment), is given by a person acceptable to the Landlord, acting reasonably.

(b) The Landlord need not accept a guarantee or a guarantee and indemnity if the Landlord is not satisfied with its terms including the extent of the liability of the proposed guarantor.

10.11 Costs

The Tenant must within 5 Business Days of demand pay the Landlord's Costs as required by this clause 10, whether or not (for any reason) the proposed event takes place.

11. Indemnities and releases

11.1 Indemnity

The Tenant must at all times indemnify the Landlord, its officers and employees ('**those indemnified**') from and against any claim, action, damage, loss, liability, cost or expense incurred or suffered by any of those indemnified or arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified to the extent such Loss was caused or contributed to by:

(a) any loss, injury or death, or loss of or damage to property in or on the Premises or in the vicinity of the Premises caused or contributed to by the Tenant or those for whom the Tenant is responsible (including the Tenant's invitees onto the Premises);

(b) any default by the Tenant under this lease;

(c) the use or occupation of the Premises by the Tenant or Tenant's Employees and Agents;

(d) any Service not working properly, being unavailable or being interrupted, or the misuse of any Service provided to the Premises, unless caused by the negligence of the Landlord or the Landlord's Employees and Agents;

(e) the escape of any water from the Premises caused or contributed to by the Tenant or Tenant's Employees and Agents;

(f) the Landlord or the Landlord's Employees and Agents doing anything which the Tenant must do under this lease but has not done or which the Landlord considers (acting reasonably) the Tenant has not done properly; and

(g) the Landlord or the Landlord's Employees and Agents exercising, or attempting to exercise, a right or remedy in connection with this lease after the Tenant defaults under this lease or in an emergency under clause 14.4(c).

The Tenant agrees that the Landlord may enforce the indemnity in favour of those indemnified for the benefit of each of such persons in the name of the Landlord or of such persons.

The Tenant agrees to pay amounts due under this indemnity on demand from the Landlord.

11.2 Environmental liabilities

Without limiting any other provision of this clause 11, the Tenant:

(a) indemnifies the Landlord against; and

(b) releases the Landlord from; and

(c) agrees the Landlord is not liable for,

liability or loss arising from, and costs, charges and expenses in connection with, any Contamination occurring in or on the Premises.

11.3 Release

The Tenant releases and forever discharges the Landlord from all actions, suits, claims, demands, causes of actions, costs and expenses, equitable under statute and otherwise and all other liabilities of any nature (whether or not the parties were or could have been aware of them) which the Tenant:

(a) now has;

(b) at any time had;

(c) may have now or in the future; or

(d) but for this lease, could or might have had,

against the Landlord in any way relating to or arising out of or in connection with:

(i) any damage, loss, injury or death to or of any person or loss of or damage to property on or near the Premises;

(ii) any liability for loss of, loss of use of, or damage to the Tenant's Property or for loss of the Tenant's profits;

(iii) anything the Landlord is permitted or required to do under this lease to the extent that the Landlord complies with all its relevant obligations relevant to that thing under this lease;

(iv) a Service being interrupted, not being available or not working properly; and

(v) the Premises not complying with any law or the requirements of any Authority,

except to the extent caused or contributed to by the wilful, reckless or negligent act or omission of the Landlord or the Landlord's Employees and Agents.

11.4 Continuing indemnity

Each indemnity of the Tenant contained in this lease is:

(a) a continuing obligation by the Tenant and remains in full force and effect after the termination of this lease; and

(b) a separate and independent obligation of the Tenant.

12. Tenant's general covenants, representations and warranties

12.1 Representations and warranties

The Tenant represents and warrants that:

(a) if it is a company it has been incorporated as a company in accordance with the laws of its jurisdiction of incorporation, is validly existing under those laws and has power and authority to carry on its business as it is now being conducted;

(b) it has power to enter into and observe its obligations under the Transaction Documents;

(c) it has in full force and effect the authorisations necessary to enter into the Transaction Documents, observe obligations under it, and allow it to be enforced;

(d) its obligations under the Transaction Documents are valid and binding and are enforceable against it in accordance with its terms;

(e) the Transaction Documents and the transactions under them do not contravene its constituent documents or any laws 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;

(f) the Tenant does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise);

(g) it has made its own appraisal of, and has satisfied itself in all respects in connection with, the suitability of the Premises for the Tenant's proposed use of the Premises; and

(h) it has had the opportunity to investigate, and has accepted this lease, with full knowledge of and subject to any prohibitions or restrictions applying to the Premises (including their use) under any laws or the requirements of Authorities.

12.2 Trustee warranties

If the Tenant enters into this lease as trustee of the Trust, the Tenant further represents and warrants to the Landlord that:

(a) it is the only trustee of the Trust;

(b) so far as it is aware, no action has been taken to remove it as trustee of the Trust;

(c) the copies of the Trust Deed and other documents relating to the Trust which have been delivered to the Landlord are true copies of those documents and disclose all the terms of the Trust;

(d) it has power under the Trust Deed to enter into and observe its obligations under the Transaction Documents and it has entered into the Transaction Documents in its capacity as trustee of the Trust;

(e) it is to the commercial benefit of the Trust that the Tenant enters into the Transaction Documents in its capacity as trustee of the Trust;

(f) it has in full force and effect the authorisations necessary to enter into the Transaction Documents, to perform obligations under them and to allow them to be enforced (including, without limitation, under the Trust Deed, and its constitution);

(g) subject to the terms of the Trust Deed, it has a right to be fully indemnified out of the Trust Fund in respect of obligations incurred by it under the Transaction Documents;

(h) as at the date of this lease, the Trust Fund is sufficient to satisfy its right of indemnity under the Trust Deed;

(i) so far as it is aware, it has not breached any of its obligations as trustee of the Trust under the Trust Deed;

(j) no vesting date (as defined in the Trust Deed) for the Trust has been determined by it or any prior trustee of the Trust;

(k) it and its directors and other officers have complied with their respective obligations in connection with the Trust; and

(l) the Landlord's rights under the Transaction Documents rank in priority to the interests of the beneficiaries of the Trust.

12.3 Head lease or other interests

The Tenant must permit persons having an estate or interest in the Premises superior to or concurrent with the Landlord's to exercise the Landlord's or that other person's rights and otherwise perform their obligations in connection with the Premises.

13. Landlord's obligations

13.1 Quiet enjoyment

Subject to the Landlord's rights in connection with this lease, the Tenant may peaceably possess and occupy the Premises during the Term without interference by the Landlord.

14. Landlord's additional rights, representations and warranties

14.1 Right to deal with the Land

(a) The Landlord may grant easements for services, support, access, drainage, minor encroachments, on-going construction of improvements on surrounding land or other rights over the Land (**Site Encumbrance**) provided the easements or rights would not materially adversely affect the use of the Premises or the Tenant's rights or obligations under this lease and provided that the Landlord notifies the Tenant of its intention to grant any such Site Encumbrance and provided that:

(i) the Landlord consults with the Tenant with respect to the proposed Site Encumbrance (and the parties agree to act in good faith during such consultations); and

(ii) the Landlord obtains the Tenant's approval of the proposed Site Encumbrance which may not be unreasonably withheld or delayed where the proposed Site Encumbrance would not materially adversely affect the use of the Premises or the redevelopment potential of the Premises, or the Tenant's rights or obligations under this Lease.

(b) Notwithstanding the foregoing, the Tenant agrees that where:

(i) the lot within which its Premises is constructed is within a stratum which is limited in height; and

(ii) in relation to which as at the Commencement Date, the Landlord notifies the Tenant that it is proposed that there will be development above the Premises,

the Tenant may not withhold its approval to any proposed Site Encumbrance on the grounds of adverse affect on the redevelopment potential of the Premises, where that Site Encumbrance is for the benefit of a stratum which is above the stratum in which the Premises is located.

14.2 Representations and warranties

The Landlord represents and warrants that:

(a) it has power to enter into and observe its obligations under the Transaction Documents;

(b) it has in full force and effect the authorisations necessary to enter into the Transaction Documents, observe obligations under them, and allow them to be enforced;

(c) its obligations under the Transaction Documents are valid and binding and are enforceable against it in accordance with its terms;

(d) the Transaction Documents and the transactions under them do not contravene its constituent documents or any laws 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

(e) the Landlord does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise).

14.3 Compliance with laws and requirements

Subject to its obligations under this lease to the Tenant, the Landlord may do anything to comply with any law or the requirements of Authorities.

14.4 Right to enter Premises

(a) Subject to paragraph 14.4(c), the Landlord may enter the Premises at reasonable times on reasonable prior notice to see if the Tenant is complying with its obligations under this lease or to do anything the Landlord must or may do, under this lease.

(b) On entering the Premises in the circumstances contemplated by paragraph (a), the Landlord must:

(i) use all reasonable endeavours to cause minimal disturbance to the Tenant's use of the Premises;

(ii) comply with the Tenant's reasonable site specific and occupational health and safety protocols; and

(iii) be accompanied by a representative of the Tenant (except in the case of an emergency), in which case the Tenant must use all reasonable endeavours to arrange for a representative to

accompany the Landlord in the Premises, promptly after request by the Landlord,

(c) If the Landlord, acting reasonably, decides there is an emergency, the Landlord may enter the Premises at any time without notice and the Landlord is not required to comply with clause 14.4(b) in that circumstance.

14.5 Prospective tenants or purchasers

After giving reasonable prior notice, the Landlord may during the last year of the Term:

(a) enter the Premises at reasonable times and in accordance with the obligations in clause 14.4(b), to show prospective purchasers or tenants through the Premises; and

(b) display for a reasonable time on the Premises a sign indicating that the Premises are available for purchase or lease.

14.6 Change of landlord

(a) Prior to dealing in any way with its interest in the Premises, the Landlord must provide at least 10 Business Days' notice of such dealing to the Tenant.

(b) If the Landlord deals with its interest in the Premises so that another person becomes the landlord:

(i) the Landlord is released from any obligation under this lease arising after it ceases to be the landlord but not from any antecedent breaches; and

(ii) the Landlord must procure that the other person signs a deed with the Tenant under which:

A. the Tenant agrees with the other person to comply with this lease as if the other person was the Landlord; and

B. the other person assumes the Landlord's obligations under this lease arising after the Landlord ceases to be landlord.

14.7 Agents

The Landlord may appoint agents or others to exercise any of its rights or perform any of its duties under this lease. Communications from the Landlord override those from the agents or others if they are inconsistent except to the extent the Tenant has already acted in reliance upon the communication from the agent or others.

14.8 Landlord may rectify

The Landlord may:

(a) after giving the Tenant 60 Business Days prior notice or such longer period as is reasonable having regard to the breach, do anything which should have

been done by the Tenant under this lease but which has not been done or which the Landlord reasonably considers has not been done properly; and

(b) for that purpose, and for as long as it is necessary for that purpose, the Landlord and the Landlord's Employees and Agents may enter the Premises and remain there.

In exercising its rights under this lease the Landlord must use reasonable endeavours not to interfere with the Tenant's use of the Premises.

14.9 Landlord not liable

The exercise of the Landlord's rights under clause 14.8 is not a breach of clause 13.1.

14.10 Representatives

The Landlord and the Tenant may appoint representatives to exercise any of their rights or perform any of their duties under this lease. If either party notifies the other party of such an appointment and the scope of the representative's authority:

(a) the representatives must be treated as if they were the Landlord or the Tenant, whichever is applicable, when they are exercising those rights or performing those duties;

(b) matters within the knowledge of a representative will be taken to be within the knowledge of the Landlord or the Tenant, whichever is applicable;

(c) communications from the Landlord and the Tenant override those from the representatives if they are inconsistent except to the extent to which the receiving party has acted in reliance upon communication from the other party's representatives; and

(d) a direction of either party to this lease to a representative of the other party, prior to the receipt of notification that that person is no longer the party's representative, will be taken to have been given to the other party to this lease.

14.11 Change of representative

Each party agrees to promptly notify the other party of any changes in relation to, or the termination of the appointment of, a representative.

14.12 Landlord's position as an Authority

If the Landlord is an Authority nothing in any Transaction Document operates to restrict or otherwise affect the Landlord's statutory discretion in exercising its powers as an Authority, as distinct from its powers as a landlord and owner of the Premises. If there is a conflict between the statutory discretion of the Landlord as to the exercise of powers as an Authority on the one hand and the satisfaction and performance of the Landlord's obligations as Landlord and owner of the Premises in a Transaction Document on the other, the former will prevail.

15. Default and termination

15.1 Essential terms

The following obligations of the Tenant are essential terms of this lease:

(a) the obligations to pay money to the Landlord; and

(b) the obligations under:

(i) clause 5.1 (Use and occupation of the Premises);

(ii) 7.4 (Replacement, rebuilding and redevelopment);

(iii) clause 9 (Insurances); and

(iv) clause 10 (Alienation).

15.2 Trigger Events

The Tenant must notify the Landlord within 10 Business Days after it becomes aware that a Trigger Event has occurred giving the Landlord full details of the Trigger Event.

15.3 Trigger Notice

If a Trigger Event occurs, the Landlord may (whether or not the Tenant has given the Landlord a notice under clause 15.2) give notice to the Tenant setting out material details of the relevant Trigger Event and, if the Trigger Event is capable of remedy or can be compensated for, requiring the Tenant to remedy that Trigger Event or pay compensation within the time specified in that notice, which must not be less than:

(a) 180 days, in relation to a default which is not an essential term of this lease and which is capable of being remedied or which compensation can be paid by the Tenant to restore the Landlord to the position in which the Landlord would have been had the default not occurred;

(b) 10 Business Days, in relation to a default which is an essential term of this lease and which relates to the Tenant's breach of its insurance obligations under clause 9; and

(c) 40 Business Days, in relation to a default which is an essential term of this lease and which does not relate to the Tenant's breach of its insurance obligations under clause 9.

15.4 Trigger Event not remedied

If the Tenant does not remedy a Trigger Event or pay compensation in accordance with clause 15.3 within the time specified in the Trigger Notice, or if the Trigger Event cannot be remedied or compensated for, the Landlord may give the Tenant a notice stating that an Event of Default has occurred.

15.5 Landlord may remedy

The Landlord may but is not obliged to remedy at any time (including entering upon the Premises for the purpose of doing so) any:

(a) Event of Default; and

(b) breach by the Tenant of its insurance obligations under clause 9 regardless of whether a Trigger Notice has been issued to the Tenant.

All Costs incurred by the Landlord (including legal Costs) in remedying an Event of Default or a breach by the Tenant of its insurance obligations under clause 9 are a liquidated debt owing by the Tenant to the Landlord payable on demand.

15.6 Landlord's right to terminate

(a) Subject to paragraph 15.6(c) and in addition to its rights under clause 15.5, the Landlord may, if an Event of Default occurs:

(i) terminate this lease by re-entering the Premises; or

(ii) terminate this lease by notice.

(b) The Tenant agrees that the Landlord is not liable for, and releases the Landlord from, liability or loss arising from, and Costs incurred in connection with, anything done by the Landlord under this clause 15.6 or clause 15.5.

(c) The Landlord agrees that it may not terminate this lease if an Event of Default occurs if the Landlord has been notified that the Tenant has commenced proceedings to challenge that Event of Default or that the Tenant has referred the matter to the dispute resolution procedures contemplated by this lease, other than where the Event of Default results from the Tenant's failure to pay Rent or other money payable by the Tenant under this lease.

15.7 Mitigate loss

The Landlord acknowledges that it has a general law duty to mitigate its loss in the event of termination of this lease due to the occurrence of an Event of Default.

15.8 Indemnity for breach

The Tenant:

(a) indemnifies the Landlord against any liability or loss arising from, and any Costs incurred in connection with:

(i) an Event of Default;

(ii) the Tenant's non-compliance with its obligations under this lease; and

(iii) any payment required to be made under this lease not being made on its due date.

(b) agrees to pay the Landlord an amount equal to any liability, loss, and Costs of the kind referred to in paragraph 15.8(a) suffered or incurred by the Landlord including legal Costs on a full indemnity basis or solicitor and own client basis, whichever is the higher,

provided that this indemnity shall not cover any liability or loss to the extent it is caused or contributed to by the reckless or negligent act or omission of the Landlord or the Landlord's Employees and Agents.

15.9 Indemnity in connection with termination

If an Event of Default occurs and as a consequence this lease is terminated, then the Tenant indemnifies the Landlord against any liability or loss arising from, and any Costs incurred:

(a) in connection with the Landlord re-entering the Premises;

(b) because the Landlord will not receive the benefit of the Tenant performing its obligations under this lease from the date of that termination until the Expiry Date; and

(c) in connection with anything else relating to that termination including the Landlord attempting to mitigate its loss,

whether before or after termination of this lease including legal Costs on a full indemnity basis or solicitor and own client basis, whichever is the higher. The Landlord's rights under this clause 15.9 are in addition to its rights under clause 15.5 but are subject to the Landlord's obligation to mitigate its loss.

15.10 Calculation assumptions

Subject to the Landlord's obligation to mitigate its loss in accordance with clause 15.7, the benefit of the Tenant performing its obligations referred to in clause 15.9(b) is to be calculated:

(a) on the assumption that this lease continues in force until the Expiry Date; and

(b) having regard to the provisions in this lease relating to:

(i) Rent and the Tenant's contribution to Outgoings; and

(ii) the performance of the Tenant's obligations under clause 7; and

(iii) the performance of the Tenant's other obligations under this lease.

15.11 Waiver

The Landlord and the Tenant agree that:

(a) the Landlord's failure to enforce any breach of covenant on the part of the Tenant is not to be construed as a waiver of that breach, nor shall any custom or practice which may arise between the parties in the course of administering this lease be construed to waive or to lessen the right of the Landlord to insist upon the performance by the Tenant of any term, covenant

or condition of this lease, or to exercise any rights given to the Landlord on account of any such default;

(b) a waiver by the Landlord of a particular breach shall not be deemed to be a waiver of the same or any other subsequent breach or default; and

(c) the demand of or subsequent acceptance of Rent under this lease by the Landlord will not constitute a waiver of any preceding breach by the Tenant of any term, covenant or condition of this lease, other than the failure of the Tenant to make the particular payment or payments of Rent so accepted, regardless of the Landlord's knowledge of such preceding breach at the time of acceptance of such Rent.

15.12 Rights not affected

Subject to the Landlord's obligation to mitigate its loss contained in clause 15.7, the Tenant expressly acknowledges and agrees that the Landlord's entitlement to recover damages from the Tenant or any other person shall not be affected or limited by:

(a) the Landlord re-entering the Premises or otherwise terminating this lease;

(b) the Landlord accepting the Tenant's repudiation;

(c) the Tenant abandoning or vacating the Premises; or

(d) the conduct of either party (or that of any servant or agent of a party) constituting a surrender by operation of law.

15.13 Due date for payment

If the Tenant is obliged under this lease to pay to or reimburse the Landlord any cost, expense, charge, Outgoing or other moneys, that amount is payable on demand and recoverable as Rent and/or Outgoings in arrears, except as otherwise provided for in this lease.

16. Tenant's obligations on expiry or termination

16.1 Tenant to yield up

The Tenant must:

(a) vacate the Premises on the earlier of the Expiry Date and the date this lease is terminated; and

(b) leave the Premises in a condition consistent with the Tenant having complied with all its obligations under this lease.

16.2 Removal of Tenant's Property

The Tenant may (subject to clauses 5.3 and 16.4), remove furniture, loose equipment, goods and other items of Tenant's Property but which do not form part of the Premises or which are not affixed (or intended to be affixed) to the Premises from the Premises:

(a) before the day when the Premises must be vacated; or

(b) if this lease is terminated in accordance with clause 15, within 30 Business Days after such termination.

16.3 Tenant to make good

The Tenant must promptly make good, to at least the standard existing before removal, any damage caused by any property being removed from the Premises.

16.4 Tenant may not remove certain property

The Tenant may not remove anything the removal of which will cause damage to the Premises which cannot be repaired.

16.5 Tenant's failure

(a) If the Tenant fails to remove the Tenant's Property under clause 16.2, the Landlord may either:

(i) cause the Tenant's Property to be removed and stored at the risk and Cost of the Tenant; or

(ii) treat the Tenant's Property as abandoned and deal with it in such manner as the Landlord thinks fit without being liable in any way to account to the Tenant.

(b) If the Tenant fails to make good any damage under clause 16.3, the Landlord may do so at the risk and Cost of the Tenant.

(c) A certificate by the Landlord as to the amount of any Cost under this clause is prima facie evidence of the amount of such Cost and must be paid by the Tenant to the Landlord on demand.

17. Damage or destruction

17.1 Total Destruction

If the Building is Totally Destroyed the Tenant must promptly:

(a) make the Premises safe and secure; and

(b) clear all debris from the Land ; and

(c) give the Landlord a report from a structural engineer as to the structural stability of the Premises

and may but without any obligation to do so, subject to clause 17.3, promptly reinstate the Premises in accordance with clause 17.2.

17.2 Rebuilding alternatives

(a) The Tenant may, at its cost, do either or none of the following:

(i) reinstate the Building in accordance with its original design subject to any modifications as may be required by any competent Authority and approved by the Landlord (such approval not to be unreasonably withheld); or

(ii) rebuild the Building to a different design in which event the provisions of clause 7.4 will apply.

(b) If the Tenant proposes to rebuild the Building in accordance with paragraph 17.2(a)(i) and any of the proposed works requires lodgement of an Application with the Consent Authority, then at least three months before the Tenant lodges an Application, the Tenant must seek the Landlord's consent (which is not to be unreasonably withheld or delayed), and provide to the Landlord such details as the Landlord reasonably requires.

(c) If the Tenant reinstates or rebuilds the Building:

(i) in accordance with clause 17.2(a)(i), then the Rent payable by the Tenant under this lease from the date of the reinstatement will remain unchanged and the Tenant is not liable to pay any additional consideration with respect to the reinstated Building; and

(ii) in accordance with clause 17.2(a)(ii), then the Rent payable by the Tenant under this lease from the date the rebuilding is completed will be as determined in accordance with clause 7.4(c)(iv).

17.3 Tenant not proceeding

If:

(a) the Tenant notifies the Landlord that it does not intend to reinstate the Building; or

(b) the Tenant has not gained all appropriate Approvals for the rebuilding of the Building and has not commenced on site within:

(i) 36 months from the date of the Building being Totally Destroyed so that completion will occur not more than 36 months later; or

(ii) if clause 17.2(a)(ii) applies and:

A. the Landlord and Tenant have not agreed how the Building is to be rebuilt within 6 months from the date of the Building being Totally Destroyed; and

B. the matter is the subject of a dispute in accordance with clause 19, 36 months plus any period in excess of 6 months from the date of the Building being Totally Destroyed until the dispute has been determined; or

(c) the Total Destruction occurs in the last 5 years of the Term,

then on or after:

(i) the expiry of 36 months from the date of the Building being Totally Destroyed (or such longer period as contemplated by paragraph 17.3(b)(ii) where the matter is the subject of a dispute), in circumstances where clauses paragraph 17.3(b) applies; or

(ii) the date the Building is Totally Destroyed, in circumstances where paragraph 17.3(c) applies,

this lease will, at the option of either the Landlord or the Tenant, terminate on the date which is one month after the relevant party notifies the other, without compensation to the Tenant and without prejudice to the rights of either party in respect of any antecedent claim or any antecedent breach or non-observance of any covenant or provision of this lease.

If the lease is so terminated, the Tenant must, at its cost but using relevant insurance proceeds to the extent available, if (and to the extent) required by the Landlord, promptly demolish the Building and clear the Land of all improvements, structures, rubbish and debris. Failing such demolition and clearance being carried out to the Landlord's satisfaction, the Landlord will be entitled to carry out such demolition and clearance at the Tenant's cost. The Landlord will be entitled to recover from the Tenant any Costs reasonably incurred by it in carrying out such works as a liquidated debt due and payable by the Tenant to the Landlord on demand.

17.4 Partial Destruction

If the Building is partially destroyed or damaged, the Tenant must promptly at its cost obtain all necessary Approvals and repair, replace and make good the whole of the destroyed or damaged portion of the Building as nearly as possible to the condition required under this lease immediately prior to such damage or destruction, with such modifications as the Tenant may seek and the Landlord approve (such approval not to be unreasonably withheld) or as may be required by any Authority and approved by the Landlord (such approval not to be unreasonably withheld).

17.5 Last 5 years

If the Building is Totally Destroyed during the last 5 years of the Term and clause 17.3 ("Tenant not proceeding") applies such that the Tenant will not reinstate the Building and:

(a) the Landlord or the Tenant receives the proceeds of a policy of insurance which the insurer does not require to be applied towards replacement or reinstate of the thing insured; and

(b) the other of them has an interest in those proceeds of insurance because it has an insurable interest in the thing insured or the event insured against,

then the recipient must hold those proceeds of insurance in a separate account in the names of the Landlord and the Tenant and pay those proceeds in equitable portions (having regard to their respective interests in the Building, or the effect on them of the

event insured against) to the Landlord, the Tenant and, if reasonably required by the Landlord, any other person who has an interest in such proceeds.

18. Costs, charges and expenses

18.1 What the Tenant must pay

Notwithstanding any other provision in this lease, the Tenant must pay or reimburse the Landlord on demand for:

(a) the reasonable Costs of the Landlord in connection with any consent or approval (whether or not that consent or approval is given), exercise or non-exercise of rights by the Landlord arising from a breach by the Tenant of its obligations under this lease (including in connection with the actual enforcement or preservation of any rights under this lease), waiver, variation, release, surrender or discharge in connection with this lease;

(b) unless already paid by the Tenant, Taxes and Rates (including registration fees) which may be payable or determined to be payable by the Landlord in connection with this lease or a payment or receipt or any other transaction contemplated by this lease excluding any fine or penalty incurred due to the default of the Landlord; and

(c) stamp duty and registration fees and if applicable, fines and penalties in respect of them (except for the those fines and penalties imposed as a result of the Landlord's or the Landlord's Employees and Agents' wrongful act, default or negligence), which may be payable or determined to be payable in connection with this lease,

including in each case reasonable legal Costs on a full indemnity basis or solicitor and own client basis, whichever is the higher. The Costs payable by the Tenant under this clause do not include any internal Costs of the Landlord including salaries and overhead expenses, or any Costs in connection with the negotiation and execution of this lease.

18.2 Independent consultants

The Tenant agrees that the Costs referred to in clause 18.1 include the reasonable Costs incurred by the Landlord with respect to any independent consultant or other person reasonably appointed in connection with any Trigger Event, default by the Tenant, Event of Default or request for the Landlord's consent or approval.

18.3 Obligations at Tenant's cost

Anything which the Tenant is required to do or may do under this lease must be done at the Tenant's cost unless expressly specified otherwise in this lease.

18.4 Consents obtained by Landlord

If the Landlord has agreed to obtain a person's consent before the Landlord gives its consent under this lease or to pay Costs incurred by that person in giving consent, then the consent from that person is a consent in connection with this lease.

18.5 Limitations

For the purpose of this clause 18, the Landlord agrees that it will act reasonably in considering using its internal resources without charge to the Tenant, having regard to the skills, expertise and capacities of the Landlord and its employees and agents, before going out to an external person for services where charges incurred by the Landlord will be charged to, and paid by, the Tenant.

19. Dispute resolution

19.1 Notice of dispute

If a dispute between the Tenant and the Landlord arises in connection with this lease or its subject matter, then the disputing party must give to the other a notice adequately identifying and providing details of the dispute.

19.2 Continuing to perform obligations

All parties to this lease must continue to perform their respective obligations under this lease if there is a dispute but will not be required to complete the matter the subject of the dispute, unless the party requiring that matter to be completed indemnifies the other party against reasonable Costs and losses suffered in completing that matter if the dispute is not resolved in favour of the indemnifying party.

19.3 Further steps required before proceedings

Any dispute between the parties arising in connection with this lease or its subject matter must, as a condition precedent to the commencement of litigation, first be discussed in good faith at a meeting of the senior managers and Chief Executive Officer's of both the Tenant and Landlord.

19.4 Disputes for expert determination

If the discussion referred to in clause 19.3 has not resulted in settlement of the dispute within one month (or such other period as the parties may agree) after that discussion, then:

(a) if the Landlord and the Tenant agree that the matter should be determined by an expert, the matter may must be referred to expert determination in accordance with clause 19.5; or

(b) if the Landlord and the Tenant do not agree within 10 Business Days that the matter should be determined by an expert, either of them may commence litigation.

19.5 Choice of expert

A dispute to be referred to an expert in accordance with clause 19.4 must be determined by an independent expert of at least five years immediate past experience in the relevant field:

(a) agreed between and appointed jointly by the parties; or

(b) in the absence of agreement within 5 Business Days after the matter is referred to expert determination, appointed by the President or other senior officer for the time being of the body administering the relevant field.

19.6 Agreeing the relevant field

If the parties cannot agree as to the relevant field, either party may refer the matter to the President of the New South Wales Bar Association (or the President's nominee) whose decision as to the relevant field is final and binding on the parties.

19.7 Expert

The expert appointed to determine a dispute:

(a) must have a technical understanding of the issues in contest;

(b) must not have a significantly greater understanding of one party's business or operations which might allow the other side to construe this greater understanding as a bias; and

(c) must inform each disputing party before being appointed the extent of the expert's understanding of each party's business or operations. If that information indicates a possible bias, then that expert must not be appointed except with the approval of both parties.

19.8 Agreement with expert

The parties must enter into an agreement with the expert appointed under clause 19.5 setting out the terms of the expert's determination (including the time within which the expert must make the determination) and the expert's fees within 7 Business Days after the expert is appointed.

19.9 Directions to expert

In reaching a determination in respect of a dispute under clause 19.4, the expert must give effect to the intent of the parties entering into this lease and the purposes of this lease.

19.10 Role of expert

The expert must:

(a) act as an expert and not as an arbitrator;

(b) proceed in any manner as the expert thinks fit without being bound to observe the rules of natural justice or the rules of evidence;

(c) not accept verbal submissions unless both parties are present and on receipt of a written submission from one party ensure that a copy of such submission is given promptly to the other party;

(d) take into consideration all documents, information and other material which the parties give the expert which the expert in its absolute discretion considers relevant to the determination of the dispute;

(e) not be expected or required to obtain or refer to any other documents, information or material (but may do so if the expert so wishes);

(f) issue a draft certificate stating the expert's intended determination giving each party 10 Business Days to make further submissions;

(g) issue a final certificate stating the expert's determination; and

(h) act with expedition with a view to issuing the final certificate as soon as practicable.

19.11 Complying with directions of expert

The disputing parties must comply with all directions given by the expert in relation to the resolution of the dispute, and must within the time period specified by the expert, give the expert:

(a) a short statement of facts;

(b) a description of the dispute; and

(c) any other documents, records or information the expert requests.

19.12 Expert may convene meetings

The expert will hold a meeting with all the parties present to discuss the dispute and may commission reports from relevant advisers or consultants. The meeting must be conducted in a manner which the expert considers appropriate. The meeting may be adjourned to, and resumed at, a later time in the expert's discretion.

19.13 Meeting not a hearing

The parties agree that a meeting under clause 19.12 is not a hearing and is not an arbitration.

19.14 Confidentiality of information

The parties agree, and must procure that each of the mediator and expert agrees as a condition of its appointment:

(a) subject to paragraph (b), to keep confidential all documents, information and other material, disclosed to them during or in relation to the expert determination or mediation; and

(b) not to disclose any confidential documents, information and other material except:

(i) to a party or adviser who has signed a confidentiality undertaking to the same effect as paragraph (a); or

(ii) if required by law to do so; or

(c) not to use confidential documents, information or other material disclosed to them during or in relation to the expert determination for a purpose other than the expert determination or mediation.

19.15 Confidentiality in proceedings

The parties must keep confidential and must not disclose or rely upon or make the subject of a subpoena to give evidence or produce documents in any arbitral, judicial or other proceedings:

(a) views expressed or proposals or suggestions made by a party or the expert during the expert determination or mediation relating to a possible settlement of the dispute;

(b) admissions or concessions made by a party during the expert determination or mediation in relation to the dispute; and

(c) information, documents or other material concerning the dispute which are disclosed by a party during the expert determination or mediation unless such information, documents or facts shall have been otherwise discoverable in judicial or arbitral proceedings.

19.16 Final determination of expert

The parties agree that the final determination by an expert is final and binding upon them.

19.17 Expert's costs

If any expert does not award costs, the disputing parties must each pay an equal share of the expert's costs in making the determination.

19.18 Expert generally not liable

The parties agree that other than where the expert has engaged in fraud, the expert will not be liable to them in any respect in connection with the carrying out of the expert's functions in accordance with this lease.

20. Compulsory Acquisition

20.1 Termination

If the whole of the Land or the Premises is compulsorily acquired then either the Landlord or the Tenant may by notice to the other terminate this lease.

20.2 Part acquisition

If only a part of the Land or the Premises is acquired such that it is unreasonable or imprudent to operate the remainder, then the Tenant may terminate this lease. If the Tenant does not terminate this lease, any compensation paid to the Landlord or the Tenant must be used for making alterations or modifications to the remaining Premises to a specification agreed between the Landlord and the Tenant and in the absence of

such agreement, to a specification substantially the same as existing prior to such acquisition.

21. Notices

21.1 Form

Unless expressly stated otherwise in this lease, all notices, certificates, consents, Approvals, directions, requests, waivers and other communications in connection with a Transaction Document must be in writing, signed by an Authorised Officer of the sender and marked for attention as set out or referred to in clause 21.2 or, if the recipient has notified otherwise, then marked for attention in the way last notified.

21.2 Delivery

They must be:

(a) left at the address set out or referred to below;

(b) sent by prepaid post (airmail, if appropriate) to the address set out or referred to below;

(c) sent by fax to the fax number set out or referred to below; or

(d) given in any other way permitted by law.

Landlord

Name:	Barangaroo Delivery Authority
Address:	Level 3, 66 Harrington Street The Rocks NSW 2000
Fax:	[insert]
For the attention of:	[insert]

Tenant

Name:	[insert]
Address:	[insert]
Fax:	[insert]
For the attention of:	[insert]

However, if the intended recipient has notified a changed postal address or changed fax number, then the communication must be to that address or number.

21.3 When effective

Notices take effect from the time they are received unless a later time is specified in them.

21.4 Receipt - post

If sent by post, notices are taken to be received 3 Business Days after posting (or 5 Business Days after posting if sent to or from a place outside Australia).

21.5 Receipt - fax

If notices are sent by fax, they are taken to be received at the time shown in the transmission report as the time that the whole fax was sent.

21.6 Receipt - general

Despite clauses 21.4 and 21.5, if they are received after 5.00pm in the place of receipt or on a non-Business Day, they are to be taken to be received at 9.00am on the next Business Day.

22. GST

22.1 Interpretation

(a) Except where the context suggests otherwise, terms used in this clause 22 have the meanings given to those terms by the A New Tax System (Goods and Services Tax) Act 1999 (as amended from time to time).

(b) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 22.

(c) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.

22.2 Reimbursements

Any payment or reimbursement required to be made under this lease that is calculated by reference to a Cost or other amount paid or incurred will be limited to the total Cost or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the Cost or amount relates.

22.3 Additional amount of GST payable

Subject to clause 22.5, if GST becomes payable on any supply made by a party (**Supplier**) under or in connection with this lease:

(a) any amount payable or consideration to be provided under any provision of this lease (other than this clause 22), for that supply is exclusive of GST;

(b) any party (**Recipient**) that is required to provide consideration to the Supplier for that supply must pay an additional amount to the Supplier equal to the amount of the GST payable on that supply (**GST Amount**), at the same time as any other consideration is to be first provided for that supply; and

(c) the Supplier must provide a tax invoice to the Recipient for that supply, no later than the time at which the GST Amount for that supply is to be paid in accordance with clause 22.3(b).

22.4 Variation

(a) If the GST Amount properly payable in relation to a supply (as determined in accordance with clause 22.3 and clause 22.5), varies from the additional amount paid by the Recipient under clause 22.3, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this clause 22.4(a) is deemed to be a payment, credit or refund of the GST Amount payable under clause 22.3.

(b) The Supplier must issue an adjustment note to the Recipient in respect of any adjustment event occurring in relation to a supply made under or in connection with this lease as soon as reasonably practicable after the Supplier becomes aware of the adjustment event.

22.5 Exchange of non-monetary consideration

(a) To the extent that the consideration provided for the Supplier's taxable supply to which clause 22.3 applies is a taxable supply made by the Recipient in the same tax period (**Recipient Supply**), the GST Amount that would be otherwise be payable by the Recipient to the Supplier in accordance with clause 22.3 shall be reduced by the amount of GST payable by the Recipient on the Recipient Supply.

(b) The Recipient must issue to the Supplier an invoice for any Recipient Supply on or before the time at which the Recipient must pay the GST Amount in accordance with clause 22.3 (or the time at which such GST Amount would have been payable in accordance with clause 22.3 but for the operation of clause 22.5(a)).

22.6 Indemnities

(a) If a payment under an indemnity gives rise to a liability to pay GST, the payer must pay, and indemnify the payee against, the amount of that GST.

(b) If a party has an indemnity for a cost on which that party must pay GST, the indemnity is for the cost plus all GST (except any GST for which that party can obtain an input tax credit).

(c) A party may recover payment under an indemnity before it makes the payment in respect of which the indemnity is given.

22.7 No merger

This clause will not merge on termination of this lease.

23. General

23.1 Discretion in exercising rights

A party may exercise a right or remedy or give or refuse its approval or consent in any way it considers appropriate and in its absolute discretion (including by imposing conditions), unless this lease expressly states otherwise.

23.2 Partial exercising of rights

If a party does not exercise a right or remedy fully or at a given time, that party may still exercise it later.

23.3 Prompt performance

If this lease specifies when a party agrees to perform an obligation, that party agrees to perform it by the time specified.

23.4 Approvals and consents

By giving its approval or consent the Landlord does not make or give any warranty or representation as to any circumstance relating to the subject matter of the consent or approval.

23.5 Remedies cumulative

The rights and remedies provided in this lease are in addition to other rights and remedies given by law independently of this lease.

23.6 Rights and obligations are unaffected

Rights given to the parties under this lease and the parties' liabilities under it are not affected by anything which might otherwise affect them by law.

23.7 Variation and waiver

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

23.8 Indemnities

The indemnities in this lease are continuing obligations, independent from the other obligations of the parties under this lease and continue after this lease expires or is terminated in respect of any act, matter or thing done or omitted to be done before the date of expiry or termination of this lease. Except as otherwise provided for in this lease, it is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this lease.

23.9 Construction

No rule of construction applies to the disadvantage of the Landlord because it was responsible for the preparation of, or seeks to rely on, this lease or any part of it.

23.10 Acceptance of money or other acts not a waiver

If the Landlord:

(a) accepts money under this lease (before or after termination);

(b) does not exercise or delays exercising any right under clause 15;

(c) gives any concession to the Tenant; or

(d) attempts to mitigate its loss,

it is not a waiver of any breach or of the Landlord's rights under this lease. An attempt by the Landlord to mitigate its loss is not a surrender of this lease.

23.11 Exclusion of statutory provisions

In this lease:

(a) the covenants, powers and provisions implied in leases by sections 84, 84A, 85, 133A and 133B of the Conveyancing Act 1919 (NSW) do not apply; and

(b) words used in any of the forms of words in the first column of part 2 of schedule 4 to the Conveyancing Act 1919 (NSW) do not imply a covenant under section 86 of that Act.

23.12 Prior breaches

Expiry or termination of this lease does not affect any rights in connection with a breach of this lease before then.

23.13 Warranties and undertakings

The Tenant warrants that it has relied only on its own enquiries in connection with this lease and not on any representation or warranty by the Landlord or any person acting or seeming to act on the Landlord's behalf, except as otherwise set out in this lease.

23.14 Inconsistent law

To the extent permitted by law, this lease prevails to the extent it is inconsistent with any law.

23.15 Supervening legislation

Any present or future legislation which operates to vary the obligations of the Tenant in connection with this lease with the result that the Landlord's rights, powers or remedies are adversely affected (including, by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

23.16 Counterparts

This lease may consist of a number of copies, each signed by one or more parties to this lease. If so, the signed copies are treated as making up the one document.

23.17 Serving documents

Without preventing any other method of service, any document in a court action may be served on a party by being delivered or left at that party's address for service of notice under clause 21.

23.18 Parties bound

Even if this document is found not to be a lease or is found to be a lease for a term less than the Term, the parties are bound in contract to carry out their obligations under this

document for the Term, unless expressly released under this document from those obligations.

23.19 Entire agreement

This lease constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, undertakings and negotiations on that subject matter.

23.20 CGT Event F2 election

The Landlord elects that this lease will be a long-term lease to which s 104-115 of the Income Tax Assessment Act 1997 applies.

24. Governing law, jurisdiction and service of process

24.1 Governing law

This lease is governed by the law in force in New South Wales.

24.2 Submission to jurisdiction

Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

25. Limitation of liability

[insert Tenant's standard limitation of liability]

Executed as a deed

The seal of **Barangaroo Delivery Authority** is affixed by authority of the Chief Executive Officer in the presence of:

Signature of authorised person	Signature of authorised person
Name of authorised person	Name of authorised person
Office held	Office held

Executed by **[Tenant] ABN [number]** in accordance with section 127 of the Corporations Act by or in the presence of:

Signature of Secretary/other Director	Signature of Director or Sole Director and Secretary
Name of Secretary/other Director in full	Name of Director or Sole Director and Secretary in full

Attachment 1 – Provisions to apply before Practical Completion

Unless stated to be a clause of the lease or the Project Development Agreement, all clause references in this Attachment 1 are to clauses in this Attachment 1.

1. Interrelationship with the Project Development Agreement

(a) The Landlord and the Tenant agree that compliance by the Developer or the Landlord (as the case may be) with the comparable provisions of this Attachment 1 which are contained in the Project Development Agreement and which relate to the Works and the Premises, will satisfy the Tenant's and the Landlord's respective obligations under this Attachment 1.

(b) To the extent the Project Development Agreement is varied in respect of a provision where there is a comparable provision in this Attachment 1, then the Landlord and the Tenant agree to do all things that are necessary to vary the terms of this Attachment 1 so that those provisions replicate the comparable provisions in the Project Development Agreement as varied.

2. Achieving Practical Completion of the Works

2.1 Tenant must progress the Works

The Tenant must procure the following:

(a) the Works are carried out in an expeditious, proper and workmanlike manner under adequate and competent supervision, and in accordance with the best practices of the various trades involved, using good quality new materials;

(b) the Works are carried out with due skill care and diligence; and

(c) the Works reach Practical Completion by the Sunset Date.

2.2 Notice of anticipated Practical Completion

In respect of the Works:

(a) the Tenant must procure that at least 4 months prior to the date on which it reasonably anticipates Practical Completion of the Works to be achieved, and at any other time the Landlord may, request the Independent Certifier to assess the likely date for Practical Completion of the Works and following such assessment, the Independent Certifier must by notice to, amongst others, both the Landlord and the Tenant, certify the Anticipated Date of Practical Completion of the Works; and

(b) the Tenant must procure that the Landlord and the Independent Certifier are given at least 20 Business Days' notice of the date on which the Tenant anticipates that Practical Completion of the Works will be reached.

2.3 Requesting Certificate of Practical Completion

When the Tenant is of the opinion that Practical Completion of the Works has been reached, the Tenant must:

(a) procure that the Independent Certifier is requested to issue a Certificate of Practical Completion in relation to the Works; and

(b) at the same time procure that the Landlord is given a copy of that request.

2.4 Independent Certifier to certify

In respect of the Works, within 5 Business Days after the receipt of the Tenant's request, the Independent Certifier must give the Tenant (with a copy to the Landlord at the same time) either:

(a) a Certificate of Practical Completion certifying the Date of Practical Completion of the Works; or

(b) the reasons for not issuing that certificate, and provide a detailed list of work required to be completed in order for that certificate to be issued.

2.5 Carrying out required work

On receipt of the detailed list referred to in clause 2.4(b), the Tenant must procure that the work referred to in that list is carried out and, on completion of that work, request the Independent Certifier to issue a Certificate of Practical Completion for the Works, and clauses 2.4, and this clause 2.5 will re-apply.

2.6 Effect of Certificate

The issue of a Certificate of Practical Completion of the Works is evidence that Practical Completion of the Works has been achieved, but not an acknowledgment that otherwise the Tenant has complied with its obligations under this Attachment 1.

2.7 Prerequisites for issue of Certificate of Practical Completion

The Certificate of Practical Completion for the Works may not issue unless or until, the Tenant procures each of the following:

(a) the Landlord is given a survey prepared by a Surveyor showing that the Works other than agreed overhangs and encroachments are within the intended area for those works (as contemplated by this Attachment 1);

(b) the Independent Certifier has issued a certificate addressed to the Landlord stating that the Works (except for minor omissions or defects or variations agreed in writing by the Landlord) have been completed in accordance with the Works Documents; and

(c) copies of all other certificates (including any Part 4A Certificate and any Complying Development Certificate), consents and Approvals required of any relevant Authority, whose certificate, consent or Approval is required for the erection, use or occupancy of the Premises, are delivered to the Landlord.

2.8 Requirements following issue of Certificate of Practical Completion

Within 60 Business Days after the Certificate of Practical Completion for the Works issues, the Tenant must procure each of the following:

(a) delivery to the relevant Consent Authority, of all compliance reports required to be delivered to that Consent Authority in relation to the Works; and

(b) delivery to the Landlord of copies of all documents and Approvals issued by the relevant Authorities, acknowledging completion of the Works, and permitting use and occupation of the Premises (including a Compliance Certificate and an Occupation Certificate).

2.9 Providing documents to the Landlord

Promptly, and in any event within 4 months after Practical Completion of the Works, the Tenant must procure that all things required to be done are done to procure the issue and delivery to the Landlord of copies of the following items in relation to the Works:

(a) a copy of as-built drawings of the Premises;

(b) all surveys of the Premises in the possession or control of the Tenant which have not previously been delivered to the Landlord, including a survey of the completed Premises by a Surveyor in form and substance satisfactory to the Landlord;

(c) all certificates issued by any Authority in relation to any part of the Premises which have not previously been delivered to the Landlord; and

(d) a copy of a building certificate under Part 8 of the EP&A Act in respect of the Works.

3. General requirements for carrying out Works

3.1 Works to comply

The Tenant must procure the carrying out of the Works and ensure that the Works are carried out in accordance with:

(a) the Works Documents;

(b) all applicable laws; and

(c) the Codes.

3.2 Tenant's obligation for care of the Works

Except as otherwise provided in this Attachment 1, the Tenant must procure that it or the Developer is responsible for the care of the Works at all times.

3.3 Tenant to rectify damage to the Works

The Tenant must promptly notify the Landlord of any material loss or material damage to or material defects of which it is aware, or ought reasonably to be aware, in the Works or the Premises and without limiting its rights to make any claim or take any action in respect of such loss or damage or defects at its Cost, promptly rectify any loss or damage to or defects in the Works and the Premises so that the Works conform in every respect with the requirements of this Attachment 1.

3.4 No noxious use

The Tenant must not permit any illegal act, trade, business, occupation or calling at any time to be exercised carried on, permitted or suffered in or on the Premises.

4. Care of surrounding areas and safety

4.1 Tenant bears risk

The Tenant agrees that except to the extent that such risk or Costs are caused by the Landlord's or the Landlord's Employees' breach of this lease or this Attachment 1 or any wrongful or reckless act by the Landlord or any of the Landlord's Employees, as between the Landlord and the Tenant:

(a) from the Commencement Date, the Tenant is solely responsible for, and bears all risk and Cost in relation to, the protection of people and property on the Premises;

(b) it must, to the extent consistent with the execution of the Works in accordance with this Attachment 1, take reasonable steps to avoid unnecessary interference with the movement of people and vehicles in or around the vicinity of the Barangaroo precinct; and

(c) it is solely responsible for, and bears all risk and Cost in relation to any nuisance or unreasonable noise and disturbance caused as a result of carrying out the Works.

The Tenant is entitled to take, at its Cost, such action as it considers reasonably necessary to ensure the safety of persons and property within the Premises, including removing or modifying any improvements which exist on the Premises as at the Commencement Date (other than services which are the responsibility of any Authority (not being the Landlord) to maintain).

4.2 Surrounding areas

The Tenant must:

(a) use all reasonable endeavours not to cause:

(i) the streets adjoining the Premises to be in an unclean or untidy condition throughout construction of the Works; or

(ii) any damage to the existing streets, kerbs, services and public utilities and any property located in the vicinity of the Premises, except as reasonably necessary for the purposes of the Works;

(b) not wash or permit the washing of concrete trucks or other vehicles or machinery employed in relation to the Works in the streets or areas surrounding the Premises;

(c) promptly make good any damage, caused or contributed to by the Tenant (or the Builder) carrying out the Works, to any part of Barangaroo, including public utilities and Services owned or controlled by the Landlord, as soon as

practicable after the damage occurs or such longer time as the Landlord permits in its absolute discretion;

(d) on completion of the Works, ensure that the access roads to the Premises and any adjoining structures or infrastructure, fencing, footpaths or other roadways which have been damaged by the Tenant or the Builder are repaired in a timely manner having regard to the future development of the land outside of the Premises, or if repair is not possible the relevant damaged part replaced to the satisfaction of any relevant Authority, in compliance with all laws and otherwise to the reasonable satisfaction of the Landlord.

4.3 Safety of persons

The Tenant must procure that each of the following are complied with:

(a) before commencing the Works ensure that appropriate safety measures including safety fencing, barriers, barricades, hoardings and protective coverings are in place to prevent public access to the Premises; and

(b) if required as a result of the carrying out of the Works shore up, maintain, underpin and support adjoining structures (including the relevant access roads, buildings, fencing, footpaths and roadways) so as to ensure:

(i) stability and continued use of these structures; and

(ii) the safety of persons; and

(c) cause the Works to be carried out in a safe manner.

4.4 Noise

The Tenant must use its reasonable endeavours, having regard to the nature of the Works, to procure each of the following are complied with:

(a) ensure that any person involved in the carrying out of the Works complies with any applicable laws with respect to noise suppression methods for building or construction machinery used in carrying out the Works; and

(b) subject to the Tenant's rights under any law and this lease, minimise the inconvenience or interference to any owner or occupier of adjoining land.

4.5 Crane usage

(a) Subject to clause 4.5(b), the Tenant must ensure that any site cranes used for construction of the Works remain fully on the Premises. Nothing in this clause restricts the boom swing of any crane being above land outside the boundaries of the Premises subject to all necessary Approvals having been obtained from the relevant public authorities and any relevant adjoining lessees or occupiers of relevant land to permit same.

(b) If the Tenant requires to operate cranes on or over any land within Barangaroo other than the Premises or land which is within the control of the Developer, the Tenant must apply to the Landlord for approval. In giving or

withholding its approval the Landlord will take into account the Codes, all other policies and regulations and the interests of the occupier of the land which may be affected which it would be reasonable for the Landlord to take into account.

(c) If, in accordance with ordinary construction practices, the Tenant needs to locate any crane outside of the Premises, the Tenant must obtain all relevant Approvals before it may do so.

4.6 Rights of the Landlord to protect persons and property

If the Tenant fails to comply with its obligations under clause 4.3, then in addition to the Landlord's other remedies, the Landlord may after giving reasonable written notice to the Tenant (except where the Landlord determines that urgent action is required to protect persons or property), carry out or procure the carrying out of the necessary work. The Tenant must pay to the Landlord on demand a sum equal to all Costs incurred by the Landlord.

5. Compliance with laws

5.1 Obligations of the Tenant

Subject to the terms of this Attachment 1, the Tenant must on time procure the compliance with, and observation at the Tenant's expense of, all laws (excluding any judgments issued by any Court or tribunal requiring any payment or action by the Landlord) in connection with:

(a) the Premises;

(b) the Works;

(c) the Developer’s Property; and

(d) the use or occupation of the Premises

whether or not those laws are imposed on the Landlord or the Tenant.

5.2 Effect of compliance

The Tenant expressly acknowledges and agrees that in complying with the laws referred to in clause 5.1, the Tenant may be required to effect demolition, structural or capital works, alterations, additions and improvements to the Premises.

5.3 Copies of notices

(a) The Tenant must give or procure to be given the Landlord a copy of any notice relating to the Environment or public safety of the Premises notified to, or served on, the Tenant or any other notice relating to the Premises which is materially relevant to the Landlord.

(b) The Landlord must give the Tenant a copy of any notice relating to the Environment or public safety of the Premises notified to, or served on, the

Landlord or any other notice relating to the Premises which is materially relevant to the Tenant.

5.4 Acceptance of risk

Except in respect of:

(a) a Discriminatory Law;

(b) any other provision of this Attachment 1 imposing liabilities, responsibility or obligations on the Landlord;

(c) any breach by the Landlord of its obligations under the deed;

(d) any wrongful or reckless act by the Landlord or any of the Landlord's Employees; or

(e) the Landlord exercising its rights under clause 8.7,

the effect of any law (excluding any judgments or orders issued by any Court or tribunal requiring any payment, action or inaction by the Landlord) on the Tenant's use of the Premises is at the sole risk of the Tenant.

5.5 Discriminatory Laws

Despite any other clause to the contrary, the Landlord agrees that it must bear all risk and Costs associated with:

(a) any Discriminatory Laws; and

(b) any changes to Discriminatory Laws.

6. Insurances

6.1 The effect of clause 6

Until the Works are Practically Complete, the provisions of this clause 6 will apply to the exclusion of clause 9 of the lease.

6.2 Contract works insurance

Without limiting or affecting the Tenant’s other obligations under this Attachment 1, before commencement of the Works the Tenant must (at its own Cost) effect and maintain or cause to be effected and maintained a contract works insurance policy or procure that a contract works insurance policy is effected and maintained. The policy must cover the usual risks insured under a contract works insurance policy, and be subject to the usual terms and conditions that apply to such a policy. Subject to those limitations, the risks covered under the policy shall include loss, damage or destruction (including, without limitation, by earthquake, fire, flood, lightening, storm and tempest, theft, malicious damage) and resulting in loss or damage of:

(a) the Works (including any associated temporary works); and

(b) all materials and things (including plant and equipment used in the execution of the Works) brought onto or in storage on the Premises by the Developer, the Tenant or the Developer's Employees and Agents or the Tenant's Employees and Agents for the purpose of the Works other than constructional plant and equipment of contractors and subcontractors unless it is to be incorporated into the Works; and

(c) the Improvements (associated with the Works); and

(d) all materials and things associated with the Works in storage off site or in transit to the Premises, occurring during the period when the Developer or the Tenant is responsible for their care including under the terms of any maintenance or defects liability conditions.

6.3 Amount of insurance

The insurance cover referred to in clause 6.2 must be for an amount not less than the full value of the Works and the Improvements (associated with the Works) on a full reinstatement and replacement basis (including Costs of demolition and removal of debris and an amount necessary to cover fees to all consultants), which amount must be approved reasonably by the Landlord.

6.4 Public liability insurance

Without limiting or affecting the Tenant's other obligations under this Attachment 1, before the Tenant first has access to the Premises, the Tenant must effect and maintain or cause to be effected and maintained, a policy of public liability insurance or procure that a policy of public liability insurance is effected and maintained, which covers:

(a) liabilities to third parties for destruction of, loss of or damage to property (other than property insured under clause 6.2 and the death of, disease or illness to (including mental illness) or injury to any person (other than liability which is required by Law to be insured under a Workers Compensation policy of insurance);

(b) the Tenant's and the Developer's liability to the Landlord and the Landlord's liability to the Tenant and the Developer for destruction of, loss of or damage to property (other than property insured under clause 6.2, but including any property of the Landlord in the care, custody or control of the Developer or the Tenant) and the death of, disease or illness to (including mental illness) or injury to any person; and

(c) subject to standard exclusions generally contained in policies of insurance, the Tenant's liabilities under clause 4.2(c).

6.5 Amount for public liability insurance

The policy of public liability insurance must be written on an occurrence basis for an amount not less than $100,000,000 (or such other reasonable amount nominated from time to time by the Landlord) in respect of any one occurrence arising out of or in the course of or caused by the execution of the Works.

6.6 Employees

Before commencing the Works, the Tenant must insure against liability for death of, or any injury, damage, expense, loss or liability suffered or incurred by any person employed or deemed to be employed by the Tenant including all liabilities required to be insured by the Workers Compensation Act 1987 (NSW), any other legislation relating to workers' or accident compensation in New South Wales (as well as each other state or territory where the Tenant's employees normally reside or where their contract of employment was made) or imposed at common law. The insurance cover must be effected and maintained for a period ending when the Works (including rectification work) is completed. Where the Tenant has entered into the Building Contract, the Tenant must ensure that the Builder also insures itself (and must require the Builder to require that subcontractors or contractors engaged by it in connection with, or arising out of, the Works insure themselves) against all liabilities which the Workers Compensation Act 1987 (NSW) (or any other relevant workers' or accident compensation legislation or imposed at common law) requires it to insure against.

6.7 Workers compensation indemnity

The Tenant indemnifies the Landlord against any liability or loss arising from, and any costs incurred by the Landlord in connection with, the Tenant failing to comply with the Tenant's obligations under the Workers Compensation Act 1987 (NSW) (and all other relevant workers' or accident compensation legislation), including as a result of:

(a) any claim made against the Landlord under section 20(1) of the Workers Compensation Act 1987 (NSW); or

(b) any increase in the premium payable by the Landlord under the Landlord's own workers' compensation insurance.

6.8 Professional indemnity insurance

(a) At the Commencement Date, the Tenant must supply the Landlord with evidence that the Tenant and each person retained by the Tenant in relation to professional services work provided by:

(i) the lead design consultant, the structural engineer and the services engineer and the Builder, if the Builder designs any part of the Works, have effected professional indemnity insurance policies which are subject to the usual terms and conditions that apply to such a policy and which are at least (or no less than) $10,000,000 for any one claim or in the aggregate during any one period of insurance;

(ii) other relevant service providers, for an amount which is reasonable having regard to the service they have provided;

(b) The policies effected by the persons referred to in clause 6.8(a) must be subject to the usual terms and conditions that apply to professional indemnity insurance policies and which:

(i) cover liability of the person providing advice or being retained by the Tenant arising from breach of duty owed in a professional

capacity, whether owed in contract or by reason of any act or omission of that person, its employees, subcontractors, consultants or agents; and

(ii) must have a definition of profession wide enough to include all services to be provided by the Tenant in the performance of its obligations under this Attachment 1 and by such other person contemplated by this clause as requiring Insurance, in both cases to the extent that the professional advice provided by the insured party is relied upon.

6.9 Other insurance

If it becomes Australian insurance industry standard practice to require that insurance other than the types of insurance prescribed in this clause 6 be effected and maintained for activities substantially the same as the Works, the Landlord may (acting reasonably) require the Tenant to effect, or cause to be effected and maintain such other policies as are consistent with industry practice at the time, having regard to the nature and scope of the Works.

6.10 Insurance requirements generally

(a) All insurances which the Tenant effects and maintains or procures to be effected and maintained under this Attachment 1:

(i) must be with reputable insurers (reasonably acceptable to the Landlord) with a rating, at the time of effecting cover and if applicable, each anniversary of that date, of A- or better by Standard and Poors or the equivalent rating with another ratings agency (reasonably acceptable to the Landlord) (or in the case of workers compensation insurance, WorkCover NSW) and who are reasonably approved by the Landlord;

(ii) (other than statutory insurances) must be on terms and conditions (including deductible amounts) approved in writing by the Landlord (acting reasonably);

(iii) the Insurance specified in clause 6.4 must provide that:

A. all insurance agreements name as insureds the Landlord, the Developer (and the Developer's Employees and Agents) and the Tenant (and the Tenant's Employees and Agents), and operate as if there was a separate policy of insurance covering the Landlord, the Developer (and the Developer's Employees and Agents) and the Tenant (and the Tenant's Employees and Agents);

B. the commission of a vitiating act, omission, breach or default by any one of the insured does not prejudice the insurance of any other insured; and

C. the insurer waives all rights, remedies or relief to which it might become entitled by way of subrogation against insureds; and

(iv) the insurance specified in clause 6.2, must provide that:

A. all insurance agreements name as insureds the Landlord, the Developer, the Tenant and the Tenant's Employees and Agents, and operate as if there was a separate policy of insurance covering the Landlord, the Developer, the Tenant and the Tenant's Employees and Agents for their respective rights and interests;

B. the commission of a vitiating act, omission, breach or default by any one of the insured does not prejudice the insurance of any other insured; and

C. that the insurer waives all rights, remedies or relief to which it might become entitled by way of subrogation against insureds.

(b) Once any insurance policy is approved by the Landlord, the terms of that insurance policy must not be materially changed without the Landlord's prior written approval (acting reasonably and without delay). To the extent not recovered from the Developer, the Tenant must pay the Landlord for its reasonable legal and other Costs (if any) associated with determining whether or not to approve any such change.

6.11 Cross liability

Any insurance required to be effected in accordance with this Attachment 1 by the Tenant in joint names shall include a cross liability clause in which the insurer agrees:

(a) to waive all rights of subrogation or action against any of the persons comprising the insured;

(b) that the term "insured" applies to each of the persons comprising the insured as if a separate policy of insurance had been issued to each of them (subject to the overall sum insured not being increased as a result); and

(c) that any non-disclosure or misrepresentation by one insured does not prejudice the right of the other insured to claim under any insurance.

6.12 Periods of insurance

The Tenant must maintain (in relation to the Works):

(a) insurance policies that comply with clauses 6.2, 6.6 and 6.9 until the issue of the Final Certificate of the Works;

(b) an insurance policy that complies with clause 6.4 until the Date of Practical Completion of the Works; and

(c) an insurance policy that complies with clause 6.8 in the first instance until the issue of the Final Certificate for the Works and then for a further period of 6 years after the issue of the Final Certificate for the Works.

6.13 Premiums

The Tenant must punctually pay or caused to be punctually paid, all premiums in respect of all Insurances that it is obliged to arrange under this clause 6 (including any increased premiums payable after claims) and all excesses it may be obliged to pay under the terms of those insurances (except to the extent that the claim in respect of which the excess is payable, arises out of the Landlord's breach or the Landlord's Employees breach of this Attachment 1 or the wrongful or reckless act by the Landlord or any of the Landlord's Employees, which must be paid for by the Landlord).

6.14 Payment of proceeds

If permitted by the insurance policy effected in accordance with clause 6.2 and agreed to by the insurer, the Landlord and the Tenant will be joint loss payees in respect of any benefit payable under that policy and all proceeds will be paid to an account in the names of the Tenant, the Landlord and the policy holder, which proceeds will then be used for the purpose of reinstatement.

6.15 Providing information to the Landlord

Before the Tenant commences the Works and whenever requested in writing by the Landlord (but no more frequently than twice each year), the Tenant must, in respect of each insurance required to be effected and maintained under this clause 6:

(a) give or procure to be given to the Landlord copies of all:

(i) cover notes and, other than policies that are effected under a global insurance program covering the primary insureds other business activities, policies (including schedules);

(ii) renewal certificates; and

(iii) endorsement slips,

as soon as the Tenant receives them from the insurer or the party effecting the required insurances and in any event within 5 Business Days of the Landlord making a request (provided always that the Tenant shall not be in breach of this clause if it is unable to give the Landlord a document to which the Landlord is entitled under this clause solely for reasons beyond the control of the Tenant); and

(b) produce or procure to be produced evidence satisfactory to the Landlord that the insurances have been effected and maintained prior to the cover being required.

6.16 Failure to produce proof of insurance

If after being requested in writing by the Landlord to do so, the Tenant fails to comply with its obligations to effect or cause to be effected any of the insurances required to be

effected and maintained pursuant to this clause 6 the Landlord may (acting in good faith and reasonably) (after giving the Tenant 20 Business Days' prior notice of its intention to do so) effect and maintain the insurances and pay the premiums. The Tenant must pay to the Landlord on demand a sum equal to the amount paid by the Landlord.

6.17 Notices of potential claims

In addition to the obligations to notify the insurer under any policy, the Tenant must or ensure that the party required to hold the insurance must notify the Tenant, as soon as practicable after it becomes aware of the relevant claim, inform the Landlord in writing of any claim made under the insurances referred to in clause 6.2 which is in excess of $100,000, and must keep the Landlord informed of subsequent developments concerning the claim. The Tenant or the nominated party may not compromise, settle, prosecute or enforce a claim which is in excess of $100,000, under insurance taken out pursuant to clause 6.2 without the prior written consent of the Landlord or otherwise on such basis as the Landlord and the Tenant agree in writing from time to time, acting reasonably.

6.18 Additional obligations of Tenant

In relation to the insurance policies referred to in this clause 6, the Tenant must do or procure each of the following to be done:

(a) ensure that insurance premiums are paid on time, deductibles are paid promptly and the conditions of insurance are otherwise complied with;

(b) comply with the terms of each insurance policy and not do or omit to do anything which if done or not done might vitiate, impair, derogate or prejudice in any way the cover under any insurance or which might prejudice any claim under any insurance policy;

(c) if necessary, rectify anything which might prejudice any insurance policy;

(d) subject to clause 6.13, reinstate an insurance policy if it lapses;

(e) not cancel, vary or allow an insurance policy to lapse without the prior consent of the Landlord;

(f) promptly notify the Landlord in writing if an insurer gives notice of cancellation, notice of avoidance or other notice in respect of any insurance policy;

(g) promptly notify the Landlord of any event of which it is aware which results in:

  (i) an insurance policy lapsing or being cancelled or avoided; or

  (ii) the insurer's liability for a claim being able to be reduced (including to nil) or denied; and

(h) give full, true and particular information to the insurer of all matters and things the non-disclosure or misrepresentation of which might in any way

prejudice or affect any such policy or the payment of all or any benefits under the insurance policy.

6.19 Liabilities of Tenant not affected

The effecting of insurances does not limit the liabilities or obligations of the Tenant under this Attachment 1.

6.20 Application of insurance proceeds

(a) If all or any part of the Works or the Improvements on the Premises are damaged or destroyed:

(i) all insurance proceeds, including any which are deposited in an account in the joint names of the Developer, the Tenant and the Landlord as required by clause 6.14, in respect of that damage or destruction must be applied to repair or reinstate the Works and the Improvements; and

(ii) if the insurance proceeds received under the insurance policies effected in accordance with this clause 6.20 in respect of the damage to or destruction of the Works or the Improvements are less than the Cost of repairing or replacing the Works or the Improvements (or those insurances are void or unenforceable or in accordance with their terms do not cover the particular damage or destruction), the Tenant must complete the repair and replacement of the Works or the Improvements at its own Cost except to the extent that the damage or destruction, arises out of the Landlord's breach or the Landlord's Employees breach of this Attachment 1 or the wrongful or reckless act by the Landlord or any of the Landlord's Employees, which must be paid for by the Landlord.

(b) Upon settlement of a claim under the insurance required under clause 6.2, if the Tenant has not completed reinstatement of the Works or the Improvements, the insurance proceeds shall be paid into a bank nominated by the Landlord in an account in the joint names of the Developer, the Tenant and the Landlord. As the Tenant proceeds to reinstate the loss or damage, the Landlord will consent to moneys being progressively withdrawn from the joint account for the purposes of satisfying the Costs of such reinstatement.

(c) All insurances required by this Attachment 1, except for the insurance specified in clause 6.4, must be endorsed by the insurer to note and allow the Tenant's obligations under this clause 6.20, to the effect that compliance with the provisions of this clause will not prejudice the Tenant's or any other insured's right to indemnity under those insurances.

6.21 Withdrawing money from joint account

The parties agree that amounts will not be withdrawn from the joint account referred to in clause 6.14 unless the Landlord is reasonably satisfied that the moneys remaining in that joint account are not less than the amount which the Landlord from time to time reasonably determines or otherwise accepts is sufficient to pay all Costs of completing all such reinstatement works, except to the extent that the damage or destruction, arises

out of the Landlord's or the Landlord's Employees breach of this Attachment 1 or the wrongful or reckless act by the Landlord or any of the Landlord's Employees, which must be paid for by the Landlord.

6.22 Change in Insured Risk

(a) If, after the date by which Insurance is to be effected in accordance with this Attachment 1, a Change in Insured Risk occurs, the Tenant and the Landlord will promptly meet to discuss, in good faith, the measures which should be undertaken to address the Change in Insured Risk, to place the parties, to the extent reasonably practicable, in the same positions that they would have been in had the relevant Change in Insured Risk not occurred.

(b) If, within 30 days, the parties are not able to agree on the relevant measures to be adopted, then the matter must be determined in accordance with clause 19 of the lease. For the avoidance of doubt, if the Project Development Agreement remains on foot with respect to the Works, and clause 45 of that agreement is invoked, then the Landlord and the Tenant agree that a resolution of the dispute under clause 45 of that agreement will be deemed to be a resolution of that dispute in accordance with clause 19 of the lease.

(c) For the purposes of this clause 6.22, **Change in Insured Risk** means any Insurance required to be effected and maintained under this clause 6 which:

(i) ceases to be available from insurers which satisfy clause 6.10(a)(i) (other than where due to any act or omission of the Tenant, the Tenant's Employees and Agents or any person on their behalf); or

(ii) is available, but the terms and conditions (including as to premiums and deductibles) on which the insurance is generally available from insurers which satisfy clause 6.10(a)(i), change such that the risk is not generally being insured against with such insurers by competent and experienced developers of developments in Australia such as the project.

7. Occupational health and safety

7.1 The effect of clause 7

The provisions of this clause 7 will only apply where the Project Development Agreement no longer remains on foot with respect to the Works.

7.2 Appointment of principal contractor

For the purposes of Chapter 8 of the OH&S Regulation, the Landlord:

(a) appoints:

(i) at the request of the Tenant, the Builder with respect to the Works; and

(ii) in all other cases, the Tenant

as the principal contractor for the Works; and

(b) authorises the Tenant or the Builder, as the case may be, to exercise such authority of the Landlord as is necessary to enable the Tenant to discharge the responsibilities imposed on a principal contractor under Chapter 8 of the OH&S Regulation.

7.3 OH&S Plan

The Tenant agrees that it or that it will procure that the Builder, will be the principal contractor for the Works or will otherwise fulfil and exercise or will procure that the Builder fulfils and exercises the functions and obligations of principal contractor in respect of such activities as if the Tenant had been appointed as principal contractor and must or must procure that the Builder must:

(a) 30 Business Days prior to commencement of the Works prepare the OH&S Plan (relevant to the Works) and submit that plan to the Landlord for its approval;

(b) maintain the OH&S Plan in accordance with Part 8.3 of Chapter 8 of the OH&S Regulation;

(c) promptly provide any updated OH&S Plan to the Landlord; and

(d) comply with the NSW Government "Occupational Health and Safety Management Systems Guidelines".

7.4 Tenant warranty

The Tenant warrants that compliance with the OH&S Plan will enable the Tenant or the Builder, as the case may be, to discharge its obligations as a principal contractor under Chapter 8 of the OH&S Regulation.

7.5 Discharge of obligations

If it is not feasible to do the Works in accordance with the OH&S Plan (applicable to the Works), the Tenant must or must procure that the Builder must:

(a) use such occupational health and safety plans and systems as may be necessary to discharge its obligations as a principal contractor under Chapter 8 of the OH&S Regulation; and

(b) design and implement any such plans and systems in conformity with the general duties imposed on persons under Division 1 of Part 2 of the OH&S Act.

7.6 Copies of documents

The Tenant must provide or procure the provision to the Landlord quarterly or more frequently on request from the Landlord, with a copy of all registers, records and documents that the Tenant or the Builder, as the case may be, is required to prepare or maintain as a principal contractor under the OH&S Regulation.

7.7 Compliance

(a) In addition to its duties as principal contractor, during the performance of the Works and its other obligations under this Attachment 1, the Tenant must or must procure that the Builder must:

(i) comply with, and ensure that all persons for whom it is responsible or over whom it is capable of exercising control while doing the Works comply with, the OH&S Plan and all statutory obligations of the Tenant or the Builder, as the case may be; and

(ii) comply with any reasonable direction of the Landlord given following a perceived breach of the OH&S Regulation or the OH&S Plan.

(b) The Tenant must or must procure that the Builder must take all measures required under any law or by any relevant Authority to protect people and property on or adjacent to the Premises and the Works in connection with the execution of the Works.

7.8 Landlord may carry out obligations

If the Tenant or the Builder, as the case may be, fails to comply with an obligation under this clause 7, the provisions of clause 8 apply.

8. Landlord's rights to enter, inspect and carry out work

8.1 Landlord's right to enter and inspect

(a) Subject to clause 8.1(b), and clause 8.1(c), the Landlord may, at its Cost, inspect the Works by entering onto the Premises.

(b) No person may enter the Premises whilst the Works are being carried out unless they fully comply with all site safety requirements implemented by the Developer, the Tenant or the Builder, including:

(i) the OH&S Plan;

(ii) any safe work method statement;

(iii) any clothing requirements;

(iv) any supervision requirements; and

(v) any safety directions issued by or on behalf of the Developer or the Tenant.

(c) Subject to clause 8.5, where no notice requirements or restrictions apply, the Landlord may only exercise its right to enter onto the relevant part of the Premises pursuant to clause 8.1(a) after giving not less than 2 Business Days' prior notice and then only in the presence of a representative of the Developer or the Tenant.

8.2 Landlord's notice to remedy

(a) If at any time prior to Practical Completion of the Works the Landlord reasonably believes that any part of the Works, or any materials for incorporation into the Works, are materially inconsistent with:

(i) the Final Plans and Specifications; or

(ii) the requirements of this Attachment 1,

then the Landlord may provide the Tenant with a notice containing full details of any such inconsistency to the extent of the information available to the Landlord.

(b) Subject to clause 8.2(c) and (d) the Tenant must upon receiving a notice from the Landlord under clause 8.2(a) provide or procure the provision to the Landlord of a plan for remedying any materials or workmanship identified by the Landlord in its notice and implement that plan subject to the Landlord's reasonable requirements and conditions.

(c) If the Tenant reasonably requires any additional details to those contained in the Landlord's notice under clause 8.2(a), it may request that those details be provided, and the Landlord must provide those details within a further 5 Business Days of such request.

(d) If the Tenant disputes the contents of any notice issued by the Landlord pursuant to clause 8.2(a), then it must give the Landlord a notice to that effect within 10 Business Days after the later of the date it receives that notice and the date the Landlord provides further details following a request under clause 8.2(c), and the provisions of clause 19 of the Lease will apply to that dispute.

8.3 Landlord may take action

Subject to clause 8.4, the Landlord:

(a) may do anything which should have been done by the Tenant under this Attachment 1 but which has not been done, or which the Landlord reasonably considers has not been done properly;

(b) may (and the Landlord's Employees may) enter and remain on the Premises for so long as it is reasonably necessary for that purpose; and

(c) must use its best endeavours not to interfere with the parts of the Premises not required by the Landlord under this clause 8.3.

8.4 Notice of exercise of rights

The Landlord may not exercise its rights under clause 8.3 unless:

(a) the Tenant has not remedied the relevant non-compliance in accordance with any plan for remedy agreed between the Landlord and the Tenant pursuant to clause 8.2(b) or otherwise within a reasonable time after it occurs after

receiving written notice from the Landlord to remedy the non-compliance; and

(b) the Landlord has first given the Tenant reasonable notice of its intention to do so.

8.5 Emergencies

If there is, or the Landlord or the Tenant has grounds for believing there is, an emergency of any nature in connection with the Works or the Premises:

(a) on becoming aware of the emergency or possible emergency, the Landlord or the Tenant (as applicable) must as soon as practicable advise and cooperate with the other party, and keep the other party fully informed about the nature of the emergency and any actions being taken by, or on behalf of, the Tenant or the Landlord (as applicable) to address the emergency and ameliorate any risks; and

(b) whether or not the Tenant is aware of the emergency or possible emergency or is taking any action, the Landlord is permitted to have reasonable access to the Premises, having regard to the nature of the emergency or possible emergency, and to take whatever action it considers is reasonably necessary to eliminate the emergency or assist the Tenant to eliminate the emergency.

8.6 Costs of taking action

The Landlord's rights under clause 8.3 and 8.5 are in addition to any other remedies of the Landlord for the Tenant's non-compliance. The Tenant must pay to the Landlord on demand a sum equal to all Costs and liabilities reasonably incurred or suffered by the Landlord in taking the action.

8.7 Landlord may carry out Service works

The Landlord may (at its sole Cost and risk) any time carry out works expeditiously and in a proper and workmanlike manner to install, vary, maintain, use, repair, alter, replace and to pass or convey Services through any pipes, ducts, conduits or wires leading through the Premises, provided that, in carrying out those works, the Landlord:

(a) gives the Tenant reasonable notice of its intention to perform those works and of the access times required;

(b) acts reasonably in taking any reasonable requirements of the Tenant into account;

(c) ensures that those works comply with all laws and the requirements of all relevant public authorities;

(d) obtains all required consents and Approvals in respect of those works;

(e) causes as little inconvenience to the Tenant as is reasonably practicable;

(f) does not materially and adversely affect the carrying out of the Works; and

(g) complies with the site safety requirements of clause 8.1(b).

8.8 Landlord not liable

Excluding clauses 8.7 and 8.2(d), the Tenant:

(a) acknowledges that it is not entitled to make a claim against the Landlord, but without prejudice to the Tenant's rights under clause 11, including a claim for an extension of time to achieve Practical Completion pursuant to clause 11.2 in respect of anything arising out of this clause 8; and

(b) agrees that the Landlord is not liable for, and releases the Landlord from liability and loss arising from, and Costs incurred, in connection with, anything the Landlord is permitted to do under this clause 8 (except to the extent that any such claim, liability, loss or Costs arises from the Landlord failing to comply with any of its obligations under this clause 8 or by reason of any wrongful or reckless act by the Landlord or any of the Landlord's Employees) unless it has a substantial impact on the Tenant's ability to fulfil the Tenant's obligations under this Attachment 1.

8.9 Landlord may carry out OH&S obligations

(a) If the Tenant fails to comply with an obligation under clause 7, the Landlord may perform, or have performed, the obligation on the Tenant's behalf and the Tenant must pay to the Landlord on demand an amount equal to the Costs reasonably incurred.

(b) If and to the extent that the Landlord (acting reasonably) considers it necessary to undertake any activity, give any direction or otherwise perform any of the works or services pursuant to clause 15.5 of the lease, the parties acknowledge and agree that in doing so, the Landlord is not acting as a principal contractor, nor is the Landlord to be taken, for any purpose, to be the principal contractor.

9. Defects Liability and Final Certificate for the Works

9.1 Tenant to rectify defects

As soon as practicable after the Date of Practical Completion of the Works the Tenant must rectify or procure the rectification of any defects or omissions in the Works.

9.2 Inspections by the Landlord

At any time during the Defects Liability Period for the Works the Landlord may inspect the Works for the purpose of ascertaining what defects and omissions (if any) in those Works are required to be made good by the Tenant.

9.3 Defects Notice given by the Landlord

In respect of the Works, after each inspection the Landlord may give a notice (**Defects Notice**) to the Tenant of all defects and omissions (if any) which in the reasonable opinion of the Landlord are required to be made good. Any Defects Notice:

(a) must sufficiently identify the defect or omission; and

(b) may provide that in respect of the rectification work which is reasonably considered by the Landlord to be substantial there shall be a separate Defects Liability Period of a stated duration not exceeding 12 months.

Any separate Defects Liability Period commences on the date the rectification work is completed.

9.4 Obligations of Tenant

The Tenant must:

(a) give a copy of each Defects Notice to the Independent Certifier;

(b) make good or procure to be made good any defect or omission specified in the Defects Notice which in the reasonable opinion of the Independent Certifier are required to be made good, within the time reasonably specified by the Independent Certifier; and

(c) give notice to the Landlord when, in the Tenant's opinion, those defects or omissions have been made good.

9.5 Landlord may rectify defects

If the Tenant does not complete or procure the completion of the rectification work within the time specified in clause 9.4, the Landlord may have the rectification work carried out (and for that purpose the Landlord may call on any bank guarantee provided by the Tenant) without prejudice to any other rights that the Landlord may have against the Tenant in connection with the defect or omission. The Tenant must pay or procure to be paid to the Landlord on demand a sum equal to the Cost of the rectification work reasonably incurred by the Landlord.

9.6 Final Certificate

The provisions of clauses 2.2 to 2.6 apply *mutatis mutandis* to the issue of the Final Certificate in relation to the Works as if the reference in those clauses to:

(a) the Certificate of Practical Completion were a reference to the Final Certificate; and

(b) the reference to Practical Completion were a reference to Final Completion.

9.7 Access to remedy defects

The Tenant must ensure the Landlord has access to the Premises for the purposes of remedying defects in accordance with this clause 9 and in accessing the Premises under this clause the Landlord must use its best endeavours not to disrupt or interfere with any tenant's or occupier's use of any part of the Project.

10. Bank Guarantees

10.1 Tenant to give Works Bank Guarantee

(a) Subject to clause 10.1(d), to the extent not provided by the Developer, on the Commencement Date, the Tenant must give a Bank Guarantee to the Landlord having a face value of the greater of:

(i) 5% of the Costs which are estimated by the Tenant (acting reasonably) and approved by the Landlord (if the Landlord does not approve the Tenant's estimate, the matter will be resolved in accordance with the dispute resolution provisions (clause 19) of the Lease) will be incurred with respect to the Works; and

(ii) $5,000,000

but in any event not more than 10% of the Costs which are estimated by the Tenant will be incurred with respect to the Works.

(b) Subject to the provisions of clause 10.1(d), the Bank Guarantee referred to in clause 10.1(a) is security for:

(i) the Tenant’s obligation to bring the Works to Practical Completion;

(ii) the purpose of clause 9.5; and

(iii) the Tenant's obligations to reimburse the Landlord for monies expended by the Landlord in making the Premises safe and restoring any damage to the Premises in the event that this Lease is terminated and the Tenant otherwise fails to do so.

(c) The amount of the Bank Guarantee required under this clause 10.1 will reduce to 10% of its face value on Practical Completion until the end of the Defects Liability Period referrable to the Works.

(d) The Tenant is not required to provide Bank Guarantees under this clause 10.1 to the extent that the aggregate face value of Bank Guarantees provided by the Developer under the Project Development Agreement and which remain outstanding is not less than $25,000,000, but if at any time the aggregate face value of those Bank Guarantees is less than $25,000,000 then the Tenant must immediately provide to the Landlord the Bank Guarantee referred to in clause 10.1(a).

10.2 Calling on a Bank Guarantee

The Tenant acknowledges and agrees that the Landlord may call on the Bank Guarantee if the Tenant fails to perform any of its obligations under this Attachment 1.

10.3 Replacement of the Bank Guarantee after call

If the Landlord calls on the Bank Guarantee, the Tenant must, no later than 5 Business Days after the Landlord gives notice to the Tenant requesting the Bank Guarantee to be

replaced, provide a replacement or additional Bank Guarantee so that the amount held by the Landlord is the full amount of the relevant Bank Guarantee.

10.4 Replacement of expiring Bank Guarantee

If a Bank Guarantee provided under the Tenant under this Attachment 1 has an expiry date, the Tenant must, if the Landlord has not returned that Bank Guarantee to the Tenant in accordance with clause 10.5, provide the Landlord with a replacement Bank Guarantee in the same amount no later than 10 Business Days prior to that expiry date in exchange for the Landlord delivering to the Tenant the Bank Guarantee to be replaced. If the Tenant fails to provide the Landlord with the replacement Bank Guarantee as required, the Landlord:

(a) may call on the full amount of the Bank Guarantee without notice to the Tenant;

(b) must hold the amount of that Bank Guarantee as a cash deposit (**Cash Deposit**) in a separate bank account in the name of the Landlord (**Cash Deposit Account**);

(c) may withdraw money (including accrued interest) from a Cash Deposit Account and use that money:

(i) in accordance with clause 10.2 as if the Cash Deposit were the amount secured by the Bank Guarantee; and

(ii) to pay all Costs and Taxes payable in connection with that Cash Deposit Account; and

(d) must return the amount held in the Cash Deposit Account (including accrued interest but less any amounts payable to or by the Landlord under clause 10.5) to the Tenant in accordance with clause 10.1 as if the amount in that Cash Deposit Account were the relevant Bank Guarantee.

10.5 Returning the Bank Guarantees

On the issue of the Final Certificate, the Landlord must return to the Tenant any Bank Guarantees provided by the Tenant and to the extent not called.

11. Extensions of time

11.1 Practical Completion

The Tenant must reach Practical Completion of the Works by the Sunset Date pursuant to clause 2.1(c).

11.2 Claims for extension of time – Date for Practical Completion

Subject to this clause 11, the Date for Practical Completion will be subject to extensions of time for delays resulting from an Extension of Time Event.

11.3 Conditions precedent to extensions of time

The Tenant may only claim an extension of time if:

(a) the Tenant gives to the Landlord details of the number of days claimed, the date the cause of the delay first arose, and the date the delay ceased within 60 Business Days after the earlier of the day the Tenant became aware, and the day the Tenant ought reasonably to have become aware, of the cause of the delay ceasing;

(b) (and to the extent) the delay has not been caused or contributed to by the Developer, the Developer's Employees and Agents (including any subcontractor), the Tenant or the Tenant's Employees and Agents;

(c) the Tenant has used its reasonable endeavours to remedy the cause of the delay and to minimise the delay provided the Tenant is not obliged to incur any Costs in doing so; and

(d) the Tenant has actually been delayed or will be delayed or reasonably likely to be delayed in achieving Practical Completion.

11.4 Concurrent delays

If, in respect of the Works, more than one event set out in this clause 11 (the occurrence of which entitles the Tenant to claim an extension of time) causes concurrent delays, then to the extent that the delays are concurrent the Tenant is not entitled to an additional extension of time.

11.5 Matters for consideration

In determining whether the Tenant is or is likely to be delayed in achieving Practical Completion by the Date for Practical Completion, the Independent Certifier:

(a) may take into account whether the Tenant has taken all reasonable steps to preclude the occurrence of the cause and minimise the consequences of the delay provided the Tenant is not obliged to incur any Costs in doing so; and

(b) may not take into account whether the Tenant can reach Practical Completion of the Works Portion by the Date for Practical Completion without an extension of time.

11.6 Determination of extensions of time

The Landlord and the Tenant acknowledge and agree that the Tenant will be entitled to an extension of time if the Independent Certifier determines that the Developer is entitled to an extension of time.

11.7 Dispute over extensions of time

If, in the reasonable opinion of the Tenant the Independent Certifier fails to make its determination in accordance with clause 11.5 or fails to give sufficient reason for refusing to grant an extension of time then the Tenant may regard the circumstances as

constituting a dispute between the Landlord and the Tenant for the purposes of clause 19 of the Lease.

12. Easements

12.1 Easements required by Tenant

(a) The parties acknowledge and agree that the Tenant may, with the prior written consent of the Developer, require easements benefiting the Premises, including for:

(i) support, Services and access;

(ii) the construction, retention, maintenance, repair and use of those Services and utilities for the construction and operation of the Premises;

(iii) structural support of any stratum areas;

(iv) minor encroachments;

(v) the ongoing construction of the Works (including the use of cranes); and

(vi) all other easements necessary for the development of the Premises or the use, enjoyment and occupation of Improvements on the Premises,

and accordingly the Landlord , on request from the Tenant, but subject to clause 12.2, must:

A. grant to the Tenant; and

B. permit any relevant providers of Services to obtain,

on reasonable terms and at no Cost to the Landlord, such easements as are reasonably required by the Tenant.

(b) The Tenant must notify the Landlord of the exact location and dimensions of any easement it requires under this clause 12.1 as soon as practicable.

12.2 Non-granting of easement

The Landlord is not obliged to grant an easement referred to in clause 12.1 if:

(a) that easement would materially interfere with the normal use and enjoyment of the land to be burdened; or

(b) the Landlord is not the registered proprietor of the land to be burdened by the easement.

12.3 Compliance with easements and restrictions

The Tenant must not interfere with the Landlord's performance of those restrictions, rights, stipulations, easements and covenants as registered proprietor of the Premises.

13. Intellectual property

13.1 Ownership of intellectual property

The Tenant warrants that the Tenant has or will have a right to use all design, materials, documents and methods of working produced by or on behalf of the Tenant for the purpose of the Works, including the right to use such items for the purpose of operating, maintaining, repairing, rectifying, adding to and altering the Works.

13.2 Licence to use intellectual property

If this Lease is terminated, the Tenant:

(a) grants the Landlord a royalty-free, irrevocable, transferable licence to use and modify the items referred to in clause 13.1 in connection with the Landlord's rights under this Attachment 1 in respect of the Works, including any additions, alterations and repairs to, and rectification and maintenance of, those Works; and

(b) agrees that such licence will include sufficient rights:

(i) in any Approval, and all plans referred to in any such Approval; and

(ii) in any design work relating to the Project which is not incorporated in any Approval,

for the Landlord to:

A. complete any part of those Works which are not complete at the date of termination, and use (and modify) such Approvals, plans and design work to construct, operate, maintain, repair, rectify, make additions to, and alter those Works, in the manner contemplated by this Attachment 1; and

B. sublicense its rights to third parties engaged by the Landlord to provide goods or services in connection with those Works, including any additions, alterations and repairs to, and rectification and maintenance of, those Works; and

(c) must deliver to the Landlord all documentation, within its possession or control, the subject of the licence under this clause 13.2 as is reasonably required by the Landlord, including such documentation as may be required to lodge appeals, or making Applications, in respect of any Part 3A Approval.

13.3 Moral rights warranty

The Tenant:

(a) warrants that it has or will obtain an undertaking, from each individual author employed by each party performing any design work in relation to the Works, not to enforce any Moral Rights that author may have, now or in the future, in any such design work in which copyright subsists, so that the Landlord may freely exercise its rights pursuant to the licence granted under clause 13.2;

(b) must, as soon as reasonably practicable after the Commencement Date, procure each individual author employed by each party performing any design work in relation to the Works to sign an appropriate Moral Rights letter of consent; and

(c) must provide to the Landlord a copy of all Moral Rights letters of consent signed by the relevant individual authors pursuant to clause 13.3(b) as soon as those signed letters of consent are received from the individual authors.

14. Disputes

For as long as the Project Development Agreement remains on foot with respect to the Works, and a dispute with respect to the Works arises under this Attachment 1 which is to be determined in accordance with clause 19 of the lease and the subject matter of that dispute is the same as a dispute which is referred for resolution under clause 45 of the Project Development Agreement, then the Landlord and the Tenant agree that a resolution of the dispute under clause 45 of the Project Development Agreement will be deemed to be a resolution of that dispute in accordance with clause 19 of the lease.

15. Default

For as long as this Attachment 1 applies, the expression **Trigger Event** for the purposes of this lease, will mean and will be limited to:

(a) an Insolvency Event occurs with respect to either the Developer or the Tenant, unless the provisions of this Attachment 1 are being performed by or on behalf of the Developer or the Tenant; or

(b) the Works are not Practically Complete by the Sunset Date

otherwise the provisions of clause 15 of the Lease apply.

16. Definitions

For the purposes of this Attachment 1, these meanings apply unless the contrary intention appears:

Anticipated Date of Practical Completion means the date which the Independent Certifier certifies in writing to the Landlord, the Developer and the Tenant pursuant to clause 24.2(a) of the Project Development Agreement or *clause 2.2(a)*, as being the date

that is likely to be the date on which Practical Completion of the Works will be achieved.

Approvals means any approvals, consents, Modifications, Part 4A Certificates, approvals under Part 3A of the EP&A Act, certificates, Construction Certificates, Occupation Certificates, Complying Development Certificates, permits, endorsements, licences (including licences under the Liquor Act 1982 (NSW)), conditions or requirements (and any variations to them) which may be required by law or by adjoining owners for the commencement and carrying out of the Works or which may imposed in relation to the Works by any Authority or the Landlord.

Bank Guarantee means an irrevocable and unconditional undertaking by an Australian bank on terms acceptable to the Landlord to pay the relevant sum to the Landlord on demand and which are provided by the Tenant under clause 10.1(a).

Barangaroo has the meaning given to it under the BDA Act.

BDA Act means the Barangaroo Delivery Authority Act 2009 (NSW).

Builder means the contractor under a Building Contract.

Building Contract means in respect of the Works, any head contract between the Developer and a Builder or between the Tenant and a Builder:

(a) in connection with the design and construction (or construction only) of the Works; and

(b) any construction management or project management of the Works.

Certificate of Practical Completion means in respect of the Works a certificate issued by the Independent Certifier under clause 24 of the Project Development Agreement or *clause 2.4* in relation to the Works.

Climate Positive Work Plan has the meaning given to that term in the Project Delivery Agreement.

Code means the NSW Government Code of Practice for the Construction Industry.

Compliance Certificate means a certificate referred to in section 109C(1)(a) of the EP&A Act.

Complying Development Certificate means a complying development certificate referred to in section 85 of the EP&A Act.

Construction Certificate means a certificate issued under section 109C (1)(b) of the EP&A Act.

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

Date of Practical Completion means, in respect of the Works and subject to *clause 2.7,* the date being the date the Independent Certifier issues the Certificate of Practical Completion under clause 24.4 of the Project Development Agreement or *clause 2.4* for the Works.

Date for Practical Completion means ***[insert date at grant of lease]*;**

Defects Liability Period means, in respect of the Works, a period of 12 months commencing on:

(a) the Date of Practical Completion for the Works; or

(b) (if applicable) the date of completion of rectification works as contemplated in clause 38.4(b) of the Project Development Agreement or *clause 9.4(b)* relating to the Works.

Defects Notice has the meaning given in clause 38.3 of the Project Development Agreement or *clause 9.3*.

Developer means Lend Lease (Millers Point) Pty Limited.

Developer's Employees and Agents means each of the Developer's employees, officers, agents, contractors, service suppliers, licensees, invitees and those persons who are on the Premises (other than the Landlord and its servants, agents and contractors and the Tenant and its servants, agents and contractors).

Developer's Property means all plant and equipment, fixtures, fittings, furniture, furnishings, decorations and other property not owned by the Landlord which the Developer or the Tenant brings on to the Premises or fixes to the Premises.

Discriminatory Law means:

(a)

(i) New South Wales legislation (including any amendment or replacement) which specifically and only affects; or

(ii) the exercise of the Minister administering the BDA Act, pursuant to which additional imposts, levies or charges are imposed on

all or part of Barangaroo (including the Premises), the Building or the execution of the Works (or any part of the Works) in a manner which adversely impacts (including by increasing the costs of developing or leasing) the Premises, the Building or the execution of the Works (or any part of the Works); or

(b) any legislation which has the effect of repealing section 35 of the BDA Act.

Environment includes all aspects of the surroundings of human beings.

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

Extension of Time Events means each of the following:

(a) a Force Majeure event occurs, being:

(i) war (undeclared or declared), civil war, civil commotion, demonstrations, insurrections, riots, floods, explosions, act of terrorism, earthquakes, substantial fires (not caused by the Tenant

or the Tenant's Employees and Agents), acts of God or the public enemy or sabotage; or

(ii) state-wide or nationwide industrial disputes, stoppages or strikes; or

(iii) any strike, lockout or other industrial action or dispute, which was caused or contributed to by the acts or omissions of the Landlord or any other Authority.

(b) delay caused by the acts and omissions of the Landlord or the Landlord's Employees;

(c) any suspension or cessation in performing the Works by reason of a Native Title Application or Threatened Species Claim;

(d) delays due to the discovery of Relics;

(e) a Discriminatory Law coming into effect;

(f) an event occurs which:

(i) is outside the control of the Developer, the Developer's Employees and Agents, the Tenant, the Tenant's Employee's and Agents and the Builder;

(ii) causes damage to or destruction of the Works; and

(iii) entitles the Developer or the Tenant to make a proper insurance claim under an insurance policy effected by or on behalf of the Developer or the Tenant; or

(g) the Independent Certifier unreasonably withholds or delays the granting of a Certificate of Practical Completion in relation to the Works;

Final Certificate means in respect of the Works, a certificate under which the Independent Certifier certifies that all defects and omissions in the Works have been rectified.

Final Completion means in respect of the Works, the point in time when the Works have been carried out such that a Final Certificate for the Works must issue.

Final Plans and Specifications means, in respect of the Works, the plans and specifications consented to by the Consent Authority and by the Landlord and for which a Construction Certificate for the Works has issued.

Improvements means all improvements erected on the Premises**.**

Independent Certifier means the person appointed to be the Independent Certifier for the purposes of the Project Development Agreement, and any replacement appointee.

Intellectual Property Rights means all intellectual property rights including current and future registered and unregistered rights in respect of copyright, designs, circuit layouts, trade marks, know-how, confidential information, patents, inventions and

discoveries and all other intellectual property as defined in article 2 of the convention establishing the World Intellectual Property Organisation 1967.

Landlord's Employees means each of the Landlord's employees, officers, agents, contractors and service suppliers (other than the Developer and the Tenant and their respective its servants, agents and contractors).

Modification means a "modification" of a Part 3A Approval:

(a) within the meaning of section 75W of the EP& A Act; or

(b) by the issue of a new concept plan approval.

Moral Rights means any of the rights described in Article 6*bis* of the Berne Convention for the Protection of Literary and Artistic Works 1886 (as amended and revised from time to time), being "droit moral" or other analogous rights arising under any law (including the Copyright Act 1968 (Cwlth) or any law outside Australia), that exists now or in the future anywhere in the world.

Native Title Application means any application made pursuant to the Native Title Act 1993 or the Native Title (New South Wales) Act 1994.

Occupation Certificate means a final occupation certificate to be issued under Part 4A of the EP&A Act to enable the occupation or use of the Works in accordance with the EP&A Act, and which is to issue on Practical Completion of the Works (if relevant), but excludes any further or additional occupation certificate which may be issued in connection with any further development within the Works after a final occupation certificate has been issued in relation to the Works.

OH&S Act means the Occupational Health and Safety Act 2000 (NSW).

OH&S Plan means a site specific occupation health and safety management plan to be prepared in relation to the Works as required by Part 8.3 of Chapter 8 of the OH&S Regulations.

OH&S Regulation means the Occupational Health and Safety Regulation 2001 (NSW).

Part 4A Certificate means a certificate referred to in section 109C(1)(a), (b), (c) or (d) of the EP&A Act.

Practical Completion means, in respect of the Works, the point of time at which, in relation to the Works:

(a) the Independent Certifier is satisfied that every item shown or called for in the Final Plans and Specifications relevant to the Works (except for minor omissions or defects or variations agreed in writing by the Landlord) has been completed or installed in accordance with the Works Documents and the Developer's obligations under this Attachment 1;

(b) all compliance reports relevant to the Works have been delivered to the relevant Authority;

(c) the Works are fit for use and occupation and capable of being lawfully used and occupied for their intended purpose with the consent of all relevant

Authorities, excludes any further or additional requirement which may be imposed in connection with any further development within the Works after a final occupation certificate has been issued in relation to the Works;

(d) (if relevant) a Compliance Certificate for the Works has issued;

(e) (if relevant) an Occupation Certificate for the Works has issued;

(f) (if relevant) a Complying Development Certificate for the Works has issued; and

(g) where in relation to the Works, the Climate Positive Work Plan requires something to be done on or before Practical Completion, the Landlord is satisfied (acting reasonably) that that things has been done in accordance with and as contemplated by the Climate Positive Work Plan.

Project Development Agreement means the project development agreement dated ***[inserted date]*** between the Developer, the Landlord and Lend Lease Corporation Limited.

Relic means:

(a) minerals of commercial value;

(b) fossils;

(c) relics, articles or objects of antiquity or of anthropological or archaeological interest;

(d) coins and other articles of value;

(e) historical archaeological sites; and

(f) Aboriginal archaeological relics.

Surveyor means a surveyor who is a member of the Association of Consulting Surveyors NSW Inc having at least 5 years' experience in surveying premises of the same type as the Premises approved by the Landlord (such approval not to be unreasonably withheld).

Tenant's Employees and Agents means each of the Tenant's employees, officers, agents, contractors, service suppliers, licensees, invitees and those persons who are on the Premises (other than the Landlord and its servants, agents and contractors and the Developer and its servants, agents and contractors).

Threatened Species Claim means a claim made or legal proceedings commenced in connection with the existence of a threatened species, population or ecological community or the habitat of a threatened species, population or ecological community as regulated by the Threatened Species Conservation Act 1995 (NSW), the National Parks and Wildlife Act 1974 (NSW) or the Environment Protection and Biodiversity Conservation Act 1999 (Cwlth).

Works means ***[insert relevant description]***.

Works Documents means the:

(a) Approvals; and

(b) Final Plans and Specifications.

Sunset Date means the date determined by adding to the Date for Practical Completion (which date may be extended pursuant to clause 11) a period equal to the period from the date of commencement of the Works to the Date for Practical Completion.

Attachment 2 – Deed Poll

Date ►

This deed poll is made by	***[insert name and ABN]*** of ***[insert address]*** (**Tenant**)
In favour of (**Beneficiaries**)	1 the BDA; 2 the Developer, until the Developer serves written notice under clause 8 and 3 each of the lessees (other than the Tenant) from time to time of land within the Barangaroo Precinct, (any one of them the **Other Stakeholder**) and 4 Barangaroo Management Company Pty Limited (**BMC**); and 5 Barangaroo Infrastructure Company Pty Limited (individually and collectively the **Barangaroo Companies**).

This deed poll witnesses as follows:

1. the Tenant is the lessee of land within the Barangaroo Precinct.
2. the ongoing management of the Barangaroo Precinct is governed by the Plan.
3. the Tenant agrees that it will comply with all of the obligations contemplated for it under the Plan.

1. Definitions

The meanings of the terms used in this deed poll are set out below.

Term	Meaning
Barangaroo Precinct	the parts of the Land (including improvements) which are no longer part of the Development Site.
Beneficiaries	each Other Stakeholder and each of the Barangaroo Companies.
BDA	the Barangaroo Delivery Authority established by the Barangaroo Delivery Authority Act 2009 and its assignees or successors in title, being the owner of the Land.
Developer	Lend Lease (Millers Point) Pty Limited
Development Site	those parts of the Land which are being developed for the BDA pursuant to the PDA.
Land	the land in certificate of title folio identifier [insert].
Lease	the lease between the Tenant and the BDA for land within the Barangaroo Precinct, dated [insert].
Other Stakeholder	1. the BDA; and 2. the Developer, until the Developer serves written notice under clause 8; and 3. each of the lessees (other than the Tenant) from time to time of land within the Barangaroo Precinct.
PDA	the Project Development Agreement for Barangaroo Stage 1, dated [insert] entered into between the BDA, the Developer and Lend Lease Corporation Limited.
Plan	the plan developed pursuant to the PDA for the ongoing management of the Barangaroo Precinct and all other areas detailed by the plan. Drafting note: depending on what the plan finally looks like, it could be an attachment to this deed poll.
Replacement Deed Poll	has the meaning ascribed to it in clause 5(a)(i).
Term	the term of the Lease.

2. Interpretation

In this deed poll:

(a) Headings and bold type are for convenience only and do not affect the interpretation of this deed poll.

(b) The singular includes the plural and the plural includes the singular.

(c) Words of any gender include all genders.

(d) Other parts of speech and grammatical forms of a word or phrase defined in this deed poll have a corresponding meaning.

(e) An expression importing a person includes any company, partnership, joint venture, association, corporation or other body corporate and any government agency as well as an individual.

(f) A reference to a clause, party or schedule is a reference to a clause of, and a party, schedule to, this deed poll.

(g) Specifying anything in this deed poll after the words 'include' or 'for example' or similar expressions does not limit what else is included.

(h) This deed poll includes any schedule.

3. Plan

(a) Subject to clause 5, for as long as the Tenant is a lessee of land within the Barangaroo Precinct, the Tenant must comply with all of the obligations contemplated for it under the Plan and otherwise comply with its obligations as a shareholder or member of any company or other entity referred to in or contemplated by the Plan.

(b) Each Beneficiary may enforce the Tenant's obligation under or pursuant to clause 3(a).

4. Lease provisions

Upon request by the Developer, the Lessee must comply with all of its obligations under the Lease, including without limitation:

(a) clause ***[14.1]*** which requires the Tenant to grant or permit easements;

(b) clause ***[5.7]*** which requires the Tenant to do all things necessary to assist the BDA, as the landlord, in the adjustment of the boundaries of the land the subject of that Lease.

5. Assignment

(a) As a pre-condition to any assignment of the Lease, the Tenant must procure that its assignee:

(i) enters into a deed poll in the same form as this deed poll (**Replacement Deed Poll**);

(ii) delivers a signed copy of the Replacement Deed Poll to BMC; and

(iii) acquires (or procures a related entity to acquire) the assignor's shares in each of the Barangaroo Companies and appoints a replacement director to their boards.

(b) On execution and delivery of the Replacement Deed Poll to BMC:

(i) the Tenant will be released from its obligations and liabilities under the Plan except for those obligations and liabilities which arise before the earlier of the date of the Replacement Deed Poll to BMC and the date of the assignment of the Lease to the assignee;

(ii) the appointees of the Tenant will cease to be directors of the Barangaroo Companies; and

(iii) the assignee will assume all obligations and liabilities under the Plan except for those obligations or liabilities which the Tenant remains liable for under clause 5(b) of this deed poll.

6. Mortgage and granting security

The Tenant must procure that any financier which takes security over the Lease, agrees that if it exercises its power of sale over the Lease under any security, it must as a condition of that sale, comply with all of the conditions of clause 5, mutatis mutandis, as if the financier was the Tenant.

7. Indemnity

The Tenant indemnifies the Other Stakeholder and the Barangaroo Companies in respect of any costs, damage, expense, loss or liability that the Other Stakeholder or the Barangaroo Companies, as the case may be, suffers or incurs as a result of any breach of this deed poll by the Tenant.

8. Developer notice

(a) At the end of the Developer's obligations under the PDA, the Developer must serve notice to this effect on BMC. On receipt of that notice by BMC, the Developer will cease to be included as a Beneficiary for the purposes of this deed poll.

(b) Nothing in clause 8(a) affects any rights which have accrued to or obligations owed by the Developer prior to the service of that notice.

9. Operation of this deed poll

To the extent permitted by law, this deed poll continues without limitation in time.

10. General

10.1 Governing law and jurisdiction

(a) This deed poll is governed by the law in force in New South Wales.

(b) Each party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales.

10.2 Invalidity and enforceability

If any provision of this deed poll is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.

Executed as a deed poll

Signed sealed and delivered by
[insert Tenant's name]
by

sign here ►

Company Secretary/Director

print name

sign here ►

Director

print name

Attachment 3 – Green Star requirements

1. In this Attachment 3, capitalised terms have the following meaning:

   GBCA means the Green Building Council of Australia or any successor.

   Relevant Star Rating means ***[Completion note: This section is to be completed prior to the Commencement Date to reflect the GBCA star ratings requirements under the PDA at that time as are relevant to the Premises]*** as varied from time to time to a rating of such stars as represents world's best practice standards for premises similar to those the subject of this lease provided that such revised rating is economically viable at the relevant time.

2. In respect of the Redevelopment Work, the Tenant must ensure that the Building achieves the Relevant Star Rating and in each and every case, that achievement is validated through assessment by the GBCA.

3. The Tenant must also ensure that:

   (a) each Building the subject of the Redevelopment Work is registered with the GBCA at the earliest opportunity and a copy of the Certification Agreement entered into by the Tenant lodged with the Landlord; and

   (b) the Landlord receives a copy of each submission to be made by the Tenant to the GBCA in respect of the certification or validation process for its review, at least 5 Business Days before it is submitted to the GBCA;

   (c) it considers (acting reasonably) any comments reasonably made by the Authority in connection with each submission provided to it pursuant to paragraph 3(b) above; and

   (d) the Landlord receives a copy of the results of that submission.

4. If the Tenant fails to comply with the provisions of this Attachment 3:

   (a) the Landlord may take such action as is contemplated by clause 14.8; and

   (b) for the avoidance of doubt, the Landlord is not entitled to rely on a non-compliance with this Attachment 3 as a Trigger Event.

5. If at any relevant time the GBCA ceases to exit, the Tenant agrees that any obligation on the Tenant under this Attachment 3 with respect to certification by the GBCA will operate as follows:

   (a) where a body replaces the GBCA and applies a rating or accreditation or similar system which is equivalent to the Green Star Office Design (Relevant Version), the Green Star Office As Built (Relevant Version), the Green Star Retail Design (Relevant Version), the Green Star Retail As Built (Relevant Version), the Green Star Residential Design (Relevant Version) or the Green Star Residential As Built (Relevant Version) ratings system (as the case may be) developed by the GBCA, the reference to the GBCA will be a reference to that other body instead, and the reference to Design and As Built (Relevant Version) rating system will be a reference to that other system instead; or

(b) where no body replaces the GBCA or the replacement body does not apply a rating or accreditation or similar system which is equivalent to the Green Star Office Design (Relevant Version), the Green Star Office As Built (Relevant Version), the Green Star Retail Design (Relevant Version), the Green Star Retail As Built (Relevant Version), the Green Star Residential Design (Relevant Version) or the Green Star Residential As Built (Relevant Version) ratings system (as the case may be) developed by the GBCA, the reference to obtaining a certificate from the GBCA will be a reference to obtaining a written opinion from an independent expert nominated by the Tenant and approved by the Landlord as having expertise in certifying similar rating systems as to the star rating which would have been achieved under the rating system had the GBCA still existed.

Annexure C – Builder's Side Deed

CLAYTON UTZ

Barangaroo Stage 1

Builder's Side Deed

Barangaroo Delivery Authority
Authority

Lend Lease (Millers Point) Pty Limited
Developer

[*Builder*]
Builder

Clayton Utz
Lawyers
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Table of contents

1. Interpretation 1

1.1 Definitions 1
1.2 References to certain general terms 3
1.3 Headings 3
1.4 Capitalised terms in the Project Development Agreement 3
1.5 Inconsistency with Project Development Agreement 3

2. Warranty 4

2.1 Warranty as to Standard of Care 4
2.2 Rectification 4

3. Assignment 4

3.1 Assignment by the Builder 4
3.2 Assignment by Authority 4

4. Developer's Undertaking 4

5. Building Contract 5

5.1 Information 5
5.2 Variations to the Building Works 5
5.3 Builder's Acknowledgement 5
5.4 Approval of Authority required 6
5.5 Termination by law or third party 6
5.6 No changes to Building Contract 6
5.7 Insurance under Building Contract 6

6. Other agreements 7

6.1 Project Development Agreement 7
6.2 Obligations of Authority limited 7
6.3 Builder's obligations 7
6.4 Relics 8

7. Representations and warranties 8

7.1 By Builder and Developer 8
7.2 By Builder 10
7.3 Further assurances 10
7.4 Authority relies on warranties 10

8. Costs 10

8.1 Developer 10
8.2 Interest on overdue amounts 10
8.3 Rate of interest 11
8.4 Compounding 11
8.5 Interest on liability merged in judgment or order 11

9. Limitation of liability of Authority 11

10. Builder Indemnities and Limitation of Liability 11

10.1 Indemnity under Building Contract 11
10.2 Limitation Of Builder’s Liability 11

11. Notices 12

11.1 Form 12
11.2 Delivery 12

11.3 When effective 12
11.4 Receipt- postal 12
11.5 Receipt - fax 13
11.6 Receipt - general 13

12. GST 13

12.1 Interpretation 13
12.2 Reimbursements 13
12.3 Additional amount of GST payable 13
12.4 Variation 13
12.5 Exchange of non-monetary consideration 14
12.6 Indemnities 14
12.7 No merger 14

13. Miscellaneous 14

13.1 Prompt performance 14
13.2 Certificates 14
13.3 Exercise of rights 14
13.4 Partial exercise of rights 15
13.5 Delay in exercising rights 15
13.6 Conflict of interest 15
13.7 Remedies cumulative 15
13.8 Rights and obligations are unaffected 15
13.9 Continuing breaches 15
13.10 Antecedent obligations 15
13.11 Inconsistent law 15
13.12 Waiver and variation 15
13.13 Supervening Legislation 15
13.14 Approvals and consent 16
13.15 Indemnities 16
13.16 Confidentiality 16
13.17 Several liability 16
13.18 Severability 16
13.19 Further steps 17
13.20 Construction 17
13.21 Effect of moratorium 17
13.22 Applicable law 17
13.23 Serving documents 17
13.24 Counterparts 17

Builder's Side Deed made at **on**

Parties **Barangaroo Delivery Authority ABN 94 567 807 277**, a NSW government agency constituted under the Barangaroo Delivery Authority Act 2009 (NSW) (**Authority**)

Lend Lease (Millers Point) Pty Limited ABN 15 127 727 502 (**Developer**)

[*Builder*] ABN [*number*] (**Builder**)

Background

A. The Authority and the Developer have entered into the Project Development Agreement under which the Developer will carry out or procure the carrying out of certain Works Portions on the Land.

B. The Developer and the Builder have entered into the Building Contract to carry out the Building Works.

C. The Builder has agreed to provide the Authority with the warranties set out in this deed.

Operative provisions

1. Interpretation

1.1 Definitions

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

Authorised Officer means a director or secretary or an officer whose title contains the word "director", "chief", "head" or "manager" of that party, or a person appointed by the relevant party to act as an Authorised Officer for the purpose of this deed.

Authorisation includes:

(a) any consent, registration, filing, agreement, notarisation, certificate, licence, approval, permit, authority or exemption from, by or with a Governmental Agency; or

(b) in relation to anything which will be prohibited or restricted in whole or in part by law if a Governmental Agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of such period without such intervention or action.

Building Contract means the building contract between the Builder and the Developer to carry out the Public Domain Works.

Building Contract Documents means all drawings, specifications, designs, documents, data, methods of workings or other materials or processes brought into existence by or on behalf of the Builder in the performance of the Building Works.

Building Works means the works the subject of the Building Contract.

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

Claim means any claim, notice, demand, debt, account, action, expense, cost, lien, liability, proceeding, litigation, (including reasonable legal costs), judgement of any nature.

Costs includes reasonable costs, charges and expenses, including those reasonably incurred in connection with advisers.

Defects Liability Period has the meaning it has in the Project Development Agreement.

EOT Claim means a claim for an extension of time under the Building Contract.

Interest Rate means the rate of interest set out in clause 8.3.

Land means the land owned by the Authority and on which the Works Portion is to be carried out.

Law means:

(a) the common law (including equity); and

(b) the requirements of all statutes, rules, ordinances, codes, regulations, proclamations, by-laws, approvals, consents or certificates issued by any Authority,

present or future.

Loss means any damage, loss, cost, expense or liability whether direct, indirect, consequential, present or future, fixed or unascertained, actual or contingent including:

(a) any fines or penalties; and

(b) legal expenses on a solicitor/own client basis.

Prohibited Entity means any person or entity which:

(a) is a "terrorist organisation" as defined in Part 5.3 of the Criminal Code Act 1995; or

(b) is listed by the Minister for Foreign Affairs in the Government Gazette pursuant to Part 4 of the Charter of the United Nations Act 1945 which list as at the date of this agreement is available from the website of the Australian Department of Foreign Affairs and Trade; or

(c) is listed on any other list of terrorist or terrorist organisations maintained pursuant to the rules and regulations of the Australian Department of Foreign Affairs and Trade or pursuant to any other Australian legislation.

Project Development Agreement means the Project Development Agreement between the Authority, the Developer and others in relation to the Project dated [***date***].

Public Domain Works means [***insert relevant description the subject of the Building Contract, being limited to any Works Portions which relate to the Barangaroo Works, the Other Remediation Works, and, if the Developer is appointed pursuant the Project Development Agreement, the Remediation Works***].

Relic means minerals of commercial value, fossils, relics, articles or objects of antiquity or of anthropological or archaeological interest, coins and other articles of value, historical archaeological sites and Aboriginal archaeological relics.

Security Interest means any bill of sale (as defined in any statute), mortgage, charge, lien, pledge, hypothecation, title retention arrangement, trust or power as or in effect as security for the payment of a monetary obligation or the observance of any other obligation.

1.2 References to certain general terms

In this deed unless the contrary intention appears:

(a) a reference to this deed or another instrument includes any variation or replacement of them;

(b) 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;

(c) the singular includes the plural and vice versa;

(d) the word person includes a firm, body corporate, an unincorporated association or an authority;

(e) 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;

(f) an agreement, representation or warranty on the part of or in favour of two or more persons binds or is for the benefit of them jointly and severally;

(g) a reference to any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of persons is a reference to anyone or mote of them;

(h) "include" in any form when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar nature.

1.3 Headings

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

1.4 Capitalised terms in the Project Development Agreement

Capitalised terms not defined, but used in this deed, have the same meaning as in the Project Development Agreement.

1.5 Inconsistency with Project Development Agreement

If there is inconsistency between the provisions of this deed and the Project Development Agreement, the provisions of the Project Development Agreement prevail.

2. Warranty

2.1 Warranty as to Standard of Care

The Builder represents and warrants to the Authority that:

(a) it will:

(i) perform its obligations under the Building Contract to a standard of care, skill, judgment and diligence; and

(ii) provide suitably qualified staff to a standard,

commensurate with a competent design and construction contractor experienced in work of a similar nature to the Building Works;

(b) it will perform its obligations under the Building Contract in accordance with the Building Contract and all applicable legislative requirements; and

(c) the Building Works when finally completed in accordance with the Building Contract will be free from defects and deficiencies, except for minor defects or omissions.

2.2 Rectification

Any defects, omissions, other faults or instances of non-compliance with the Building Contract, which are notified in writing by the Authority to the Builder during the Defects Liability Period must be made good by the Builder:

(a) within the time stipulated by the Authority, such time to be reasonable having regard to the particular defect, omission, fault or non-compliance; or

(b) if no time is stipulated, then as soon as reasonably practicable,

and at no cost to the Authority.

3. Assignment

3.1 Assignment by the Builder

Except as set out in this deed the Builder may not assign or transfer its rights or obligations under this deed without the prior written consent of the Authority (which may be given or withheld in its absolute discretion and with or without conditions).

3.2 Assignment by Authority

The Authority may at any time assign (in whole or part) its rights and obligations under this deed at any time to any entity which succeeds to the rights of the Authority under the Project Development Agreement and must promptly give the Builder written notice of any such assignment.

4. Developer's Undertaking

The Developer agrees not to take any action or omit to do anything which may cause the Builder to breach this deed.

5. Building Contract

5.1 Information

(a) The Builder and the Developer must provide copies of each of the following to the Authority, at the same time as it has been furnished or received by it under the Building Contract:

(i) any notice given under the Building Contract to the Developer in connection with any default by the Developer under the Building Contract;

(ii) any other notice given under the Building Contract concerning a breach of, or default under, the Building Contract; and

(iii) notification of any dispute under the Building Contract.

(b) The Builder and Developer must answer any reasonable questions which the Authority may ask in relation to anything disclosed pursuant to clause 5.1(a) within 10 Business Days of the initial notification of default in order to allow the Authority to understand the nature or potential consequences of that information.

5.2 Variations to the Building Works

The parties agree that the Developer and/or the Builder may not without the prior consent of the Authority:

(a) agree to vary the Public Domain Works; or

(b) act on any instruction which alone or together with other instructions has the effect of varying the Public Domain Works; or

(c) do or omit to do any other act which might otherwise:

(i) decrease the quality of the Public Domain Works; or

(ii) increase the cost of the Public Domain Works, except for increases to the cost of the Public Domain Works caused by variations to the scope of the Public Domain Works that the Authority has approved in writing; or

(d) to the extent that it is within the Developer's or the Builder's power respectively to do so, permit any of the things in clause 5.2(c) to occur**.**

5.3 Builder's Acknowledgement

The Builder acknowledges that the Builder:

(a) has no Claim, nor will make any future Claim, against the Authority or its consultants or Authorised Officers in connection with the Building Works or the Building Contract; and

(b) releases the Authority from any Claims it has or may have against the Authority as owner of the Land,

except to the extent otherwise provided for in this deed or except to the extent that any Claims are caused or contributed to by:

(i) the wrongful or reckless act of the Authority or the Authority's Employees; or

(ii) where the Authority has access the to Land or the Building Works, any failure by the Authority or the Authority's Employees to comply with the reasonable requirements of the Builder in relation to matters relating to occupational health and safety, and security of the Land or the Building Works.

5.4 Approval of Authority required

(a) The Builder must not novate, assign or transfer its rights and obligations under this deed or the Building Contract, without the prior written consent of the Authority, which consent must not be withheld where the Authority (acting reasonably) is satisfied that the proposed assignee or transferee is a person that has capacity, financial resources, experience and expertise to comply with all of the Builder's obligations under this deed and the Building Contract in relation to the carrying out of the Works.

(b) When seeking the Authority's consent under clause 5.4(a), the Builder must give to the Authority reasonable details of the proposed assignee or transferee, together with such other information that the Authority reasonably requests relating to the proposed assignee or transferee. If the Authority does not respond to the Builder by either giving or withholding its consent within the periods specified in paragraphs (i) or (ii) below, the Authority's consent will be deemed to have been given on the date that is the last to occur of:

(i) 20 Business Days after the Builder requests the Authority's consent under clause 5.4(a); and

(ii) 20 Business Days after the Authority receives the last document or piece of information reasonably requested by the Authority in relation to the proposed assignee or transferee.

5.5 Termination by law or third party

The Developer and the Builder each respectively agree to promptly notify the Authority if, by operation of law or by an act or omission not being an act or omission of the Developer or the Builder, the Building Contract is terminated.

5.6 No changes to Building Contract

The Developer and the Builder may not vary, amend or replace the Building Contract, without the prior written consent of the Authority, which cannot be unreasonably withheld or delayed.

5.7 Insurance under Building Contract

The Builder agrees that it must:

(a) effect and maintain such insurances in accordance with the requirements of clauses [***insert***] and [***insert***] of the Building Contract; and

(b) keep the Authority informed in relation to the currency of and any Claims made in connection with such insurance.

6. Other agreements

6.1 Project Development Agreement

The parties acknowledge and agree that the rights granted to the Authority under, and by virtue of this deed, are in addition to the rights of Authority against the Developer under, and by virtue of, the Project Development Agreement.

6.2 Obligations of Authority limited

The Builder acknowledges that:

(a) subject to the provisions of this deed and notwithstanding the execution of the Project Development Agreement, the Authority assumes no risk for liability arising of itself from the Authority's ownership of the Land (except where, and to the extent that, such liability arises as a result of the Authority's wrongful or reckless act after the date of this deed), the suitability of the Land for the Project including the conditions that affect the Land and the suitability of the Land for construction of the Building Works;

(b) despite the execution of the Project Development Agreement and this deed, the Authority assumes no liability whatsoever to the Builder in connection with the Building Contract;

(c) nothing in this deed constitutes an obligation on the Authority to:

(i) provide funding in connection with the Building Contract;

(ii) take any action to complete the Building Works; or

(iii) take any action to remedy, or take action which would be deemed to remedy, a default under the Building Contract, or procure that any of these things occur; and

(d) the Authority is not liable to pay the Builder or procure payment to the Builder, of any money under the Building Contract, this deed or any other arrangement.

6.3 Builder's obligations

The Builder must:

(a) comply with its obligations under the Building Contract as and when they fall due;

(b) not enter into any subcontract, consultancy agreement or supply agreement in connection with the Building Works whose terms are inconsistent with the Builder complying with its obligations to the Authority under this deed;

(c) not take any Security Interest over the Land or the Developer's rights under the Project Development Agreement;

(d) not lodge a caveat against the Land;

(e) not repudiate, release, surrender or discharge (except by performance) the Building Contract;

(f) not do anything which would or would be likely to render the Building Contract invalid or unenforceable;

(g) allow the Authority to be present and to be heard at any dispute resolution procedure contemplated by the Building Contract; and

(h) to the extent each of the following relates to, connects with or touches upon the Public Domain Works:

(i) consult with the Authority and provide such relevant information regarding the Building Works and the Building Contract from time to time as the Authority reasonably requests;

(ii) ensure that the Developer is granted an irrevocable licence to use the Building Contract Documents which enables the Developer, the Authority and any other person nominated by the Authority to complete the Building Works; and

(iii) use reasonable endeavours to ensure that the terms of each subcontract includes a provision entitling the Builder to novate that subcontract to the Authority or the Developer should the Building Contract be terminated.

6.4 Relics

The parties acknowledge and agree that:

(a) Relics may be found on, in or under the surface of the Land;

(b) upon the discovery of a Relic, the Builder and the Developer must (but without limiting the Builder's obligations, rights and entitlements under the Building Contract):

(i) promptly notify the Authority of the discovery;

(ii) take all practical steps to prevent the Relic being disturbed, damaged, removed or lost; and

(iii) comply with all Laws; and

(c) as between the Authority, the Builder and the Developer, any Relics discovered on, in or under the surface of the Land are and will remain the property of the Authority.

7. Representations and warranties

7.1 By Builder and Developer

The Builder and Developer each represent and warrant (in respect of themselves only and not each other) to the Authority that:

(a) it has been incorporated as a company limited by shares in accordance with its place of incorporation, is validly existing under those Laws and has power and authority to carry on its business as it is now being conducted;

(b) it has the power to enter into and comply with its obligations under this deed;

(c) it has full power and authority to enter into and perform its obligations (if any) under:

(i) this deed

(ii) the Building Contract;

(iii) supply agreements;

(iv) consultancy agreements; and

(v) any other document entered into in respect of the Project to which it is expressed to be a party

connected to or arising out of those deeds or agreements or the transactions contemplated by any one or more of them;

(d) it has taken or, in respect of documents not executed as at the date of this deed, will promptly take, all necessary action to authorise the execution, delivery and performance of the documents referred to in clause 7.1(c) to which it is expressed to be a party in accordance with their terms;

(e) the documents referred to in clause 7.1(c) to which it is expressed to be a party constitute its legal, valid and binding obligations and, subject to any necessary stamping and registration, are enforceable in accordance with their terms;

(f) the execution, delivery and performance by it of the documents referred to in clause 7.1(c) to which it is expressed to be a party do not and will not violate, breach, or result in a contravention of:

(i) any Law, regulation or Authorisation;

(ii) its memorandum and articles of association or other constituent documents; or

(iii) any encumbrance or document which is binding upon it or any of its assets; and

(g) the Building Contract is not void, voidable by the Builder or unenforceable by the Developer;

(h) the Builder has no right, without the Developer's consent, which is now exercisable or which with the giving of notice, lapse of time or fulfilment of any other condition will or may become exercisable, to:

(i) terminate, rescind, repudiate, vary or determine the Builder's employment under the Building Contract; or

(ii) refuse to perform or observe any of the Builder's obligations under the Building Contract;

(i) the Building Contract and this deed set out all the terms, conditions and warranties of the agreement, arrangements and understandings between the Developer and the Builder in respect of the subject matter of the Building Contract;

(j) the Developer has not granted the Builder a Security Interest over the Land or any of the Developer's other assets;

(k) it is solvent and there are reasonable grounds to expect that it will continue to be able to pay its debts as and when they fall due; and

(l) it benefits by entering into this deed.

7.2 By Builder

The Builder represents and warrants to the Authority that:

(a) it has not entered into this deed in reliance on, or as a result of, any statement or conduct of any kind of or on behalf of the Authority (including any advice, warranty, representation or undertaking); and

(b) it is not a Prohibited Entity and is not owned or controlled by, or acts on behalf of, any Prohibited Entity; and

(c) it will ensure that it complies with all anti-terrorism legislation in Australia including, without limitation, Part 4 of the Charter of the United Nations Act 1945 and Part 5.3 of the Criminal Code Act 1995.

7.3 Further assurances

(a) Each party will take all steps, execute all deeds and do everything reasonably required by any other party to give effect to any of the actions contemplated by this deed.

(b) This deed binds each party which signs it even if other parties do not, or if the execution by other parties is defective, void or voidable.

7.4 Authority relies on warranties

Each of the Developer and the Builder acknowledge that the Authority will enter into this deed and that the Authority will make available the Land in reliance on the accuracy of the representations and warranties in this deed.

8. Costs

8.1 Developer

The Developer agrees to pay or reimburse the Authority on demand for:

(a) its own and its Authorised Officer's and consultant's Costs in enforcing and doing anything in connection with this deed including, without limitation, legal costs and expenses on a full indemnity basis; and

(b) all stamp duties, fees, taxes and charges which are payable in connection with this deed or a payment, receipt or other transaction contemplated by it.

8.2 Interest on overdue amounts

The Developer agrees to pay interest on any amount payable by the Developer under this deed and the Builder agrees to pay interest on any amount payable by the Builder under this deed, which is not paid on the due date for payment. Interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days.

8.3 Rate of interest

The rate of interest applying to each daily balance is the rate 4% per annum above the 60 day Bank Bill Rate last published on or before that day in The Australian Financial Review (or if no such rate has been published, another rate set by the Authority in good faith).

8.4 Compounding

Interest payable under clause 8.2 which is not paid when due for payment may be added to the overdue amount by the Authority monthly on the last day of each calendar month. Interest is payable on the increased overdue amount at the Interest Rate in the manner set out in clause 8.3.

8.5 Interest on liability merged in judgment or order

If a liability under this deed becomes merged in a judgment or order, then the Developer agrees to pay interest to the Authority on the amount of that liability as an independent obligation. The interest accrues both before and after that judgment or order from the date the liability was due for payment until it is paid, at a rate equal to the Interest Rate specified in clause 8.3.

9. Limitation of liability of Authority

The Authority is not obliged to exercise any of its rights under this deed and is not liable to the Developer or the Builder in respect of the performance of any of the Developer's obligations under the Building Contract (including the payment of any progress claims).

10. Builder Indemnities and Limitation of Liability

10.1 Indemnity under Building Contract

The Builder indemnifies and keeps indemnified the Authority and the Authority's employees, agents, officers and contractors from and against all Claims made against the Authority and the Authority's employees, agents, officers and contractors, on the same terms and conditions as the indemnities provided by the Builder to the Developer under clauses [***insert***] and **[*insert*]** of the Building Contract, as if those clauses were set out in full and incorporated into this deed, with all references to the "Developer" in those clauses (by whatever name) being changed to "the Authority".

[Note: the Authority is to benefit from the indemnities given by the Builder to the Developer under the Building Contract. Insert in this clause 10.1 the relevant clause references to the indemnity provisions in the Building Contract.]

10.2 Limitation Of Builder's Liability

[Note: If the Building Contract contains a cap or other form of limitation on the Builder's liability, then this clause is to be completed acknowledging that cap or limitation, and also confirming how any such cap will be 'split' as between the Authority and the Developer. In arriving at the appropriate arrangements in this regard, the extent of the Developer's (and Guarantor's) liabilities to the Authority under the Project Development Agreement will be taken into account]

11. Notices

11.1 Form

Unless expressly stated otherwise in this deed, all notices, certificates, consents, approvals, waivers and other communications in connection with this deed must be in writing, signed by an Authorised Officer of the sender and marked for attention as set out below or, if the recipient has notified otherwise, then marked for attention in the way last notified:

Authority

Name:	Barangaroo Delivery Authority
Address:	Level 3, 66 Harrington Street The Rocks NSW 20007
Fax:	[insert]
For the attention of:	[insert]

Developer

Name:	Lend Lease (Millers Point) Pty Limited
Address:	Level 4, The Bond 30 Hickson Road Millers Point NSW 2000
Fax:	(02) 9383 8138
For the attention of:	The Company Secretary

Builder

Name:	[insert]
Address:	[insert]
Fax:	[insert]
For the attention of:	[insert]

11.2 Delivery

Notices must be:

(a) left at the addresses referred to in clause 11.1; or

(b) sent by prepaid post (airmail, if appropriate) to the addresses referred to in clause 11.1; or

(c) sent by fax to the fax number referred to in clause 11.1.

However, if the intended recipient has notified a changed postal address or changed fax number, then the communication must be to that address or number.

11.3 When effective

Notices take effect from the time they are received unless a later time is specified in them.

11.4 Receipt- postal

If sent by post, notices are taken to be received 2 Business Days after posting (or 5 Business Days after posting if sent to or from a place outside Australia).

11.5 Receipt - fax

If notices are sent by fax, they are taken to be received at the time shown in the transmission report as the time that the whole fax was sent.

11.6 Receipt - general

If notices are left at an address or received after 5.00pm in the place of receipt or on a non-Business Day, they are to be taken to be received at 9.00am on the next Business Day.

12. GST

12.1 Interpretation

(a) Except where the context suggests otherwise, terms used in this clause 12 have the meanings given to those terms by the A New Tax System (Goods and Services Tax) Act 1999 (as amended from time to time).

(b) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 12.

(c) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.

12.2 Reimbursements

Any payment or reimbursement required to be made under this deed that is calculated by reference to a Cost or other amount paid or incurred will be limited to the total Cost or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the Cost or amount relates.

12.3 Additional amount of GST payable

Subject to clause 12.5, if GST becomes payable on any supply made by a party (**Supplier**) under or in connection with this deed:

(a) any amount payable or consideration to be provided under any provision of this deed (other than this clause 12), for that supply is exclusive of GST;

(b) any party (**Recipient**) that is required to provide consideration to the Supplier for that supply must pay an additional amount to the Supplier equal to the amount of the GST payable on that supply (**GST Amount**), at the same time as any other consideration is to be first provided for that supply; and

(c) the Supplier must provide a tax invoice to the Recipient for that supply, no later than the time at which the GST Amount for that supply is to be paid in accordance with clause 12.3(b).

12.4 Variation

(a) If the GST Amount properly payable in relation to a supply (as determined in accordance with clause 12.3 and clause 12.5), varies from the additional amount paid by the Recipient under clause 12.3, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this

clause 12.4(a) is deemed to be a payment, credit or refund of the GST Amount payable under clause 12.3.

(b) The Supplier must issue an adjustment note to the Recipient in respect of any adjustment event occurring in relation to a supply made under or in connection with this deed as soon as reasonably practicable after the Supplier becomes aware of the adjustment event.

12.5 Exchange of non-monetary consideration

(a) To the extent that the consideration provided for the Supplier's taxable supply to which clause 12.3 applies is a taxable supply made by the Recipient in the same tax period (**Recipient Supply**), the GST Amount that would be otherwise be payable by the Recipient to the Supplier in accordance with clause 12.3 shall be reduced by the amount of GST payable by the Recipient on the Recipient Supply.

(b) The Recipient must issue to the Supplier an invoice for any Recipient Supply on or before the time at which the Recipient must pay the GST Amount in accordance with clause 12.3 (or the time at which such GST Amount would have been payable in accordance with clause 12.3 but for the operation of clause 12.5(a)).

12.6 Indemnities

(a) If a payment under an indemnity gives rise to a liability to pay GST, the payer must pay, and indemnify the payee against, the amount of that GST.

(b) If a party has an indemnity for a cost on which that party must pay GST, the indemnity is for the cost plus all GST (except any GST for which that party can obtain an input tax credit).

(c) A party may recover payment under an indemnity before it makes the payment in respect of which the indemnity is given.

12.7 No merger

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

13. Miscellaneous

13.1 Prompt performance

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

13.2 Certificates

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

13.3 Exercise of rights

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

13.4 Partial exercise of rights

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

13.5 Delay in exercising rights

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

13.6 Conflict of interest

The right and remedies of the Authority under this deed may be exercised even if this involves a conflict of duty or the Authority has a personal interest in their exercise.

13.7 Remedies cumulative

The rights and remedies of a party under this deed are in addition to other rights and remedies given by law independently of this deed.

13.8 Rights and obligations are unaffected

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

13.9 Continuing breaches

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

13.10 Antecedent obligations

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

(a) to make payments under this deed in respect of periods before the expiry or termination of this deed; or

(b) to provide information to another party to enable it to calculate those payments.

13.11 Inconsistent law

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

13.12 Waiver and variation

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

13.13 Supervening Legislation

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

13.14 Approvals and consent

The Authority may give conditionally or unconditionally or withhold its approval or consent in its absolute discretion unless this deed expressly provides otherwise.

13.15 Indemnities

Each indemnity in this deed is a continuing obligation, separate and independent from the other obligations of the Developer and survives termination, discharge or performance of this deed.

13.16 Confidentiality

All information provided by one party to another party under this deed or the Project Development Agreement and which is identified as confidential at the time it is provided, or which by its nature is confidential, must not be disclosed to any person except:

(a) with the consent of the party providing the information;

(b) if allowed or required by law or required by any stock exchange;

(c) in connection with any legal proceedings relating to this deed or any Project Document;

(d) if the information is generally and publicly available; or

(e) to employees, legal advisers, auditors and other consultants to whom it needs to be disclosed.

The recipient of the information must do all things necessary to ensure that its respective employees, legal advisers, auditors and other consultants keep the information confidential and not disclosed it to any person.

13.17 Several liability

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

13.18 Severability

(a) A construction of this deed that results in all provisions being enforceable is to be preferred to a construction that does not so result.

(b) If, despite the application of paragraph (a), a provision of this deed is illegal or unenforceable:

(i) and it will be legal and enforceable if a word or words were omitted, that word or those words are severed; and

(ii) in any other case, the whole provision is severed,

and the remainder of this deed continues in force. This paragraph (b) has no effect if the severance alters the basic nature of this deed.

13.19 Further steps

The parties agree to do anything another party reasonably asks (such as obtaining consents, signing and producing documents and getting documents completed and signed) to bind the parties and any other person intended to be bound under this deed.

13.20 Construction

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

13.21 Effect of moratorium

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

13.22 Applicable law

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

13.23 Serving documents

Without preventing any other method of service, any document in a court action may be served on a party by being delivered to or left at that party's address for service of notices under clause 11.

13.24 Counterparts

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

Executed as a deed.

The seal of **Barangaroo Delivery Authority** is affixed by authority of the Chief Executive Officer in the presence of:

Signature of authorised person	Signature of authorised person
Name of authorised person	Name of authorised person
Office held	Office held

Executed by **Lend Lease (Millers Point) Pty Limited ABN 15 127 727 502** in accordance with section 127 of the Corporations Act by or in the presence of:

Signature of Secretary/other Director	Signature of Director or Sole Director and Secretary
Name of Secretary/other Director in full	Name of Director or Sole Director and Secretary in full

Executed by **[Builder] ABN [number]** in accordance with section 127 of the Corporations Act by or in the presence of:

Signature of Secretary/other Director	Signature of Director or Sole Director and Secretary
Name of Secretary/other Director in full	Name of Director or Sole Director and Secretary in full

Annexure D – Financier's Side Deed

CLAYTON UTZ

Barangaroo Stage 1

Financier's Side Deed

Barangaroo Delivery Authority
Authority

Lend Lease (Millers Point) Pty Limited
Developer

Lend Lease Corporation Limited
Guarantor

[*Security Trustee*]
Security Trustee

Clayton Utz
Lawyers
Levels 19-35 No. 1 O'Connell Street Sydney NSW 2000 Australia
PO Box H3 Australia Square Sydney NSW 1215
T +61 2 9353 4000 F +61 2 8220 6700

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Our reference 15266/15343/80090660

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Table of contents

1. Definitions and Interpretation 1

1.1 Definitions 1
1.2 References to certain general terms 4
1.3 Headings 4
1.4 Capitalised terms in the Development Agreement 4
1.5 Inconsistency with Development Agreement 5

2. Consent to the Financier's Securities by Authority 5

2.1 Authority's consent and acknowledgement 5
2.2 No extension of rights 5
2.3 No change to Finance Documents 5

3. Notice of Project Default 6

4. Right of Security Trustee to remedy Project Defaults 6

4.1 Rights of Security Trustee during Cure Period 6
4.2 Rights of Security Trustee to remedy Project Default and Step-in 6
4.3 Termination of exercise of rights by Security Trustee 7
4.4 Exercise of rights under the Project Documents 7
4.5 Acts and omissions of Security Trustee 7

5. Authority's rights after Project Default 7

6. Obligations of Security Trustee 8

6.1 Finance Default Notice 8
6.2 Notice of Enforcement Action 8
6.3 Liability under Project Documents 8
6.4 Authority's dealings with Security Trustee and Developer 9
6.5 Money secured under Financier's Securities 9
6.6 Notice of enforcement of Finance Documents 10
6.7 No caveats 10
6.8 Effect of Enforcement Action 10

7. Other matters relating to the Project Documents 10

7.1 Dispute Resolution Procedure 10
7.2 No change to Project Documents 11
7.3 Specific performance 11
7.4 Authority not to deal with Land 11

8. Representations and Warranties 11

8.1 By the Developer to the Authority in respect of the Finance Documents 11
8.2 By the Authority to the Security Trustee in respect of the Project Documents 11
8.3 By the Security Trustee to the Authority in respect of the Finance Documents 12
8.4 By the Developer to the Security Trustee in respect of the Project Documents 12

9. Security Interests and Assignment 12

9.1 Authority's dealings with the Project Documents 12
9.2 Security Trustee’s dealings with Finance Documents 13
9.3 Security Trustee’s dealings with Project Documents 13

10. Costs and indemnities by Developer 13

10.1 Costs generally 13
10.2 Costs of independent consultants 13
10.3 Indemnity by Developer 14
10.4 Costs incurred by employees and officers 14
10.5 Currency indemnity 14

11. Copies of Finance Documents 14

12. Limit on Security Trustee's liability 14

12.1 Capacity and acts 14
12.2 Limit on liability 15
12.3 Benefit and survival 15

13. Notices 15

13.1 Form 15
13.2 Delivery 16
13.3 When effective 16
13.4 Receipt - fax 16
13.5 Receipt - general 16

14. GST 16

14.1 Interpretation 16
14.2 Reimbursements 17
14.3 Additional amount of GST payable 17
14.4 Variation 17
14.5 Exchange of non-monetary consideration 17
14.6 Indemnities 18
14.7 No merger 18

15. Miscellaneous 18

15.1 Prompt performance 18
15.2 Certificates 18
15.3 Exercise of rights 18
15.4 Partial exercise of rights 18
15.5 Delay in exercising rights 18
15.6 Conflict of interest 18
15.7 Remedies cumulative 18
15.8 Rights and obligations are unaffected 19
15.9 Continuing breaches 19
15.10 Antecedent obligations 19
15.11 Inconsistent law 19
15.12 Waiver and variation 19
15.13 Supervening Legislation 19
15.14 Approvals and consent 19
15.15 Indemnities 19
15.16 Confidentiality 19
15.17 Inconsistency 20
15.18 Several liability 20
15.19 Severability 20
15.20 Further steps 20
15.21 Construction 20
15.22 Effect of moratorium 20
15.23 Applicable law 21
15.24 Serving documents 21

15.25 Counterparts 21

Financier's Side Deed made at **on**

Parties **Barangaroo Delivery Authority ABN 94 567 807 277**, a NSW government agency constituted under the Barangaroo Delivery Authority Act 2009 (NSW) (**Authority**)

Lend Lease (Millers Point) Pty Limited ABN 15 127 727 502 (**Developer**)

Lend Lease Corporation Limited ABN [*number*] (**Guarantor**)

[*Security Trustee*] ABN [*number*] (**Security Trustee**)

Background

A. The Authority, the Developer and the Guarantor have entered into the Development Agreement.

B. The Financiers have agreed to provide the Facility to the Developer to fund the Works Portion.

C. The Developer has granted or will grant the Financier's Securities to the Security Trustee.

D. The parties have agreed to regulate the exercise of their various right and obligations in connection with the Development Agreement and the Financier's Securities on the terms of this deed.

The parties agree

1. Definitions and Interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears:

Authorised Officer means:

(a) in the case of a Financier or the Security Trustee, 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 Authority, the Chief Executive Officer of the Authority or a person performing the functions of that position or any other person appointed by the Authority and notified in writing to the parties to act as an Authorised Officer for the purposes of this deed; and

(c) in the case of each other party, a person appointed by that party to act as an Authorised Officer for the purposes of this deed.

Builder means the contractor under a Building Contract.

Building Contract means in respect of the Works Portion, any head contract between the Developer and a Builder:

(a) in connection with the design and construction (or construction only) of that Works Portion (or any part of it); and

(b) any construction management or project management of that Works Portion (or any part of it).

Cure Period means the period allowed under the Project Development Agreement to cure the relevant Project Default, or such longer period as may be agreed to by the Authority in respect of the relevant Project Default in its absolute discretion.

Development Agreement means the Project Development Agreement.

Dispute Resolution Procedures means the dispute resolution procedures set out in clause 45 of the Project Development Agreement.

Enforcement Action means the taking of any of the following actions by the Security Trustee:

(a) the enforcement of any right, remedy or power (including without limitation by way of demand for payment or repayment of any money owing) under the Finance Documents; or

(b) the making of an application for, the giving of any notice in relation to, the initiation or support of, or the taking of any steps with a view to:

(i) the liquidation, administration, dissolution or similar proceedings with respect to the Developer or the Guarantor; or

(ii) the appointment of any person for the purpose of becoming a Controller in relation to any property of the Developer or the Guarantor which is the subject of the Financier's Securities,

whether by petition, application, convening of a meeting, voting in favour of a resolution or otherwise.

Facility means the facility or facilities provided, or to be provided, by the Financiers to the Developer under the Facility Agreement.

Facility Agreement means the Facility Agreement dated on or about the date of this deed between each of the Financiers, the Security Trustee and the Developer.

Finance Default means any event referred to in the definition of Event of Default in the Facility Agreement.

Finance Default Notice means a notice given under clause ■ of the Facility Agreement or any other notice of default given under a Finance Document.

Finance Documents means:

(a) this deed;

(b) the Facility Agreement;

(c) the Financier's Securities; and

(d) any other document acknowledged by the Financier and the other parties to this deed to be a Finance Document,

as varied as permitted under clause 2.3 (if applicable).

Financier means each bank or financial institution which is a party to the Facility Agreement as a “Financier”.

Financier's Securities means:

(a) the Fixed and Floating Charge; and

(b) [***To include once security structure finalised***]

Fixed and Floating Charge means the first ranking fixed and floating charge [(including agreement to grant a mortgage of lease)] dated on or about the date of this deed in favour of the Security Trustee over all present and future assets and property of the Developer.
Insolvency Event has the meaning given in the Development Agreement.

Insolvency Event Cure Period has the meaning given to it in clause 5(b) of this deed.

Land means [ ].

Practical Completion in relation to the Works Portion occurs when practical completion of the Works Portion is achieved under and in accordance with the Development Agreement.

Project Default means the occurrence or non-occurrence of:

(a) any breach of, or default under, the Development Agreement by, or in relation to, the Developer; or

(b) any other event or circumstance,

which entitles, or which with the giving of notice, the expiration of time or the satisfaction or non-satisfaction of any condition would entitle, the Authority to terminate, rescind or accept repudiation of the Development Agreement, and a Project Default shall include the occurrence of a Trigger Event.

[Project Development Agreement means the Project Development Agreement between the Authority, the Developer, the Guarantor [and others] in relation to the Project dated [***date***].]

Project Documents means [***include list of Project Documents which are relevant to the Works Portion***].

Secured Money has the meaning given to it in the Financier's Securities.

Secured Property has the same meaning as in the Fixed and Floating Charge.

Step-in by the Security Trustee, means:

(a) the Security Trustee appoints a Controller to the Developer in respect of some or all of its assets;

(b) the Security Trustee takes possession as mortgagee of some or all of the assets of the Developer;

(c) the Security Trustee appoints a Controller to the shares in the Developer [and/or the units in the [***insert name of trust***] Trust] [***Proponent to complete if relevant.***]; or

(d) the Security Trustee takes possession as mortgagee of the shares in the Developer [and/or the units in the [***insert name of trust***] Trust [***Proponent to complete if relevant***],

in each case in exercise of its powers under the Financier's Securities.

Step-in Period means the period commencing on the date on which the Security Trustee Steps-in and terminating on the expiry of a notice given by the Security Trustee under clause 4.3.

Trigger Event has the meaning given in the Development Agreement.

Trigger Event Notice has the meaning given to the term 'Trigger Notice' in the Development Agreement.

Works means all work required to be performed or carried out in order to complete the Works Portion in accordance with the Project Documents.

Works Portion means [***insert description of the Works Portion to be undertaken by the Developer and financed by the Developer's Financiers under the Facility Agreement***].

1.2 References to certain general terms

In this deed, unless the contrary intention appears:

(a) a reference to this deed or another instrument includes any variation or replacement of any of them;

(b) 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;

(c) the singular includes the plural and vice versa;

(d) the word "person" includes a firm, body corporate, an unincorporated association or an authority;

(e) 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;

(f) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally;

(g) where a word is defined in this deed by reference to another document, the reference to that document is that document as at the date of this deed, or where that document has been amended with the consent of the parties to this deed, to that document as so amended; and

(h) a reference to any thing (including, without limitation, any amount and the Secured Property) 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 deed.

1.4 Capitalised terms in the Development Agreement

Capitalised terms not defined, but used in this deed, have the same meaning as in the Development Agreement.

1.5 Inconsistency with Development Agreement

If there is inconsistency between the provisions of this deed and the Development Agreement, the provisions of this deed shall prevail.

2. Consent to the Financier's Securities by Authority

2.1 Authority's consent and acknowledgement

The Authority consents to:

(a) the grant of the Financier's Securities by the Developer and the other relevant parties and the execution of the Finance Documents by the Developer and the other relevant parties; and

(b) the exercise of the rights of the Security Trustee under the Finance Documents, subject to and in accordance with the terms of this deed.

The Authority acknowledges that the execution of the Financier's Securities by the Developer and the other relevant parties and the execution of the Finance Documents by the Developer and the other relevant parties does not constitute a Project Default and does not entitle the Authority to terminate, rescind or accept repudiation of the Development Agreement.

2.2 No extension of rights

(a) Unless expressly authorised under this deed, nothing in this deed or the Finance Documents:

(i) authorises the Security Trustee to do anything which the Developer may not do under the Development Agreement;

(ii) operates to grant to the Security Trustee rights greater than the rights of the Developer under the Development Agreement; or

(iii) authorises the Financier or any Controller appointed by the Financier to do any act or thing without the Authority's consent where, under the Development Agreement, the Developer requires the Authority's consent to such act or thing.

(b) The Security Trustee agrees with the Authority not to exercise any power or remedy under the Finance Documents in a manner which is inconsistent with this deed or, unless expressly authorised under this deed, which enables the Security Trustee to do anything in respect of the Development Agreement, which the Developer is not permitted to do under the Development Agreement.

2.3 No change to Finance Documents

Each party to a Financier's Security may not vary, amend or replace that Financier's Security without the prior written consent of the Authority.

For the avoidance of doubt, each party to any Finance Document (other than a Financier's Security) may vary, amend or replace that Finance Document at any time without the prior written consent of the Authority.

3. Notice of Project Default

The Authority agrees to give the Security Trustee a copy of each Trigger Event Notice at the same time that the Authority gives each such notice to the Developer under clause 46.1 of the Development Agreement.

4. Right of Security Trustee to remedy Project Defaults

4.1 Rights of Security Trustee during Cure Period

During a Cure Period relating to a Project Default:

(a) each of the Developer and the Authority authorises the Security Trustee and any consultant or any other person nominated by the Security Trustee to inspect the Works at all reasonable times and any plans, drawings, specifications, Approvals, contracts and other materials relating to the Works;

(b) each of the Developer and the Authority authorises the Security Trustee to make such enquiries in relation to matters the subject of the Project Documents as the Security Trustee deems are appropriate; and

(c) the Developer must provide such information in relation to the Project Default and their proposals to remedy the Project Default as the Security Trustee may reasonably require and the provisions of clause 15.16 shall not apply in relation to such information to the extent that it becomes necessary for the Security Trustee to use that information to subsequently remedy the Project Default.

4.2 Rights of Security Trustee to remedy Project Default and Step-in

If a Project Default occurs then, provided that the Security Trustee keeps the Developer and the Authority informed of any steps taken by it pursuant to this clause 4.2 and at all times consults with the Developer before implementing any such arrangements, the Security Trustee shall be entitled to:

(a) if the Project Default is capable of remedy, remedy the Project Default;

(b) if the Project Default is not capable of remedy but the Authority can be restored (by the payment of compensation) to the position in which the Authority would have been had the Project Default not occurred, pay the relevant amount of compensation to the Authority;

(c) if the Project Default is not capable of remedy and the Authority cannot be restored (by the payment of compensation) to the position in which the Authority would have been had the Project Default not occurred, cause the all of the rights and obligations of the Developer under the Development Agreement to be novated to a third party nominated by the Security Trustee (**Third Party Assignee**). Any Third Party Assignee must first be approved by the Authority under and in accordance with the assignment provisions of the Development Agreement;

(d) otherwise resolve to the satisfaction of the Authority the circumstances giving rise to the Project Default; or

(e) Step-in and perform the obligations on the part of the Developer to be performed under the Development Agreement, and the other Project Documents to which the Developer is a party.

4.3 Termination of exercise of rights by Security Trustee

If the Security Trustee has exercised any of its rights under clause 4.2 to remedy a Project Default by doing any one of the things described or referred to in that clause and in so doing, the Security Trustee or a Controller appointed by it, is performing obligations of the Developer under the Project Documents, the Security Trustee or the Controller may give [30] Business Days notice in writing to the Authority, the Developer and the Guarantor of its intention to cease to perform those obligations of the Developer under the Project Documents, and on expiry of the period of notice may do so. The giving of a notice under this clause 4.3 by the Security Trustee or a Controller appointed by the Security Trustee will not limit any of the rights (if any) of the Authority against the Security Trustee or that Controller where the Security Trustee or the Controller has expressly adopted or assumed a liability of the Developer under the Project Documents or has expressly assumed a liability of the Developer under this deed.

4.4 Exercise of rights under the Project Documents

If a Project Default occurs the Authority must at the request of the Security Trustee:

(a) provide the Security Trustee access to the Land so as to enable the Security Trustee to remedy or procure the remedy of that Project Default;

(b) permit the Financier to exercise all rights and powers of the Developer under the Project Documents so as to enable the Security Trustee to remedy or procure the remedy of that Project Default;

(c) provide the Security Trustee with all information in its possession and reasonably requested by the Security Trustee which is relevant to that Project Default; and

(d) not interfere with any efforts of the Security Trustee which are not in conflict with the terms of the Project Documents or are otherwise expressly permitted by this deed to remedy, or procure the remedy of the Project Default.

4.5 Acts and omissions of Security Trustee

The Developer is liable to the Authority for the acts and omissions of any contractor or person engaged by the Security Trustee in connection with this deed and the Developer:

(a) consents to the Security Trustee exercising its rights under this clause 4; and

(b) agrees that any act or omission of the Security Trustee or any contractor or person engaged by the Security Trustee in exercising the rights and powers of the Developer under the Project Documents is deemed to be an act or omission of the Developer under the Project Documents.

5. Authority's rights after Project Default

The Authority agrees not to exercise its rights to terminate the Development Agreement as a consequence of the occurrence of a Project Default, unless a Project Default Notice in respect of that Project Default has been given to the Security Trustee and:

(a) in respect of any Project Default other than a Project Default which is an Insolvency Event in respect of the Developer, prior to the last day of the relevant Cure Period, the Security Trustee or a Controller appointed by the Security Trustee has not remedied the Project Default by doing any of the things referred to in clause 4.2;

(b) in respect of any Project Default which is an Insolvency Event in respect of the Developer, prior to the date which is [10] Business Days after the occurrence of the Insolvency Event (**Insolvency Event Cure Period**), the Security Trustee has not remedied the Project Default by appointing a Controller (and such Controller has agreed to comply with clause 6.3 of this deed as if it was the Security Trustee, subject to the limitation of liability set out in clause 12 of this deed);

(c) the Security Trustee has Stepped-in and the Security Trustee or a Controller appointed by the Security Trustee is performing the obligations of the Developer under the Development Agreement but a further Project Default occurs and it is not remedied within the Cure Period relating to it by the Security Trustee or the Controller doing any of the things referred to in clause 4.2 (or, where the further Project Default is an Insolvency Event in respect of the Developer, it is not remedied within the Insolvency Event Cure Period by the Security Trustee doing any of the things referred to in clause 4.2(e)); or

(d) the Security Trustee has Stepped-in and the Security Trustee or a Controller appointed by the Security Trustee is performing the obligations of the Developer under the Development Agreement but ceases to do so, or does anything which expresses an intention to cease to do so or gives a notice under clause 4.3.

6. Obligations of Security Trustee

6.1 Finance Default Notice

The Security Trustee must:

(a) give the Authority a copy of any Finance Default Notice given to the Developer at the same time the notice is given to the Developer; and

(b) keep the Authority informed about any Finance Default in respect of which a Finance Default Notice has been given to the Developer.

The Security Trustee shall not be liable to the Developer for its failure to comply with any of the provisions of this clause 6.1.

6.2 Notice of Enforcement Action

The Security Trustee must as soon as reasonably practicable notify the Authority in writing if it takes any Enforcement Action against the Developer with respect to the Works Portion.

6.3 Liability under Project Documents

(a) The Security Trustee is not liable for any of the obligations of the Developer or the Guarantor to the Authority under the Project Documents, except to the extent specified in this clause 6.3.

(b) If the Security Trustee Steps-in, the Security Trustee must during the Step-in Period observe the terms and conditions of the relevant Project Documents (as if the Security Trustee were joined as a party to each of the Project Documents) as the Developer.

(c) If the Security Trustee takes any steps to remedy a Project Default it must not in doing so do anything which, if it were done by the Developer, would be a breach of the terms of any Project Document.

(d) The Security Trustee is not liable for any loss or damage suffered by the Authority as a result of the failure by the Developer or the Guarantor to observe and perform any of the terms and conditions of the Project Documents at any time. This paragraph (d) does not exclude the Security Trustee from liability to the Authority for failure to perform any of the Security Trustee's obligations under this deed, including without limitation, under paragraph (b) or (c) above.

(e) The Security Trustee agrees with the Authority that if there is a dispute between the Developer and the Builder and the Security Trustee has Stepped-in, the Security Trustee will not and will ensure that a Controller appointed by it, does not without the consent of the Authority settle the dispute otherwise than in accordance with the dispute resolution procedures in the Building Contract.

(f) The provisions of this clause 6.3 do not limit any of the rights:

(i) of the Authority against:

A. the Developer; or

B. the Guarantor; or

C. any Controller appointed to the Developer who expressly adopts or expressly assumes a liability of the Developer under the Project Documents; or

D. any mortgagee in possession of any of the assets of the Developer who expressly adopts or expressly assumes a liability of the Developer under the Project Documents; or

(ii) of a Controller referred to in clause 6.3 against any person who gives an indemnity to him in relation to any liability of that Controller to the Authority as a result of that Controller adopting or otherwise assuming a liability of the Developer under any Project Document,

but this clause 6.3 does not extend to impose liability on any Controller appointed to the Developer by the Security Trustee as mortgagee in possession of any assets of the Developer unless that Controller or the Security Trustee adopts or otherwise assumes a liability of the Developer under any of the Project Documents.

6.4 Authority's dealings with Security Trustee and Developer

(a) If the Security Trustee notifies the Authority that any right of the Developer under the Development Agreement is to be exercised by the Security Trustee, then the Authority must (and the Developer irrevocably directs the Authority to) deal only with the Security Trustee in respect of the exercise of that right.

(b) Despite anything in this deed or the Finance Documents, until the Security Trustee takes any Enforcement Action, the Authority may deal with the Developer in respect of the Development Agreement.

6.5 Money secured under Financier's Securities

The Developer and the Security Trustee confirm to the Authority that the only obligations to the Security Trustee which form part of the Secured Money are the obligations of the Developer under the Finance Documents.

6.6 Notice of enforcement of Finance Documents

The Security Trustee agrees to keep the Authority informed about:

(a) any Finance Default; and

(b) any action taken to enforce its rights arising as a result of a Finance Default.

6.7 No caveats

[The Security Trustee (and any persons on its behalf) must not lodge a caveat on the title to the Land except in the circumstances permitted by the Development Agreement.]***[Note: The Financier may need to lodge a caveat depending upon the timing of the granting of the agreement for lease/lease by the Authority and in turn the timing of the granting of the mortgage over the lease to the Financier.][CU Note: The Authority would not object to a caveat by a Mortgagee once the Lease has been granted]***

6.8 Effect of Enforcement Action

Without derogating from any other rights the Security Trustee may have under this deed, the Authority agrees that:

(a) if the Security Trustee Steps-in the Stepping-in will not of itself constitute a Project Default as long as the Security Trustee, a Controller appointed by the Security Trustee, or if the Security Trustee has Stepped-in to the shares in the Developer [***and/or the units in the*** [***insert name of trust***]] [***Proponent to complete if relevant***], the Developer, performs the obligations of the Developer under the Development Agreement;

(b) any cure of a Project Default effected by or on behalf of the Security Trustee within the Cure Period and in accordance with the Project Documents, will be effective as a cure of the Project Default by the Developer and the appointment of a Controller to the Developer by the Security Trustee under the Financier's Security following the occurrence of an Insolvency Event in respect of the Developer within the Insolvency Event Cure Period will be effective as a cure of that Insolvency Event; and

(c) the taking of Enforcement Action by the Security Trustee in accordance with this deed will not by itself entitle the Authority to terminate the relevant Project Documents.

7. Other matters relating to the Project Documents

7.1 Dispute Resolution Procedure

The parties acknowledge and agree that:

(a) where any consultation procedures are provided for in the Project Documents (including, without limitation, the Dispute Resolution Procedures) the Security Trustee or its representatives may attend and speak at any meeting convened to implement the procedures; and

(b) if a Project Default has occurred, the Security Trustee may require the Developer to implement the Dispute Resolution Procedures where permitted under the Project Documents.

7.2 No change to Project Documents

Each party may not modify, vary or amend the terms of the Project Documents in any material respect without the prior written consent of the Security Trustee.

7.3 Specific performance

Despite any of the provisions of the Project Documents the Security Trustee in exercising any rights of the Developer is not limited to claims for damages against the Authority for any breach by the Authority of its obligations under the Project Documents and may, if entitled by law to do so, claim specific performance of the obligations of the Authority.

7.4 Authority not to deal with Land

The Authority may not transfer, sell, grant any Encumbrance or other third party right or otherwise dispose of its interest in the Land, except in accordance with the Project Documents.

8. Representations and Warranties

8.1 By the Developer to the Authority in respect of the Finance Documents

The Developer represents and warrants to the Authority that so far as it is aware:

(a) none of the other parties to the Finance Documents have any right, which is now exercisable or which with the giving of notice or lapse of time will or may become exercisable, to:

(i) terminate, rescind, repudiate or vary any Finance Document to which it is a party; or

(ii) refuse to perform or observe any of its obligations under any Finance Document to which it is a party; and

(b) the Finance Documents to which it is a party set out all the terms, conditions and warranties of the agreements, arrangements and understandings between it and the other parties to the Finance Documents in respect of the subject matter of those Finance Documents.

8.2 By the Authority to the Security Trustee in respect of the Project Documents

The Authority represents and warrants in favour of the Security Trustee that:

(a) to the Authority's knowledge, the Authority has no right without the Developer's consent, which is now exercisable or with the giving of notice or lapse of time will or may become exercisable to:

(i) terminate, rescind, repudiate or vary the Development Agreement; or

(ii) refuse to perform or observe any of the Authority's obligations under the Development Agreement.

(b) the Project Documents set out all the terms, conditions and warranties of the agreements, arrangements and understandings between the Developer of the one part and the Authority of the other part in respect of the subject matter of the Works Portion.

8.3 By the Security Trustee to the Authority in respect of the Finance Documents

The Security Trustee represents and warrants in favour of the Authority that:

(a) to the Security Trustee's knowledge, as at the date of this deed, the Security Trustee has no right which is now exercisable or which, with the giving of notice or lapse of time, will or may become exercisable, to:

(i) terminate, rescind, repudiate or vary the Finance Documents; and

(ii) refuse to perform or observe any of its obligations under the Finance Documents; and

(b) the Finance Documents set out all the terms, conditions and warranties of the agreements, arrangements and understandings between the Security Trustee and the other parties to them in respect of the subject matter of the Finance Documents

8.4 By the Developer to the Security Trustee in respect of the Project Documents

The Developer represents and warrants in favour of the Security Trustee that:

(a) to the Developer's knowledge, as at the date of this deed, the Developer has no right which is now exercisable or which, with the giving of notice or lapse of time, will or may become exercisable, to:

(i) terminate, rescind, repudiate or vary the Project Documents; and

(ii) refuse to perform or observe any of its obligations under the Project Documents; and

(b) the Project Documents set out all the terms, conditions and warranties of the agreements, arrangements and understandings between the Developer and the other parties to them in respect of the subject matter of the Project Documents

9. Security Interests and Assignment

9.1 Authority's dealings with the Project Documents

The Authority may not:

(a) dispose of, deal with or part with possession of any estate or interest in the Project Documents or rights or benefits in connection with the Project Documents; or

(b) create or allow to come into existence an Encumbrance which affects the Development Agreement,

without first causing any proposed transferee, mortgagee, chargee, disposee, encumbrancee or other party to the dealing or person in whose favour or in whom is vested any such right, title or interest to enter into an agreement with the Security Trustee the form and substance of which is approved by the Security Trustee, acting reasonably, and by which that person agrees to be bound by the terms and conditions of this deed unless the disposition, dealing or parting with possession is achieved by statute where the obligations of the Authority under this deed must be performed by the person taking the benefit of that disposition, dealing or parting with possession under the statute.

9.2 Security Trustee's dealings with Finance Documents

The Security Trustee may not:

(a) dispose of, deal with or part with possession of any of its estate or interest in the Finance Documents or its rights or benefits in connection with the Finance Documents; or

(b) create or allow to come into existence an Encumbrance which affects its interest in the Finance Documents or transfer or dispose of any of its interest in the Financier's Securities,

without first causing any proposed transferee, mortgagee, chargee, disponee, encumbrancee or other party to the dealing or person in whose favour or in whom is vested any such right, title or interest to enter, at the cost and expense of the Security Trustee, into a deed with the Authority, the form and substance of which is approved by the Authority, acting reasonably, and by which that person agrees to be bound by the terms and conditions of this deed.

9.3 Security Trustee's dealings with Project Documents

The Security Trustee may not without the prior written consent of the Authority dispose of, deal with or part with possession of any of its estate or interest in the Project Documents or create or allow to come into existence an Encumbrance which affects its interest in the Project Documents otherwise than as permitted in this deed.

10. Costs and indemnities by Developer

10.1 Costs generally

The Developer agrees to pay or reimburse the Authority on demand for:

(a) the Costs of the Authority in connection with any consent, approval, exercise or non-exercise of rights (including, without limitation, in connection with the contemplated or actual enforcement or preservation of any rights under this deed), waiver, variation, release or discharge in connection with this deed; and

(b) Taxes and fees (including, without limitation, registration fees) and fines and penalties in respect of fees, which may be payable or determined to be payable in connection with this deed (except to the extent that any fine or penalty is caused by a failure by the Authority to lodge money received by the Authority from the Developer under this clause 10.1 5 Business Days before the due date for lodgement),

including in each case, without limitation, legal costs and expenses on a full indemnity basis or solicitor and own client basis, whichever is the higher. All of the Costs to be reimbursed under clause 10.1(a) must be reasonable other than those incurred by the Authority in connection with the actual or contemplated enforcement or preservation of rights under this deed.

10.2 Costs of independent consultants

The Developer agrees that the Authority retains an unfettered and absolute discretion to seek and obtain advice in connection with or considering any consent or approval (whether or not that consent or approval is given), exercise or non-exercise of rights arising from a breach by the Developer of its obligations under this deed and the reasonable costs, charges and expenses referred to in clause 10.1 above include, without limitation, those payable to any independent

consultant or other person appointed to evaluate any matter of concern and the Authority's administration costs in connection with any event referred to in clause 10.1(a).

10.3 Indemnity by Developer

The Developer indemnifies the Authority against any liability or loss arising from, and any Costs incurred in connection with:

(a) the payment of any moneys, or the acceptance of liabilities, by the Authority to any person as contemplated by this deed;

(b) the payment, omission to make payment or delay in making payment of an amount referred to in clause 10.1);

(c) a Project Default; or

(d) all acts and omissions of a Security Trustee,

including, without limitation, legal costs and expenses on a full indemnity basis or solicitor and own client basis, whichever is the higher.

10.4 Costs incurred by employees and officers

The Developer agrees to pay to the Authority an amount equal to any direct liability, loss, and Costs of the kind referred to in clause 10.3 suffered or incurred by any employee, officer, agent or contractor of the Authority.

10.5 Currency indemnity

If a judgement, order or proof of debt in connection with this deed is expressed in a currency other than the currency in which an amount is due under this deed, then the Developer indemnifies the Authority against:

(a) any difference arising from converting the other currency if the spot rate of exchange of converting the other currency into the due currency available to the Authority when the Authority receives a payment in the other currency is less favourable to the Authority than the rate of exchange used for the purpose of the judgement, order or acceptance of proof of debt; and

(b) the costs of conversion.

11. Copies of Finance Documents

The Security Trustee agrees to promptly give to the Authority a photocopy of each Finance Document once executed, certified by an Authorised Officer of the Security Trustee to be a true copy.

12. Limit on Security Trustee's liability

[Note: The Security Trustee may require amendments to be made to clauses 12.1 to 12.3 below to reflect the Security Trustee's standard limitation of liability wording.]

12.1 Capacity and acts

The Security Trustee enters into this deed in its capacity as trustee of the trust established under the Security Trust (**Security Trust**) and, for the purposes of clause 12.2, in its personal capacity. Under the terms of the Security Trust, the Security Trustee:

(a) holds the benefit of this deed for the beneficiaries of the Security Trust from time to time (**Beneficiaries**); and

(b) is bound to act on the instructions of the Beneficiaries, and is not bound to act without instructions or where the Security Trust otherwise provides that the Security Trustee is not bound to act.

12.2 Limit on liability

The Security Trustee acknowledges and agrees that its liability and obligations under or by virtue of this deed (including for any related conduct, act, omission, transaction, agreement, representation or warranty) can be enforced against it:

(a) to the extent that the Security Trustee is entitled to be indemnified for those liabilities or obligations by virtue of indemnities to which it is entitled from the Beneficiaries, in its capacity as trustee of the Security Trust; and

(b) to the extent that the Security Trustee is not entitled to the benefit of any indemnities from the Beneficiaries under the Security Trust, in its personal capacity.

12.3 Benefit and survival

Clause 12 applies for the benefit of the Security Trustee's officers and agents, is not severable from this deed and will survive any termination of this deed for any reason.

13. Notices

13.1 Form

Unless expressly stated otherwise in this deed, all notices, certificates, consents, approvals, waivers and other communications in connection with this deed must be in writing, signed by an Authorised Officer of the sender and marked for attention as set out below or, if the recipient has notified otherwise, then marked for attention in the way last notified:

Authority

Name:	Barangaroo Delivery Authority
Address:	Level 3, 66 Harrington Street The Rocks NSW 20007
Fax:	[insert]
For the attention of:	[insert]

Developer

Name:	Lend Lease (Millers Point) Pty Limited
Address:	Level 4, The Bond 30 Hickson Road Millers Point NSW 2000
Fax:	(02) 9383 8138
For the attention of:	The Company Secretary

Guarantor

Name:	Lend Lease Corporation Limited
Address:	Level 4, The Bond 30 Hickson Road Millers Point NSW 2000
Fax:	(02) 9252 2192
For the attention of:	The Company Secretary, Lend Lease Corporation Limited

Security Trustee

Name:	[insert]
Address:	[insert]
Fax:	[insert]
For the attention of:	[insert]

13.2 Delivery

Notices must be:

(a) left at the addresses referred to in clause 13.1;

(b) sent by prepaid post (airmail, if appropriate) to the addresses referred to in clause 13.1; or

(c) sent by fax to the fax number referred to in clause 13.1.

However, if the intended recipient has notified a changed postal address or changed fax number, then the communication must be to that address or number.

13.3 When effective

Notices take effect from the time they are received unless a later time is specified in them.

13.4 Receipt - fax

If notices are sent by fax, they are taken to be received at the time shown in the transmission report as the time that the whole fax was sent.

13.5 Receipt - general

If notices are left at an address or received after 5.00pm in the place of receipt or on a non-Business Day, they are to be taken to be received at 9.00am on the next Business Day.

14. GST

14.1 Interpretation

(a) Except where the context suggests otherwise, terms used in this clause 14 have the meanings given to those terms by the A New Tax System (Goods and Services Tax) Act 1999 (as amended from time to time).

(b) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 14.

(c) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.

14.2 Reimbursements

Any payment or reimbursement required to be made under this deed that is calculated by reference to a Cost or other amount paid or incurred will be limited to the total Cost or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the Cost or amount relates.

14.3 Additional amount of GST payable

Subject to clause 14.5, if GST becomes payable on any supply made by a party (**Supplier**) under or in connection with this deed:

(a) any amount payable or consideration to be provided under any provision of this deed (other than this clause 14), for that supply is exclusive of GST;

(b) any party (**Recipient**) that is required to provide consideration to the Supplier for that supply must pay an additional amount to the Supplier equal to the amount of the GST payable on that supply (**GST Amount**), at the same time as any other consideration is to be first provided for that supply; and

(c) the Supplier must provide a tax invoice to the Recipient for that supply, no later than the time at which the GST Amount for that supply is to be paid in accordance with clause 14.3(b).

14.4 Variation

(a) If the GST Amount properly payable in relation to a supply (as determined in accordance with clause 14.3 and clause 14.5), varies from the additional amount paid by the Recipient under clause 14.3, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this clause 14.4(a) is deemed to be a payment, credit or refund of the GST Amount payable under clause 14.3.

(b) The Supplier must issue an adjustment note to the Recipient in respect of any adjustment event occurring in relation to a supply made under or in connection with this deed as soon as reasonably practicable after the Supplier becomes aware of the adjustment event.

14.5 Exchange of non-monetary consideration

(a) To the extent that the consideration provided for the Supplier's taxable supply to which clause 14.3 applies is a taxable supply made by the Recipient in the same tax period (**Recipient Supply**), the GST Amount that would be otherwise be payable by the Recipient to the Supplier in accordance with clause 14.3 shall be reduced by the amount of GST payable by the Recipient on the Recipient Supply.

(b) The Recipient must issue to the Supplier an invoice for any Recipient Supply on or before the time at which the Recipient must pay the GST Amount in accordance with clause 14.3 (or the time at which such GST Amount would have been payable in accordance with clause 14.3 but for the operation of clause 14.5(a)).

14.6 Indemnities

(a) If a payment under an indemnity gives rise to a liability to pay GST, the payer must pay, and indemnify the payee against, the amount of that GST.

(b) If a party has an indemnity for a cost on which that party must pay GST, the indemnity is for the cost plus all GST (except any GST for which that party can obtain an input tax credit).

(c) A party may recover payment under an indemnity before it makes the payment in respect of which the indemnity is given.

14.7 No merger

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

15. Miscellaneous

15.1 Prompt performance

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

15.2 Certificates

Each party may give another party a certificate about an amount payable in connection with this deed. The certificate is sufficient evidence of the amount, unless it is proved to be incorrect.

15.3 Exercise of rights

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

15.4 Partial exercise of rights

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

15.5 Delay in exercising rights

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

15.6 Conflict of interest

The right and remedies of the Authority under this deed may be exercised even if this involves a conflict of duty or the Authority has a personal interest in their exercise.

15.7 Remedies cumulative

The rights and remedies of a party under this deed are in addition to other rights and remedies given by law independently of this deed.

15.8 Rights and obligations are unaffected

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

15.9 Continuing breaches

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

15.10 Antecedent obligations

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

(a) to make payments under this deed in respect of periods before the expiry or termination of this deed; or

(b) to provide information to another party to enable it to calculate those payments.

15.11 Inconsistent law

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

15.12 Waiver and variation

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

15.13 Supervening Legislation

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

15.14 Approvals and consent

The Authority may give conditionally or unconditionally or withhold its approval or consent in its absolute discretion unless this deed expressly provides otherwise.

15.15 Indemnities

Each indemnity in this deed is a continuing obligation, separate and independent from the other obligations of the Developer and survives termination, discharge or performance of this deed.

15.16 Confidentiality

All information provided by one party to another party under this deed or the Development Agreement and which is identified as confidential at the time it is provided, or which by its nature is confidential, must not be disclosed to any person except:

(a) with the consent of the party providing the information;

(b) if required by law or required by any stock exchange;

(c) in connection with any legal proceedings relating to this deed or any Project Document,

(d) if the information is generally and publicly available otherwise than as a result of any prior breach of this clause;

(e) to employees, legal advisers, auditors and other consultants and professional advisers to whom it needs to be disclosed; or

(f) to any actual or proposed permitted assignee of a Financier, the Security Trustee or other party so long as the disclosure is made on the basis that the recipient of the confidential information will comply with this clause 15.16 in the same way that the parties to this deed are required to do.

15.17 Inconsistency

Nothing in the Project Documents affects the rights of the parties under this deed which shall prevail over the Project Documents to the extent of any inconsistency.

15.18 Several liability

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

15.19 Severability

(a) A construction of this deed that results in all provisions being enforceable is to be preferred to a construction that does not so result.

(b) If, despite the application of paragraph (a), a provision of this deed is illegal or unenforceable:

(i) and it will be legal and enforceable if a word or words were omitted, that word or those words are severed; and

(ii) in any other case, the whole provision is severed,

and the remainder of this deed continues in force. This paragraph (b) has no effect if the severance alters the basic nature of this deed.

15.20 Further steps

The parties agree to do anything another party reasonably asks (such as obtaining consents, signing and producing documents and getting documents completed and signed) to bind the parties and any other person intended to be bound under this deed.

15.21 Construction

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

15.22 Effect of moratorium

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

15.23 Applicable law

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

15.24 Serving documents

Without preventing any other method of service, any document in a court action may be served on a party by being delivered to or left at that party's address for service of notices under clause 13.

15.25 Counterparts

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

Executed as a deed.

The seal of **Barangaroo Delivery Authority** is affixed by authority of the Chief Executive Officer in the presence of:

Signature of authorised person	Signature of authorised person
Name of authorised person	Name of authorised person
Office held	Office held

Executed by **Lend Lease (Millers Point) Pty Limited ABN 15 127 727 502** in accordance with section 127 of the Corporations Act by or in the presence of:

Signature of Secretary/other Director	Signature of Director or Sole Director and Secretary
Name of Secretary/other Director in full	Name of Director or Sole Director and Secretary in full

Executed by **Lend Lease Corporation Limited ABN [number]** in accordance with section 127 of the Corporations Act by or in the presence of:

Signature of Secretary/other Director	Signature of Director or Sole Director and Secretary
Name of Secretary/other Director in full	Name of Director or Sole Director and Secretary in full

Executed by **[Security Trustee] ABN [number]** in accordance with section 127 of the Corporations Act by or in the presence of:

Signature of Secretary/other Director	Signature of Director or Sole Director and Secretary
Name of Secretary/other Director in full	Name of Director or Sole Director and Secretary in full

Annexure E – Independent Certifier's Deed

CLAYTON UTZ

Barangaroo Stage 1

Independent Certifier's Deed

Barangaroo Delivery Authority
Authority

Lend Lease (Millers Point) Pty Limited
Developer

[*Independent Certifier*]
Independent Certifier

Clayton Utz
Lawyers
Levels 19-35 No. 1 O'Connell Street Sydney NSW 2000 Australia
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Legal\300395593.3

Table of contents

1. Definitions and interpretation 1

1.1 Definitions 1
1.2 Interpretation 2
1.3 Headings 2
1.4 Capitalised terms in the Project Development Agreement 2
1.5 Inconsistency with Project Development Agreement 2

2. Appointment of Independent Certifier 3

2.1 Terms of appointment 3
2.2 Consent 3
2.3 Receipt of Project Documents 3

3. Term of appointment 3

4. Relationship 4

4.1 Standard of performance 4
4.2 No conflict of interest 4
4.3 Nature of relationship 4
4.4 Independence 4
4.5 Co-operation and assistance 4
4.6 Information provided to Independent Certifier 5
4.7 Authority to act 5
4.8 Reliance 5
4.9 Certification final and binding 5

5. Obligations of Independent Certifier 6

5.1 Obligations relating to Practical Completion 6
5.2 Prerequisites for Certificate of Practical Completion 6
5.3 Defects Liability and Final Certificate 7
5.4 Other Obligations relating to the Project Development Agreement 8
5.5 Independent Certifier's right to enter and inspect 8
5.6 All other Obligations 8

6. Independent Certifier's personnel 8

6.1 Properly qualified 8
6.2 List of personnel 9
6.3 Removal of personnel 9

7. Notifications 9

8. Fees 9

8.1 Payment by Developer 9
8.2 Authority not to pay 9

9. Representations and Warranties 10

10. Insurance 10

10.1 Own Risk 10
10.2 Undertakings 10
10.3 Failure to produce proof of insurance 13

11. Default 13

11.1 Certifier Default 13
11.2 Principal Default 13
11.3 Right to terminate 14
11.4 Rights on termination 14
11.5 Appointment of successor 14
11.6 Return of records 15

12. Costs 15

12.1 What the Independent Certifier agrees to pay 15
12.2 Payment for each Principal Party's Obligations 16

13. Assignment 16

13.1 Assignment by the Independent Certifier 16
13.2 Assignment by Authority 16
13.3 Assignment by Developer 16

14. Notices 16

14.1 Form 16
14.2 Delivery 17
14.3 When effective 17
14.4 Receipt - postal 17
14.5 Receipt - fax 17
14.6 Receipt - general 17

15. GST 17

15.1 Interpretation 17
15.2 Reimbursements 18
15.3 Additional amount of GST payable 18
15.4 Variation 18
15.5 Exchange of non-monetary consideration 18
15.6 Indemnities 18
15.7 No merger 19

16. General 19

16.1 Prompt performance 19
16.2 Consents 19
16.3 Certificates 19
16.4 Set-off 19
16.5 Discretion in exercising rights 19
16.6 Partial exercising of rights 19
16.7 No liability for loss 19
16.8 Conflict of interest 19
16.9 Remedies cumulative 20
16.10 Other Encumbrances or judgments 20
16.11 Inconsistent law 20
16.12 Supervening legislation 20
16.13 Variation and waiver 20
16.14 Confidentiality 20
16.15 Further steps 21
16.16 Each signatory bound 21
16.17 Counterparts 21
16.18 Applicable Law 21

Annexure A - Obligations of Independent Certifier 22

Annexure B - Insurances (clause 10) 23

Deed made at **on**

Parties **Barangaroo Delivery Authority ABN 94 567 807 277**, a NSW government agency constituted under the Barangaroo Delivery Authority Act 2009 (NSW) (**Authority**)

Lend Lease (Millers Point) Pty Limited ABN 15 127 727 502 (**Developer**)

[*Independent Certifier*] ABN [*number*] (**Independent Certifier**)

Background

A. The Authority and the Developer have entered into the Project Development Agreement under which the Developer will carry out or procure the carrying out of the Works on the Land.

B. The Developer has engaged, or will engage, the Builder to carry out part of the Works on the terms of the Building Contract.

C. The parties, other than the Independent Certifier, have financial and other interests in determining when a Works Portion reaches Practical Completion.

D. By this deed, the Developer appoints the Independent Certifier to, among other things, certify Practical Completion of each Works Portion.

E. The Independent Certifier accepts its appointment and agrees to perform its functions on the terms of this deed.

The parties agree

1. Definitions and interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears:

Builder means [***insert name of builder***].

Certifier Default means an event so described in clause 11.1.

Insurances means the insurances required to be effected and maintained under clause 10.

Obligations means the obligations and duties of the Independent Certifier to the Principal Parties under or in connection with this deed including the Obligations specified in Annexure A.

Principal Default means an event so described in clause 11.2.

Principal Parties means all the parties to this deed other than the Independent Certifier.

Project Development Agreement means the Project Development Agreement between Authority, the Developer and others in relation to the Project dated [***date***].

Related Entity has the meaning ascribed to it in section 9 of the Corporations Act.

Replacement Certifier means the successor of the Independent Certifier appointed under clause 11.5.

1.2 Interpretation

Unless the contrary intention appears, a reference in this deed to:

(a) a group of persons is a reference to any two or more of them jointly and to each of them individually;

(b) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;

(c) an agreement, representation or warranty by two or more persons binds them jointly and each of them individually;

(d) anything (including an amount) is a reference to the whole and each part of it;

(e) a document (including this deed) includes any variation or replacement of it;

(f) an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;

(g) Australian dollars, dollars, $ or A$ is a reference to the lawful currency of Australia;

(h) a time of day is a reference to Sydney time;

(i) the singular includes the plural and vice versa;

(j) the word "person" includes an individual, a firm, a body corporate, an unincorporated association and an authority;

(k) a particular person includes a reference to the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;

(l) the words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind; and

(m) an exhibit, annexure or schedule is a reference to an exhibit, annexure or schedule to this deed.

1.3 Headings

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

1.4 Capitalised terms in the Project Development Agreement

Capitalised terms not defined, but used in this deed, have the same meaning as in the Project Development Agreement.

1.5 Inconsistency with Project Development Agreement

If there is inconsistency between the provisions of this deed and the Project Development Agreement, the provisions of the Project Development Agreement prevail.

2. Appointment of Independent Certifier

2.1 Terms of appointment

(a) The Developer appoints the Independent Certifier to perform the Obligations.

(b) The Independent Certifier's appointment commences on the date of this deed and terminates on the date determined pursuant to clause 3.

(c) Each Principal Party confirms and approves the appointment of the Independent Certifier as the independent certifier to do those things provided in this deed.

2.2 Consent

The Independent Certifier accepts its appointment under clause 2.1 and agrees that it will perform the Obligations.

2.3 Receipt of Project Documents

The Independent Certifier acknowledges:

(a) receipt of copies of such of the Project Documents as is specified in writing by the Principal Parties; and

(b) confirms that it has read and will be deemed to have informed itself fully of:

(i) the requirements of the documents referred to in clause 2.3(a);

(ii) the nature of the work necessary for the performance of the Obligations;

(iii) the accuracy and completeness of the description of the Obligations;

(iv) the fees payable to it which are to cover completely the Costs of complying with the Obligations; and

(v) all matters and things necessary or ancillary to the due and proper performance of the Obligations.

3. Term of appointment

The Principal Parties' rights under this deed to require the Independent Certifier to perform the Obligations remain in effect until the later of:

(a) the date of the expiry of the Defects Liability Period; or

(b) the date of the Final Certificate,

in respect of that Works Portion, unless that appointment is terminated at an earlier date in accordance with clause 11.

4. Relationship

4.1 Standard of performance

(a) In performing the Obligations, the Independent Certifier agrees:

(i) to act in good faith, impartially, diligently, reasonably and with a degree of professional care, knowledge, experience and skill which may be reasonably expected of and in accordance with the standards applicable to a practising firm of consultants experienced in the performance of the same or similar services as are required to be performed by the Independent Certifier under this deed; and

(ii) to perform all its Obligations within the times specified in the relevant Project Documents.

(b) The Independent Certifier warrants that it has the capability, expertise and experience to perform the Obligations.

4.2 No conflict of interest

The Independent Certifier acknowledges and warrants that:

(a) it owes a duty of care and professional responsibility to each Principal Party in connection with the performance of the Obligations;

(b) each Principal Party is relying on its independence; and

(c) it has no conflict of interest with respect to the carrying out of the Obligations and that it will not accept any role in relation to the Project other than expressly set out in this deed.

4.3 Nature of relationship

(a) The Independent Certifier is an independent contractor and is not an employee or agent of any of the Principal Parties.

(b) The Independent Certifier's employees, contractors, consultants and agents are not the employees, contractors, consultants or agents of any of the Principal Parties with respect to the Project. The Independent Certifier assumes full responsibility for the acts and omissions of each of its employees and agents.

4.4 Independence

The Principal Parties and the Independent Certifier agree that the Independent Certifier will act independently of all parties in connection with the performance of the Obligations.

4.5 Co-operation and assistance

(a) The Principal Parties will co-operate with each other and the Independent Certifier and use their reasonable endeavours (without being obliged to pay money other than the fees payable under clause 8) to assist the Independent Certifier to enable it to satisfy the Obligations.

(b) Subject to any law or duty of confidentiality and without limiting paragraph (a), each Principal Party will provide to the Independent Certifier any information reasonably necessary to enable the Independent Certifier to satisfy the Obligations

and agrees to provide the Independent Certifier with any such information within the time required by this deed or any relevant Project Document.

(c) The Independent Certifier will co-operate with the Principal Parties and any agent, consultant, contractor or employee of the Principal Parties in relation to the Works and will co-ordinate the performance of the Obligations with the activities being performed by those parties under the relevant Project Documents.

4.6 Information provided to Independent Certifier

The Independent Certifier is entitled to rely on information provided to it by any of the Principal Parties as being true and correct in all material respects unless:

(a) such information is:

(i) manifestly incorrect;

(ii) provided on a qualified basis; or

(iii) actually known or ought to have been known by the Independent Certifier to be untrue or incorrect; or

(b) the relevant Principal Party subsequently informs the Independent Certifier of any change to the information provided to it.

4.7 Authority to act

The Independent Certifier has no authority:

(a) other than expressly provided in this deed, to give directions to any Principal Party or its officers, employees, contractors, consultants or agents;

(b) to waive or alter any terms of the Project Documents; or

(c) to discharge or release a party from any of its obligations pursuant to the Project Documents.

4.8 Reliance

The Independent Certifier acknowledges and agrees that:

(a) it will perform the Obligations in accordance with this deed for the benefit of each of the Principal Parties and that each Principal Party will be relying on the performance of the Obligations as if the Independent Certifier were separately performing them for each Principal Party directly; and

(b) the Principal Parties are entitled to and will rely on its certification in accordance with the provisions of this deed for the purposes of the Project Documents.

4.9 Certification final and binding

The Principal Parties acknowledge and agree that each of:

(a) the Certificates of Practical Completion;

(b) the Final Certificates; and

(c) the determinations, certifications and confirmations referred to in clause 5.1,

given by the Independent Certifier pursuant to this deed and each Project Document, in the absence of manifest error of fact or law, are final and binding on the Principal Parties under this deed and the Project Documents.

5. Obligations of Independent Certifier

5.1 Obligations relating to Practical Completion

(a) The Developer must give the Independent Certifier and each other Principal Party at least 20 Business Days notice of the date on which the Developer anticipates Practical Completion of a Works Portion will be reached.

(b) When the Developer is of the opinion that Practical Completion of a Works Portion has been reached the Developer must:

(i) request the Independent Certifier to issue a Certificate of Practical Completion in relation to that Works Portion; and

(ii) give each other Principal Party a copy of that request.

(c) Within 5 Business Days of receipt of the Developer's request, the Independent Certifier must either give each Principal Party:

(i) a Certificate of Practical Completion for that Works Portion certifying the Date of Practical Completion for that Works Portion; or

(ii) a written notice of the reasons for withholding the Certificate of Practical Completion for that Works Portion and provide a detailed list of work required to be completed in order for the Certificate of Practical Completion for that Works Portion to be issued.

(d) If the Independent Certifier does not within 5 Business Days after receipt of the Developer's request either give the Certificate of Practical Completion for the Works Portion or give the Developer reasons for not issuing the Certificate of Practical Completion for that Works Portion, then either the Authority or the Developer may regard the circumstances as constituting a dispute between the Authority and the Developer for the purposes of clause 45 of the Project Development Agreement.

(e) On receipt of the detailed list referred to in paragraph (c)(ii), the Developer must carry out the work referred to in that list and, on completion of that work, request the Independent Certifier to issue a Certificate of Practical Completion for the relevant Works Portion and paragraphs (c) and (d) and this paragraph (e) will re-apply, until the Independent Certifier issues the Certificate of Practical Completion for the relevant Works Portion.

5.2 Prerequisites for Certificate of Practical Completion

A Certificate of Practical Completion for a Works Portion may not issue unless and until:

(a) the Developer has given the Authority a survey prepared by a licensed surveyor showing that the Works Portion other than agreed overhangs and encroachments are within the intended area for those works (as contemplated by the Project Development Agreement and the Proposed Premises Plan);

(b) the Independent Certifier has issued a certificate addressed to the Authority stating that the Works Portion (except for minor omissions or defects or variations agreed

in writing by the Authority) has been completed in accordance with the relevant Works Documents and otherwise in accordance with the Project Development Agreement;

(c) all compliance reports required to be delivered to a Consent Authority in relation to that Works Portion have been delivered to the relevant Consent Authority and the Authority;

(d) copies of all documents and Approvals issued by the relevant Public Authority acknowledging completion of the Works Portion, and permitting use and occupation of the development the subject of that Works Portion (including a Compliance Certificate and an Occupation Certificate) have been delivered to the Authority;

(e) copies of all other certificates (including any Part 4A Certificate and any Complying Development Certificate), consents and Approvals required of any relevant Public Authority, whose certificate, consent or approval is required for the erection, use or occupancy of each part of that Works Portion have been delivered to the Authority; and

(f) in all other respects, the Practical Completion has been achieved.

5.3 Defects Liability and Final Certificate

(a) As soon as practicable after the Date of Practical Completion of a Works Portion the Developer must rectify any defects or omissions in that Works Portion as notified by the Independent Certifier under this clause 5.3.

(b) At any time during the Defects Liability Period for a Works Portion, the Independent Certifier must, having regard to any instructions or directions given to the Developer by the Authority under clause 38.3 of the Project Development Agreement, inspect that Works Portion for the purpose of ascertaining (acting reasonably) what defects and faults (if any) in those works are required to be made good by the Developer. The Independent Certifier must give the Developer two Business Day's notice before it carries out an inspection under this clause 5.3.

(c) After each inspection the Independent Certifier must give a notice in writing to the Developer of all defects and faults (if any) which in the opinion of the Independent Certifier are required to be made good.

(d) The Developer must:

(i) promptly make good any omissions and defects within a reasonable time (as determined by the Independent Certifier) after receipt of a direction under paragraph (c) (which direction must state the time in which the Independent Certifier reasonably believes that the defects and faults may reasonably be made good); and

(ii) give notice in writing to the Independent Certifier when, in the Developer's opinion, all omissions and defects referred to in the direction have been made good.

(e) The provisions of clause 5.1 apply, with the necessary changes being made, to the issue of the Final Certificate in respect of a Works Portion as if the reference in those clauses to:

(i) the Certificate of Practical Completion were a reference to the Final Certificate; and

(ii) the reference to Practical Completion were a reference to Final Completion.

5.4 Other Obligations relating to the Project Development Agreement

The Independent Certifier must perform all the Obligations of the Independent Certifier specified in the Project Development Agreement with respect to a Works Portion, including the Obligations.

5.5 Independent Certifier's right to enter and inspect

(a) The Independent Certifier may:

(i) after having given the Developer at least 2 Business Days notice (except in the case of an emergency where no notice is required) inspect a Works Portion;

(ii) inspect and test materials used or to be used in connection with that Works Portion;

(iii) require the Developer to produce any evidence of tests which may reasonably be required by the Independent Certifier with respect to that Works Portion; and

(iv) reject any materials or workmanship materially inconsistent with:

A. the Final Plans and Specifications (as amended pursuant to the Project Development Agreement) for that Works Portion; or

B. to the standard required under this deed and the Project Development Agreement.

(b) At the request of the Independent Certifier, the Developer must immediately remove, or replace all unauthorised or unsatisfactory Works and make good any workmanship as reasonably directed by the Independent Certifier.

5.6 All other Obligations

With respect to a Works Portion, the Independent Certifier must perform each of the other Obligations, if any, specified in Annexure A.

6. Independent Certifier's personnel

6.1 Properly qualified

The Independent Certifier must at all times provide adequately competent, experienced and qualified personnel to perform the Obligations.

6.2 List of personnel

Upon the request at any time by any Principal Party, the Independent Certifier must promptly provide a list of the personnel which it will use or will be using to perform the obligations and detailing the qualifications and experience of each person.

6.3 Removal of personnel

If at any time during the term of this deed, a Principal Party considers that the conduct of the Independent Certifier's personnel is prejudicial to the interest of the Project or that the Independent Certifier has not engaged personnel who are sufficiently competent, experienced and qualified to perform the Obligations, that Principal Party may, after consultation with the Independent Certifier, by written notice to the Independent Certifier require the removal of that person from any involvement in the Project. The Independent Certifier shall within 10 Business Days replace the person named in that notice with the person approved by the Principal Parties.

7. Notifications

The Independent Certifier agrees to promptly notify the Principal Parties if it becomes aware in the course of performing the Obligations:

(a) that any matter stated or certified by the Builder or certificate provided under any Project Document is not correct as at the date stated or certified; and

(b) of any matter or circumstance which in its reasonable opinion:

(i) may materially or adversely affect the Builder's ability to achieve Practical Completion of a Works Portion by the Date for Practical Completion for that Works Portion;

(ii) it considers to be, in the context of the Project, of material interest to a Principal Party;

(iii) may involve a material breach of any relevant Project Document; or

(iv) may involve a material dispute between any party to any relevant Project Document or any other person in relation to a relevant Project Document or the Project.

8. Fees

8.1 Payment by Developer

The Developer agrees to pay to the Independent Certifier, such fees and expenses as are separately agreed between the Developer and the Independent Certifier.

8.2 Authority not to pay

The Authority has no obligation to pay fees and expenses to the Independent Certifier for work carried out under this deed or any Project Document.

9. Representations and Warranties

The Independent Certifier represents and warrants that:

(a) it has been incorporated as a company limited by shares in accordance with the laws of its place of incorporation, is validly existing under those laws and has power and authority to carry on its business as it is now being conducted;

(b) it has power to enter into this deed and the Project Documents to which it is a party and comply with its obligations under each of it;

(c) this deed and the transactions under it which involve it do not contravene its constituent documents (if any) or any law or obligation by which it is bound or to which any of its assets are subject or cause a limitation on its powers (or, to the extent applicable, the powers of its directors) to be exceeded;

(d) it has in full force and effect the authorisations necessary for it to enter into this deed, to comply with the Obligations and exercise its rights under it, and allow it to be enforced;

(e) the Obligations are valid and binding and are enforceable against it in accordance with its terms;

(f) it benefits by entering into this deed;

(g) there are no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable;

(h) unless stated in this deed, it does not enter into this deed as trustee;

(i) there is no pending or threatened proceeding affecting it or any of assets before a court, governmental agency, commission or arbitrator except those in which a decision against it would be insignificant;

(j) it does not have immunity from the jurisdiction of a court or from legal process;

(k) it has the appropriate qualifications to undertake all of the certification requirements forming part of the Obligations; and

(l) it and all its representatives, employees, agents, contactors and consultants engaged in the performance of the Obligations possess, and will continue to possess, the appropriate experience, skill, qualifications and resources which are required to properly perform the Obligation.

10. Insurance

10.1 Own Risk

The Independent Certifier undertakes to carry out the Obligations entirely at its own risk.

10.2 Undertakings

The Independent Certifier undertakes as follows:

(a) it will obtain and maintain the Insurances;

(b) it will obtain and maintain such additional insurances, and make such variations to existing Insurances, as may reasonably be requested by the Principal Parties, promptly after that request;

(c) each Insurance policy will comply with the following requirements:

(i) the policy must contain provisions which are reasonably standard in the market for insurance of the type covered by the policy;

(ii) the insurers must be reputable, and approved by the Principal Parties;

(iii) the named insured on the policy (except where the policy is for professional indemnity and workers compensation insurance) must be the Principal Parties or such other persons as the Principal Parties reasonably require; and

(iv) the Insurance must at all times cover liability for an amount stated in Annexure B;

(d) each insurance policy must contain the following:

(i) the insurer must waive its right to set-off or reduce by way of counterclaim, or make any deduction or withholding, in relation to any payment to be made by it under any Insurances;

(ii) the insurer must waive its right to claim from the Principal Parties any insurance premiums, fees, commissions or the like;

(iii) the Insurances must continue unaltered in relation to each named insured, despite any act, omission, breach or misrepresentation by any other named insured or person;

(iv) each named insured may pay premiums not paid when due (in satisfaction of the premium due), but only the Independent Certifier has an obligation to do so;

(v) each named insured must have rights which are of the same nature and extent as they would have had had a separate policy been individually taken out by that named insured (subject to limits on liability);

(vi) the insurer must undertake to promptly notify the Principal Parties of:

A. cancellation or avoidance of any Insurances;

B. any change whatsoever of a restrictive nature which affects any Insurances;

C. any act or omission or any event which might invalidate an Insurance policy or render it unenforceable; or

D. any failure to pay an amount on account of premiums when due;

(vii) the insurer must undertake to notify each named insured of non-receipt of any renewal instructions no later than 5 Business Days prior to the due date for expiry of any Insurance;

(viii) despite the occurrence of an event referred to in paragraphs (vi) or (vii) above, the Insurances must continue unaltered for the benefit of the Principal Parties for a period of at least 20 Business Days after notice is given to the Principal Parties under either of those sub-paragraphs;

(ix) there must be no reduction of limits or coverage without the prior consent of the Principal Parties; and

(x) the insurer's obligations must be primary obligations, without right of contribution in respect of any other indemnity or insurance cap.

(e) it will provide the Principal Parties with:

(i) a true and complete copy of each Insurance policy, promptly after receipt of the policy by or on behalf of the Independent Certifier;

(ii) certificates of currency evidencing the maintenance of the Insurances, or a component of the Insurances, promptly after the Insurances (or a component) is or are renewed or extended;

(iii) it will give the Principal Parties a copy of any notice received by the Independent Certifier from any insurer in respect of Insurances, promptly after receipt; and

(iv) such other details in respect of Insurances as the Principal Parties may from time to time reasonably request, promptly after the request;

(f) it will pay when due all premiums, commissions, stamp duties, charges and other expenses incurred or payable in relation to Insurances, and give evidence of that payment to the Principal Parties;

(g) it will do all things necessary or desirable to maintain the Insurances in full force;

(h) not, without the Principal Parties' consent, vary, cancel or allow to lapse any Insurances;

(i) it will do all things reasonably necessary or desirable to permit or facilitate the collection or recovery of any moneys payable by the insurers under Insurances;

(j) it will not, without the consent of the Principal Parties do (or omit to do) anything which does or might (or the omission of which does or might) adversely affect the nature or extent of the rights of any named insured under Insurances, or extinguish, qualify or limit any obligations of the insurer in respect of any Insurances;

(k) it will immediately rectify anything which may have an adverse effect on the Insurances and reinstate any of the Insurances if it lapses;

(l) it will not, without the consent of the Principal Parties, do, or take any steps to, cancel, materially change or reduce the amount of coverage of any Insurances;

(m) it will not, without the consent of the Principal Parties:

(i) consent to any reduction in limits or coverage; or

(ii) enforce, conduct, settle or compromise any claims,

in respect of any Insurances, whether or not any of them cover other property; and

(n) it will notify the Principal Parties immediately when:

(i) an event occurs which gives rise or might give rise to a claim under or which could adversely affect any one of the Insurances; or

(ii) any one of the Insurances is cancelled.

10.3 Failure to produce proof of insurance

If after being requested in writing by the Authority to do so, the Independent Certifier fails to comply with its obligations under clause 10.2 to effect any of the insurances required to be effected and maintained pursuant to clause 10.2 the Authority may (acting in good faith and reasonably) (after giving the Independent Certifier 20 Business Days' prior notice of its intention to do so) effect and maintain the Insurances and pay the premiums. The Independent Certifier must pay to the Authority on demand a sum equal to the amount paid by the Authority.

11. Default

11.1 Certifier Default

(a) The Independent Certifier must ensure that no Certifier Default occurs.

(b) Each of the following is a Certifier Default:

(i) the Independent Certifier does not comply with or perform any of the Obligations;

(ii) the Independent Certifier becomes the subject of an Insolvency Event;

(iii) distress is levied or a judgment, order or Encumbrance is in force or becomes enforceable, against any property of the Independent Certifier for amounts totalling more than $*[insert amount]*;

(iv) a representation or warranty made by or for the Independent Certifier in connection with this deed or a Project Document is found to have been incorrect or misleading when made;

(v) the Independent Certifier ceases to carry on its business or material part of it; or

(vi) a person is appointed under legislation to manage any part of the affairs of the Independent Certifier.

11.2 Principal Default

(a) The Developer must ensure that no Principal Default occurs.

(b) A Principal Default occurs when the Developer does not pay on time any amount payable by it under this deed, unless there is a dispute between the Developer and the Independent Certifier regarding the amount or the subject of the amount to be paid.

11.3 Right to terminate

(a) Subject to paragraph (c), if a Certifier Default occurs and the default is not remedied by the Independent Certifier within 10 Business Days of notice of that default being given by any of the Principal Parties to the Independent Certifier, either of the Principal Parties may terminate the appointment of the Independent Certifier by giving not less than 10 Business Days' notice in writing to the Independent Certifier and each other Principal Party and the Principal Parties' obligations under this deed are terminated.

(b) If a Principal Default occurs and the default is not remedied within 20 Business Days of notice being given by the Independent Certifier to each Principal Party, the Independent Certifier may terminate this deed by giving not less than 20 Business Days' notice in writing to each Principal Party.

(c) A Principal Party may, without giving advance notice, terminate this deed by giving notice in writing to the Independent Certifier and each other Principal Party if an event described in clause 11.1(b)(ii) occurs.

(d) If the Project Development Agreement is terminated for the default of a Principal Party, this deed will also terminate on service of written notice to the Independent Certifier.

(e) If this deed is terminated as contemplated by clause 11.3(d), the Principal Party not in default may elect in writing to the Independent Certifier to enter into a new deed with the Independent Certifier but without the Project Development Agreement defaulting party, which will be in the same terms, mutatis mutandis as this deed, except that:

(i) for the avoidance of doubt, the Project Development Agreement defaulting party will not be a party; and

(ii) the Project Development Agreement non- defaulting party will have the obligation to pay the Independent Certifier for work done under the new deed; and

(f) Any termination of this deed under paragraph (d), does not disturb any existing rights of the parties arising prior to the date of termination.

11.4 Rights on termination

If the appointment of the Independent Certifier is terminated pursuant to:

(a) clauses 11.3(a) or 11.3(d), the Independent Certifier will only be entitled to payment from the Developer of all amounts due to it under clause 8, up to and including the date of termination; or

(b) clause 11.3(b), then the Independent Certifier will also be entitled to receive from the Developer its reasonable Costs arising from that termination.

11.5 Appointment of successor

(a) The termination of the appointment of the Independent Certifier under clause 11.3 will not be effective until the successor to the Independent Certifier is appointed by the Principal Parties in accordance with this clause 11.5.

(b) The Principal Parties must, prior to giving the notice of termination under clause 11.3(a), appoint a Replacement Certifier as the successor to the Independent Certifier.

(c) The Replacement Certifier must:

(i) be acceptable to the Principal Parties (acting reasonably);

(ii) enter into a deed with the Principal Parties on substantially the same terms and conditions as this deed; and

(iii) be a person who is able, in the reasonable opinion of the Principal Parties, to fully and properly perform and satisfy the Obligations.

(d) The Principal Parties agree to enter into the deed with the Replacement Certifier as contemplated under clause 11.5(c)(ii).

(e) In the event that the Principal Parties do not agree on the identity of the Replacement Certifier within 10 Business Days of the decision to terminate the appointment of the Independent Certifier, the Replacement Certifier will be determined in accordance with clause 12.6 of the Project Development Agreement.

11.6 Return of records

(a) Within 10 Business Days of the termination of its appointment, the Independent Certifier must:

(i) deliver to the relevant Principal Party or, at the direction of the relevant Principal Party, to the Replacement Certifier, all copies of Project Documents, all books, records, plans, specifications and other documents relating to the Obligations or the Project in the possession or control of the Independent Certifier (with the Independent Certifier being entitled to retain copies but only for insurance purposes); and

(ii) use its reasonable endeavours to ensure the representative of the Independent Certifier, its agents and sub contractors deliver such material to the relevant Principal Party or, at the direction of the relevant Principal Party, to the Replacement Certifier.

The Independent Certifier may not exercise any lien against any of the documentation referred to in this clause.

(b) In the event that its appointment is terminated, the Independent Certifier agrees that it will co-operate with and assist the Replacement Certifier to ensure an effective and smooth transition of its duties and obligations under this deed to the Replacement Certifier.

12. Costs

12.1 What the Independent Certifier agrees to pay

The Independent Certifier agrees to pay or reimburse the Principal Parties on demand for the Principal Parties' Costs in enforcing this deed, including legal costs in accordance with any written agreement as to legal costs or, if no agreement, on whichever is the higher of a full indemnity basis or solicitor or own client basis;

12.2 Payment for each Principal Party's Obligations

Each Principal Party agrees to pay for anything that it agrees to do under this deed.

13. Assignment

13.1 Assignment by the Independent Certifier

Except as set out in this deed the Independent Certifier may not assign or transfer its rights or obligations under this deed without the prior written consent of the Principal Parties (which may be given or withheld in their absolute discretion and with or without conditions).

13.2 Assignment by Authority

The Authority may at any time assign (in whole or part) its rights and obligations under this deed at any time to any entity which succeeds to the rights of the Authority under the Project Development Agreement and must promptly give the Independent Certifier written notice of any such assignment.

13.3 Assignment by Developer

The Developer may at any time assign (in whole or part) its rights and obligations under this deed at any time to any entity to which it assigns its rights under and in accordance with the Project Development Agreement and must promptly give the Independent Certifier written notice of any such assignment.

14. Notices

14.1 Form

Unless expressly stated otherwise in the Project Documents, all notices, certificates, consents, approvals, waivers and other communications in connection with a Project Document must be in writing, signed by an Authorised Officer of the sender and marked for attention as set out below or, if the recipient has notified otherwise, then marked for attention in the way last notified:

Authority

Name:	Barangaroo Delivery Authority
Address:	Level 3, 66 Harrington Street The Rocks NSW 20007
Fax:	[insert]
For the attention of:	[insert]

Developer

Name:	Lend Lease (Millers Point) Pty Limited
Address:	Level 4, The Bond 30 Hickson Road Millers Point NSW 2000
Fax:	(02) 9383 8138
For the attention of:	The Company Secretary

Independent Certifier

Name:	[insert]
Address:	[insert]
Fax:	[insert]
For the attention of:	[insert]

14.2 Delivery

Notices must be:

(a) left at the addresses referred to in clause 14.1;

(b) sent by prepaid post (airmail, if appropriate) to the addresses referred to in clause 14.1; or

(c) sent by fax to the fax number referred to in clause 14.1.

However, if the intended recipient has notified a changed postal address or changed fax number, then the communication must be to that address or number.

14.3 When effective

Notices take effect from the time they are received unless a later time is specified in them.

14.4 Receipt - postal

If sent by post, notices are taken to be received 3 Business Days after posting (or 5 Business Days after posting if sent to or from a place outside Australia).

14.5 Receipt - fax

If notices are sent by fax, they are taken to be received at the time shown in the transmission report as the time that the whole fax was sent.

14.6 Receipt - general

If notices are left at an address or received after 5.00pm in the place of receipt or on a non-Business Day, they are to be taken to be received at 9.00am on the next Business Day.

15. GST

15.1 Interpretation

(a) Except where the context suggests otherwise, terms used in this clause 15 have the meanings given to those terms by the A New Tax System (Goods and Services Tax) Act 1999 (as amended from time to time).

(b) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 15.

(c) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.

15.2 Reimbursements

Any payment or reimbursement required to be made under this deed that is calculated by reference to a Cost or other amount paid or incurred will be limited to the total Cost or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the Cost or amount relates.

15.3 Additional amount of GST payable

Subject to clause 15.5, if GST becomes payable on any supply made by a party (**Supplier**) under or in connection with this deed:

(a) any amount payable or consideration to be provided under any provision of this deed (other than this clause 15), for that supply is exclusive of GST;

(b) any party (**Recipient**) that is required to provide consideration to the Supplier for that supply must pay an additional amount to the Supplier equal to the amount of the GST payable on that supply (**GST Amount**), at the same time as any other consideration is to be first provided for that supply; and

(c) the Supplier must provide a tax invoice to the Recipient for that supply, no later than the time at which the GST Amount for that supply is to be paid in accordance with clause 15.3(b).

15.4 Variation

(a) If the GST Amount properly payable in relation to a supply (as determined in accordance with clause 15.3 and clause 15.5), varies from the additional amount paid by the Recipient under clause 15.3, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this clause 15.4(a) is deemed to be a payment, credit or refund of the GST Amount payable under clause 15.3.

(b) The Supplier must issue an adjustment note to the Recipient in respect of any adjustment event occurring in relation to a supply made under or in connection with this deed as soon as reasonably practicable after the Supplier becomes aware of the adjustment event.

15.5 Exchange of non-monetary consideration

(a) To the extent that the consideration provided for the Supplier's taxable supply to which clause 15.3 applies is a taxable supply made by the Recipient in the same tax period (**Recipient Supply**), the GST Amount that would be otherwise be payable by the Recipient to the Supplier in accordance with clause 15.3 shall be reduced by the amount of GST payable by the Recipient on the Recipient Supply.

(b) The Recipient must issue to the Supplier an invoice for any Recipient Supply on or before the time at which the Recipient must pay the GST Amount in accordance with clause 15.3 (or the time at which such GST Amount would have been payable in accordance with clause 15.3 but for the operation of clause 15.5(a)).

15.6 Indemnities

(a) If a payment under an indemnity gives rise to a liability to pay GST, the payer must pay, and indemnify the payee against, the amount of that GST.

(b) If a party has an indemnity for a cost on which that party must pay GST, the indemnity is for the cost plus all GST (except any GST for which that party can obtain an input tax credit).

(c) A party may recover payment under an indemnity before it makes the payment in respect of which the indemnity is given.

15.7 No merger

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

16. General

16.1 Prompt performance

If this deed specifies when the Independent Certifier agrees to perform an obligation, the Independent Certifier agrees to perform it by the time specified. The Independent Certifier agrees to perform all other obligations promptly.

16.2 Consents

The Independent Certifier agrees to comply with all conditions in any consent the Principal Parties give in connection with this deed.

16.3 Certificates

The Principal Parties may give the Independent Certifier a certificate about an amount payable or other matter in connection with this deed. The certificate is sufficient evidence of the amount or matter, unless it is proved to be incorrect.

16.4 Set-off

The Principal Parties may set off any amount due for payment by the Principal Parties to the Independent Certifier against any amount due for payment by the Independent Certifier to the Principal Parties under this deed.

16.5 Discretion in exercising rights

The Principal Parties may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this deed expressly states otherwise.

16.6 Partial exercising of rights

If the Principal Parties do not exercise a right or remedy fully or at a given time, the Principal Parties may still exercise it later.

16.7 No liability for loss

The Principal Parties are not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right or remedy except to the extent of any negligence or fraud by any Principal Party.

16.8 Conflict of interest

The Principal Parties' rights and remedies under this deed may be exercised even if this involves a conflict of duty or the Principal Parties have a personal interest in their exercise.

16.9 Remedies cumulative

The Principal Parties' rights and remedies under this deed are in addition to other rights and remedies given by law independently of this deed.

16.10 Other Encumbrances or judgments

(a) This deed does not merge with or adversely affect, and is not adversely affected by, any of the following:

(i) any Encumbrance or other right or remedy to which the Principal Parties are entitled; or

(ii) a judgment which the Principal Parties obtain against the Independent Certifier in connection with this deed.

(b) Notwithstanding paragraph (a), the Principal Parties may still exercise their rights under this deed as well as under the judgment, the Encumbrance or the right or remedy.

16.11 Inconsistent law

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

16.12 Supervening legislation

Any present or future legislation which operates to vary the obligations of the Independent Certifier in connection with this deed with the result that the Principal Parties' rights, powers or remedies are adversely affected (including by way of delay or postponement) are excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

16.13 Variation and waiver

Unless this deed expressly states otherwise, a provision of this deed, or right created under it, may not be waived or varied except in writing signed by the party or parties to be bound.

16.14 Confidentiality

All information provided by one party to another party under this deed or a Project Document and which is identified as confidential at the time it is provided, or which by its nature is confidential, must not be disclosed to any person except:

(a) with the consent of the party providing the information;

(b) if allowed or required by law or required by any stock exchange;

(c) in connection with any legal proceedings relating to this deed or any Project Document;

(d) if the information is generally and publicly available; or

(e) to employees, legal advisers, auditors and other consultants to whom it needs to be disclosed.

The recipient of the information must do all things necessary to ensure that its respective employees, legal advisers, auditors and other consultants keep the information confidential and not disclosed it to any person.

16.15 Further steps

The Independent Certifier agrees to do anything the Principal Parties ask (such as obtaining consents, signing and producing documents, producing receipts and getting documents completed and signed):

(a) to bind the Independent Certifier and any other person intended to be bound under this deed; or

(b) to show whether the Independent Certifier is complying with this deed.

16.16 Each signatory bound

This deed binds each person who signs as a party described in this deed even if another person who was intended to sign does not sign it or is not bound by it.

16.17 Counterparts

This deed may consist of a number of copies, each signed by one or more parties to the this deed. If so, the signed copies are treated as making up the one document.

16.18 Applicable Law

This deed is governed by the Law in force in New South Wales. The Independent Certifier and the Principal Parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

Annexure A - Obligations of Independent Certifier

[***Parties to agree an appropriate description of the further obligations required of the Independent Certifier.***]

Annexure B - Insurances (clause 10)

1. Third Party Legal Liability

Coverage: The legal liabilities of the Independent Certifier, the Principal Parties and their employees and agents to third parties for bodily injury and property damage and resulting loss of use arising from the or in connection with the Independent Certifier's Obligations under this deed and all other obligations under the relevant Project Documents.

The policy must permit the making of claims both during and at any time after the expiration of the Insurance Term.

Insurance Term: From the date of this deed until the issue of the Final Certificate for the relevant Works Portion.

Limit: A minimum of ***$[insert]*** for any one occurrence, (unlimited in any period of insurance) arising out of or in the course of or caused by the execution of the Works.

[Parties to agree to proposed amount for public liability insurance.]

1. Professional Indemnity

Coverage: The professional activities and duties of the Independent Certifier and its employees and agents in respect of its Obligations.

The policy must permit the making of claims both during and at any time after the expiration of the Insurance Term.

Insurance Term: From the date of this deed until 6 years from the issue of the Final Certificate for the relevant Works Portion.

Limit: A minimum of ***$[insert]*** for any one occurrence and in the aggregate subject to an automatic reinstatement.

[Parties to agree the amount for professional indemnity insurance.]

2. Workers' Compensation Insurance

Coverage: A suitable policy against any liability, loss, claim, demand, suit or proceeding, Costs and expenses arising at common law or under any statute (including the *Workers Compensation Act* 1987 (NSW)) or other legislative provision relating to workers compensation, as a result of personal injury or death of any person employed or taken to be employed by the Independent Certifier.

Insurance Term: From the date of this deed until the issue of the Final Certificate for the relevant Works Portion.

3. Other Insurances

Such other insurances as may be reasonably required by the Principal Parties from time to time which are obtainable with a reasonable premium (having regard to the nature of the risk to be insured against) including, without limitation, motor vehicle insurance covering third party property damage for all vehicles for a minimum of $*[insert amount]* for any one occurrence.

[Parties to agree to the amount for professional indemnity insurance.]

Insurance Term: From the date reasonably required by the Principal Parties until the issue of the Final Certificate for the relevant Works Portion.

Executed as a deed.

The seal of **Barangaroo Delivery Authority** is affixed by authority of the Chief Executive Officer in the presence of:

Signature of authorised person	Signature of authorised person
Name of authorised person	Name of authorised person
Office held	Office held

Executed by **Lend Lease (Millers Point) Pty Limited ABN 15 127 727 502** in accordance with section 127 of the Corporations Act by or in the presence of:

Signature of Secretary/other Director	Signature of Director or Sole Director and Secretary
Name of Secretary/other Director in full	Name of Director or Sole Director and Secretary in full

Executed by **[Independent Certifier] ABN [number]** in accordance with section 127 of the Corporations Act by or in the presence of:

Signature of Secretary/other Director	Signature of Director or Sole Director and Secretary
Name of Secretary/other Director in full	Name of Director or Sole Director and Secretary in full

Annexure F – Development Program

Substantial Commencement, Practical Completion and Public Domain Milestones (GFA Milestones)

Milestone Date	Proposed - Annual GFA Substantial Commencement Milestone (in m²)	Proposed - Cumulative GFA Substantial Commencement Milestone (in m²)	Proposed - Annual GFA Practical Completion Milestone (in m²)	Proposed - Cumulative GFA Practical Completion Milestone (in m²)	Proposed - Cumulative Value of Public Domain Works Practically Completed
30 June 2012	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
30 June 2013	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
30 June 2014	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
30 June 2015	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
30 June 2016	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
30 June 2017	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
30 June 2018	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
30 June 2019	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
30 June 2020	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
30 June 2021	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
30 June 2022	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
30 June 2023	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
30 June 2024	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
30 June 2025	0	430,275	30,275	430,275	[redacted]

Annexure G – Agreed Design Documents

Annexure H – Moral Rights Consent

Moral Rights Consent

In relation to any Moral Rights the [***Author***] (**Author**) has in respect of [***specify the relevant copyright work(s) - e.g. the relevant architectural plans***] (**Copyright Works**), the Author hereby consents to [***Developer***] (**Developer**) and the Barangaroo Delivery Authority (**Authority**), doing or authorising the doing of the following acts or making or authorising the making of the following omissions (whether occurring before or after this consent is given) anywhere in the world:

(a) exercise any rights in relation to the Copyright Works, without identifying any person as the individual responsible for creating any particular material comprising the Copyright Works;

(b) have the Copyright Works bear the name of Barangaroo or such other address of that property, or bear the name of the Developer, the Authority or any other person associated with the development of that property; and

(c) modify, alter, adapt, distort or otherwise change any of the Copyright Works as it sees fit in its absolute discretion, including:

(i) by adapting or translating those Copyright Works into other dimensions, format or media; and

(ii) by changing, relocating, demolishing or destroying any 2 or 3 dimensional reproduction of those Copyright Works without notice to, or consultation with, the Author.

The Author acknowledges that the Developer and the Authority will be relying on the consents in this document and that those consents are intended to be legally binding.

Dated

Signed by [**Author**] in the presence of:

_____
Signature

_____
Signature of Witness

_____
Name of Witness in full

Annexure I – Notice of Acceptance of Call Offer

TO: Barangaroo Delivery Authority (**Authority**)

[***Insert Nominee Details***] (as the Nominee of the Developer) accepts the offer made in the Project Development Agreement between the Authority, the Developer and the Guarantor dated [***insert***] to lease the [***insert description of the Premises***] to the Developer's Nominee).

Dated:

[***Insert appropriate execution clause for the Nominee***]

Annexure J – Notice of Acceptance of Put Offer

TO: Lend Lease (Millers Point) Pty Limited (**Developer**)

Barangaroo Delivery Authority (**Authority**) accepts the offer made in the Project Development Agreement between the Authority, the Developer and the Guarantor dated [***insert***] to require the Developer (or its Nominee) to lease the [***insert description of the Premises***].

Dated:

[***Insert appropriate execution clause for Barangaroo Delivery Authority***]

Annexure K – Developer Secured Area

SUSSEX STREET
SHELLEY STREET
LIME STREET
SITE SHEDS
ALTERNATIVE LOCATION
BLOCKS 1-4
CONSTRUCTION LICENSE
Approx. 360m
HICKSON ROAD
BLOCK 5 REMEDIATION - DECCW
BLOCK 5 REMEDIATION ZONE -
STAGING
SITE SHEDS
CURRENT PROPOSAL
SITE BOUNDARIES
BLOCK 5 REMEDIATION -
DECCW
BLOCK 5 REMEDIATION ZONE - STAGING
BLOCKS 1-4 CONSTRUCTION LICENSE
SITE SHEDS
1:800 @ B1 1:2000 @ A3
0 20 40 80 80M
BARANGAROO
Land Lease
Drawing Title
ANNEXURE K DEVELOPER SECURED AREA
Notes
- All planning configuration + figures noted are indicative only -
subject to review + design development
Date
17 February 2010
Drawing
LLd_ASK_0106
Issue
H

Annexure L – Management Committee Reports

The Reports set out below are to be provided in both electronic format ("soft" copy) and on paper ("hard" copy).

Title of Report	Frequency	Contents
Target development program	Quarterly	Actual progress compared to forecast. Extensions of time sought or obtained. Amendments to the program (if any).
Remediation and Vacation Program;	Quarterly	Updating
Development Application Quarterly description and status of Significant Applications	Quarterly	Description and status of Significant Application
Public Domain (Unscoped)	Quarterly	Staging of the Public Domain Works Portion. Information is to be provided for each stage on a summarised project level being: • Commencement of work • Progress of work • Completion/commissioning of work
Marketing	Quarterly	Proposed Marketing activities for Barangaroo for the following 12 months.
Social Plan	Every 2 Years	Information to the extent necessary to satisfy the Developer's social sustainability obligations under clause 9.17.
Climate Positive Work Plan/World's Best Practice	Every 2 Years	Information to the extent necessary to satisfy the Developer's obligations under clause 9.
Utilities	Quarterly	Update of progress meetings
Project Reports	Monthly	Specific project reports on topics requiring Management Committee approval
Authorities	Monthly/Quarterly	Initially during planning period provide regular updates on all discussions with the Department of Planning and Environment pre application
Administration of PDA	Monthly	Administration matters as required by the PDA including reports on achieving Milestones as against Milestone Dates and noting whether there is an event which may materially and adversely impact on the progress of achieving the Milestones by the Milestone Dates

Annexure M – Current Climate Positive Work Plan

Barangaroo South
Climate Positive Work Plan

September 2012

Lend Lease

DOCUMENT CONTROL	NAME / DATE
Document version number	Version 8
Document drafted by	Anita Mitchell & Ceinwen Kirk
Document reviewed by	Andrew Wilson, Stephanie Rogers
Document approved for issue	3 October 2012
Document submitted to Management Committee for approval	4 February 2011 Resubmitted for review 5 April 2012 Resubmitted for review post ARUP's review as Expert Sustainability Certifier 3 October 2012
Document approved by Management Committee	

TABLE OF CONTENTS

Table of Contents 3

Executive Summary 1

Introduction & Structure 2

Certification & Project Benchmarking 7

Reporting & Governance 8

1.0 Carbon Neutral 13

2.0 Water Positive 32

3.0 Zero Waste 40

4.0 Community Wellbeing 46

5.0 Sustainability in Delivery 72

APPENDIX A – Updated estimates of sustainability metrics 76

APPENDIX B – Current Climate Positive Work Plan Program 81

EXECUTIVE SUMMARY

Barangaroo South aims to be a world leading example of sustainability in a mixed use development. The aspirations of the project are focused on achieving outcomes in the following areas:

- carbon neutral;
- water positive;
- zero waste; and
- community wellbeing;

The purpose of this Climate Positive Work Plan is to inform the Barangaroo Delivery Authority of how the Project will be undertaken to ensure that the Climate Positive Benchmarks and social sustainability and other initiatives will be met or exceeded, within the Climate Positive Relevant Dates and other stated milestones.

An updated snapshot of the current sustainability metrics for Barangaroo South is contained in Appendix A.

This Work Plan provides a framework for actions to be taken over the design, construction and operational phases of Barangaroo South to achieve the climate positive strategy. The Work Plan is intended to be a living document and will be updated as design progresses, construction progresses and when the project moves into the operational phase.

The implementation of that part of the Work Plan which is relevant for the next 12 month period is outlined in Appendix B.

Our ultimate aim is to deliver on the Climate Positive Benchmarks and to bring our project partners and stakeholders on the journey to achieve a world leading sustainability outcome for Barangaroo South and in the process to reap the benefit of this through tenant / resident attraction, reduced resource dependency and demonstrating Barangaroo and Lend Lease's ongoing leadership in this area.

INTRODUCTION & STRUCTURE

This Climate Positive Work Plan builds on strategies developed through the early phases of the Project as communicated in Returnable Schedule 5 of the final Request for Detailed Proposal

The terms used in this Work Plan correspond to the definitions and terminology used in the Project Development Agreement entered into between the Barangaroo Delivery Authority and Lend Lease (Millers Point) Pty Limited on 5 March 2011 as amended from time to time (PDA).

Throughout this Work Plan reference is made to the PDA in order to explain the background to and detail of the various sustainability commitments. This Work Plan does not attempt to repeat all the detail of the PDA, and for completeness should be read in conjunction with the PDA. However, in an effort to make this document more easily understood, the Work Plan at times summarises elements of the PDA in an effort to convey the appropriate meaning and context.

Key concepts relevant to this document are outlined below:

PROGRAMME

The PDA specifies a number of Climate Positive Relevant Dates or milestones during the development period against which the various climate positive commitments are to be measured.

The three most significant Climate Positive Relevant Dates are:

- First : [redacted] after the Date of Practical Completion of the first Works Portion comprising a Building;
- Second: the Milestone Date relevant to Practical Completion of Works Portions having an aggregate GFA of not less than [redacted] m2;
- Third: the Milestone Date relevant to Practical Completion of Works Portions having an aggregate GFA of not less than [redacted] m2.

In addition the further Climate Positive Relevant Dates relating specifically to achieving those Climate Positive Benchmarks relevant to carbon are:

- [redacted] to enter discussions with the City of Sydney regading a distrrcit based cooling/blackwater solution;
- [redacted] to provide the Authority with a feasibility study outlining the viability of off site renewable energy generation;
- Prior to the Date of Practical Completion of a Works Portion for Green Star Design Ratings; and
- [redacted] after the Date of Practical Completion of a Works Portion for Green Star As built Ratings;

Finally, there is a further requirement to measure the greenhouse gas emissions generated in connection with the use (but not the fitting out) of those Works Portions comprising GFA which have achieved Practical Completion on [redacted] of each year, commencing on [redacted] next occurring after [redacted] from the Date of Practical Completion of the first Building.

To capture these requirements and ensure compliance, this Climate Positive Work Plan includes a programme showing the planned delivery of each of the requirements relevant to the Project over the next 12 months. Given the flexibility required by this Work Plan, the programme will be updated and enhanced from time to time as appropriate.

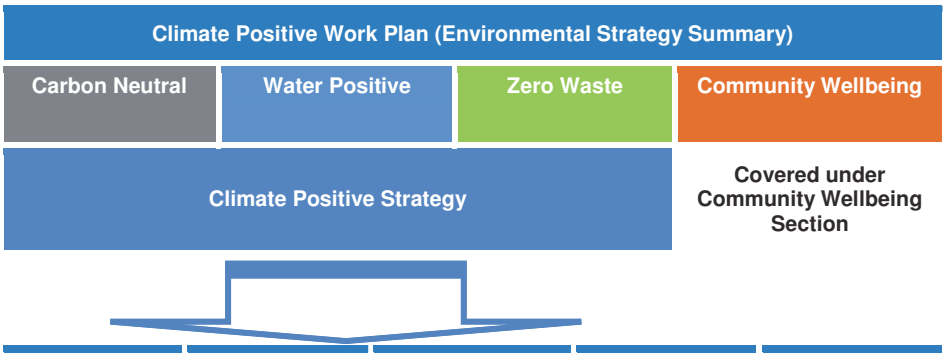
BENCHMARKS

The key sustainability commitments in the PDA are referred to as the Climate Positive Benchmarks and are structured around the three key elements:

- Carbon;
- Water ; and
- Waste

Each element has a number of Climate Positive Benchmarks that have been developed having specific regard to these key ambitions and targets for the Project.

The Climate Positive Work Plan has been structured around these three critical climate positive strategies: Carbon Neutral, Water Positive and Zero Waste with Community Wellbeing covering the social sustainability aspects of the development. This is consistent with the Authorities format for the whole of the Barangaroo site's sustainability plans.



Objectives	Carbon Neutral	Water Positive	Zero Waste	Sustainability in Delivery	Reporting / Engagement
Actions / Plans	Energy efficiency and climate change adaptation in design	Water efficiency in design	Sustainable consumption and waste minimisation / education initiatives	Waste recycling plans to achieve 97% diversion from landfill	Regular performance reporting every 2 months
	On site renewable and low carbon energy strategies	Recycled water treatment and reticulation plans, including export for offsite use	Waste storage and collection to make it easy to segregate and maximise recovery	Green Travel Plan - construction	Public reporting annually
	Off site renewable energy / RECs and Offset strategy	Rainwater harvesting plans	Appoint single site waste collector and processor to achieve >80% diversion from landfill	Site establishment sustainable design strategy	Certification of the Climate Positive Work Plan and its implementation every 6 months
	Green Travel Plan and public transport plans	Showcase central plant for education of visitors	Extend waste recycling process to surrounding areas to achieve net zero waste	Construction Community Engagement	Work with the City of Sydney to integrate with 2030 Strategy
	Embodied carbon reduction strategy	Stormwater treatment and discharge plans			Participate in Clinton Climate Initiative program
	Supply chain filter				Update plan biennially
	Green Star and NABERS strategies				
	Eco footprint / carbon footprint and Life Cycle Assessment				

INITIATIVES

In addition to the Climate Positive Benchmarks, there are a variety of other sustainability related initiatives that address other specific targets and goals particularly relating to the following elements:

- Community Wellbeing,
- Information & Communication Technologies,
- Materials,
- Landscape and biodiversity,
- Health & Well being
- Transport and
- Other Sustainability Goals.

These initiatives have been specifically drafted to capture the additional key targets being pursued for the Project.

DELIVERING THE CLIMATE POSITIVE WORK PLAN THROUGH THE ACTION PLAN

Lend Lease will implement its global sustainability framework, the Sustainability Explorer, to manage the detailed delivery of the Climate Positive Work Plan through a series of comprehensive Action Plans This framework will also be utlised to communicate our sustainability goals and actions to the public.

The Sustainability Explorer utilises twelve categories around which projects frame their sustainability action plans. These are outlined below.

Energy Efficiency

Nature

Energy Sources

Social

Water

Economy

Building Materials

Transport

Waste

Communities

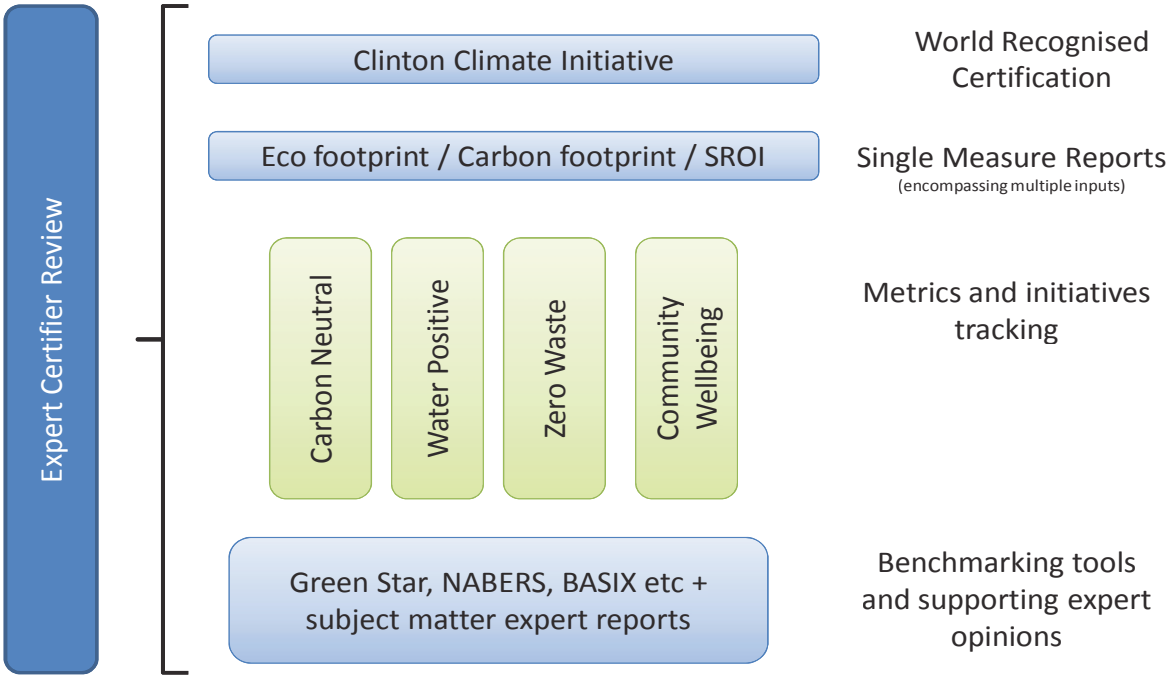
Health & Wellbeing

Shared Infrastructure

CERTIFICATION & PROJECT BENCHMARKING

In order to ensure that the Climate Positive Work Plan, Climate Positive Benchmarks and associated initiatives continue to be appropriate and that the implementation of the Work Plan is regularly reviewed by independent experts, the following certification and benchmarking process will be implemented:

MATRIX OF BENCHMARKING AND CERTIFICATION MEASURES



As shown above, a combination of world recognized certification through the Clinton Climate Initiative's Climate Positive Development Program, followed by measurement reports, intitiatives and metrics tracking will be supported by expert reports or other supporting certifications. An Expert Sustainability Certifier will utilize and review all of these materials to certify (or otherwise) the implementation of the Work Plan in accordance with the PDA.

In addition, the Expert Sustainability Certifier will review the Work Plan against international best practice standards in the area of environmental sustainability for projects of the size and complexity of Barangaroo South and provide advice on where the Work Plan and the Climate Positive Benchmarks may need to be revised over time.

As outlined in the reporting section below, public reporting, combined with this rigorous and transparent independent assessment process will maximise industry and community engagement and confidence in the Project.

REPORTING & GOVERNANCE

A significant part of this Climate Positive Work Plan is our communication and reporting strategy for Barangaroo South. Through a combination of short and long term transparent reports on the progress of achieving the Climate Positive Benchmarks and social sustainability initiatives, we will keep the Authority thouroughly informed.

In addition Lend Lease aims to communicate reporting that allows the community and the broader industry to both understand our sustainability journey and to also learn from the solutions achieved through the sustainability strategy at Barangaroo South.

REQUIREMENTS

The strict PDA reporting requirements will be complied with throughout the life of the Project and to manage compliance, have been mapped on the sustainability programme for Barangaroo South.

Clause 9.7 a)

- The Developer may update the Climate Positive Work Plan from time to time and must update the Climate Work Plan at least every 2 years.

Clause 9.8 c)

- At intervals of not less than every 2 years from the Commencement Date (March 5th, 2012), the Developer must submit a report to the Management Committee (supported by reports from relevant Expert Sustainability Certifiers) addressing whether the Climate Positive Benchmarks need to be revised and improved having regard to world's best practice standards in respect of environmental sustainability at that time. Such report is to include developments worldwide relevant to the Climate Positive Benchmarks to ensure the Management Committee is properly informed as to world's best practice in the area of environmental sustainability.

Clause 9.9 a)

- On the date which is 6 months after the Management Committee's approval of the first draft Climate Positive Work Plan and every 6 months thereafter, the Developer must provide to the Management Committee a detailed report (supported by certification reports from relevant Expert Sustainability Certifiers provided annually) in relation to the status of the implementation of the Climate Positive Work Plan by the Developer including identifying (as at the date of that report):

  (i) those sections of the Climate Positive Work Plan being fully complied with and implemented;

  (ii) those sections of the Climate Positive Work Plan not being fully complied with and the extent of that non-compliance;

  (iii) the effect on the Climate Positive Benchmarks of any non-compliance with the Climate Positive Work Plan;

  (iv) any foreseeable non-compliance or non-implementation of any part of the Climate Positive Work Plan;

  (v) in respect of each actual or foreseen non-implementation or noncompliance of any part of the Climate Positive Work Plan, a cure plan which proposes to remedy (and mitigate the effects of) any actual or foreseen failure to implement or comply with any part of the Climate Positive Work Plan and which includes:

    a) a detailed program to remedy and mitigate the effects of any non-compliance or non-implementation and to prevent recurrence of the events which led to such non-compliance or non-implementation; and

b) full details of all that must be done in relation to the proposed remedial and mitigation proposals;

(vi) any component of the Climate Positive Work Plan or the Climate Positive Benchmarks that should be updated to accommodate:

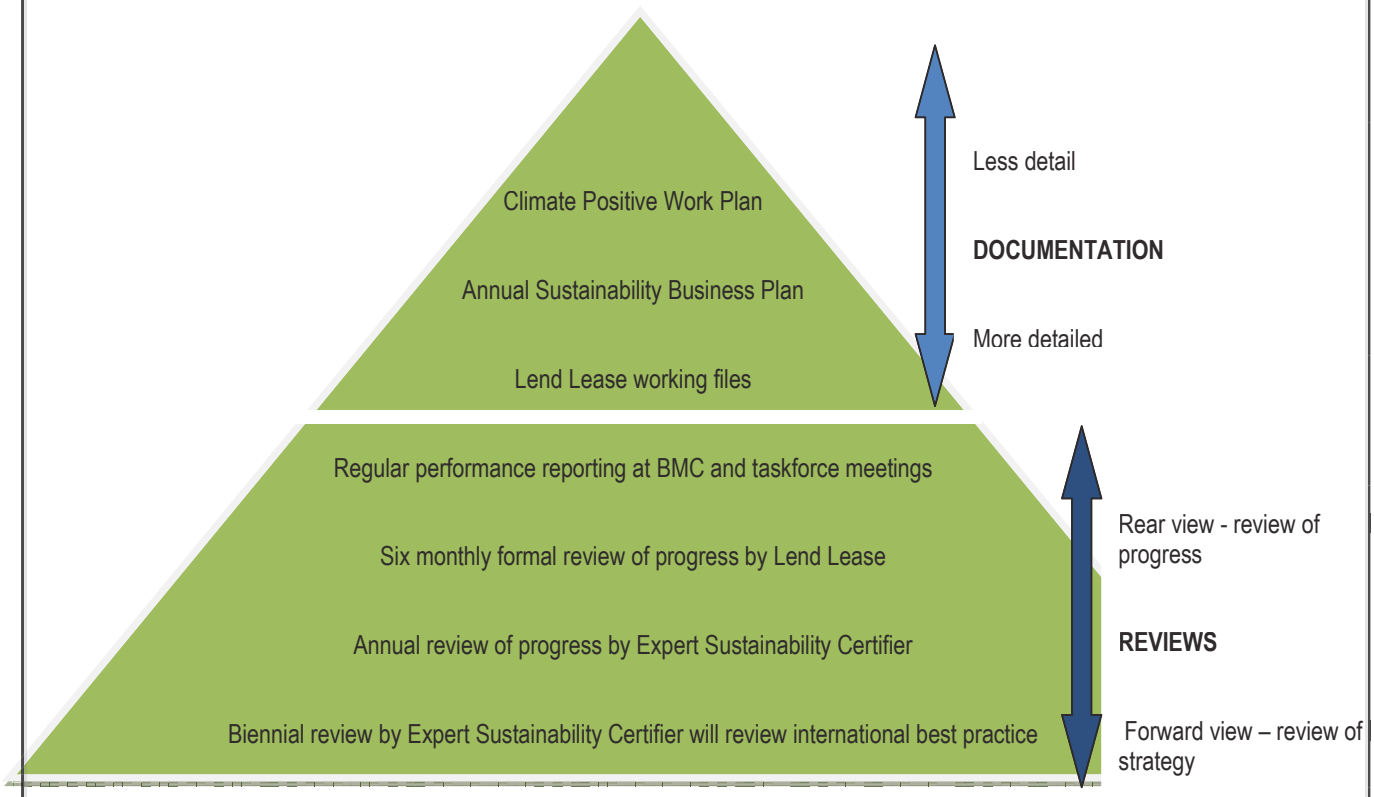
a) variables affecting the Site (excluding that part of the Site comprising any part of Hickson Road, Block 5 or Block 6),Barangaroo or properties adjoining or in the vicinity of Barangaroo; or

b) any change in world's best practice in respect of environmental sustainability since the date the Climate Positive Work Plan was last updated by the developer (taking into account the requirements of clauses 9.8 and 9.8A).

INITIATIVES

It is acknowleged that this Climate Positive Work Plan provides only an outline of the sustainability strategies that will be implemented to satisfy the PDA requirements. In effect, the Climate Positive Work Plan is the top of the pyramid of documentation that outlines Lend Lease's action plan for sustainability at Barangaroo South. Below this sits numerous working documents including plans, drawings, budgets, briefs, reports, models and additional documentation that will be reviewed by the Expert Sustainability Certifier in their annual review of progress against the Climate Positive Work Plan. As it is impossible to document each of these working files in this plan, Lend Lease, ARUP as the Expert Sustainability Certifier and the Authority have agreed to the following review process to ensure oversight and good governance:

Heirarchy of Documentation and Review Processes



CROSS REFERENCES TO SUPPORTING DOCUMENTATION

Clause 9.4 of the PDA lists a number of requirements that must be addressed in the Climate Positive Work Plan. After discussion with the Authority and the Expert Sustainability Certifier, it has been agreed that as some of these requirements are addressed in other documents that exist between the Authority and Lend Lease, that these documents should be listed and cross referenced here to satisfy the PDA. These requirements and the relevant references are copied in the table below:

PDA Requirement from Clause 9.4	Documents Where this Item is Addressed Outside of the Climate Positive Work Plan
Procurement and approval regime	Overall planning and construction program and 1 year look ahead
Critical milestone dates and activities	Overall program and 1 year look ahead
On-going maintenance and operation	Barangaroo Management Plan and Ground Lease
The staged delivery of the Project	Overall program and 1 year look ahead
The proposed consultation arrangements with relevant Public Authorities and relevant utility providers	Integrated Services Infrastructure Plan Technical Working Groups : • Planning (Department of Planning, Barangaroo Deliveryy Authority, City of Sydney, Department of Housing, Environment Protection Authority, Roads and Maritime Services). • Servicing Strategies (Ausgid, Jemena, Sydney Water, Telcos). • Licencing (EPA, IPART)
Proposed access rights to third parties for water, energy and cooling	Integrated Services Infrastructure Plan Barangaroo Management Plan Central Plant Leases and Ground Lease
Anticipated basis of generating income from the provision of energy, water and other services to occupants of Barangaroo, including by the grant of concessions to third parties	Barangaroo Management Plan Central Plant Leases and Ground Lease

ONGING MONITORING AND COMMUNICATIONS

As outlined above, to ensure effective oversight of the Climate Positive Work Plan, it is proposed that a Taskforce be formed and meet bi-monthly to discuss the implementation of the Work Plan and track progress against its various requirements. This task force will also review the six monthly, annual and biennial reviews to review both progress but also to reassess the strategic direction of progress.

ARUP as the Expert Sustainability Certifier will keep a log of all evidence sighted in their annual review of progress against the Climate Positive Work Plan. This will form an ongoing log of working files that serve as document registers for the certification of progress and proof of satisfying PDA obligations.

In addition, public reports will be developed and will be coordinated with the Authority and the Expert Sustainability Certifier so as to provide consistent reporting across the whole of the Barangaroo site.

REPORTING ACTION PLAN

ACTION	MECHANISM	COMPLETED BY	WHO	DOCUMENTED
Provide regular reports to the Authority against the Climate Positive Work Plan	▪ Report of progress and compliance with the Climate Positive Work Plan ▪ Report at each climate positive relevant date including any issues arising, non compliances and remedies being employed to address non-compliances	[redacted]	Prepared by Lend Lease	Evidence: Report
Review currency of and if required, update the Climate Positive Work Plan	▪ Review currency of Climate Positive Work Plan so that the project represents world's best practice standards in the area of environmental sustainability for projects of the size and complexity of the Project taking into account the economic and environmental sustainability of the project		Prepared by Lend Lease	Evidence: Report
Report publicly on progress against the sustainability aspirations of the development	▪ Prepare public annual sustainability report for the development including any issues arising, non compliances and remedies being employed to address non-compliances. ▪ The public sustainability report will also share lessons learnt to encourage industry innovation		Prepared by Lend Lease	Evidence: Report

1.0 CARBON NEUTRAL

1.1 BACKGROUND

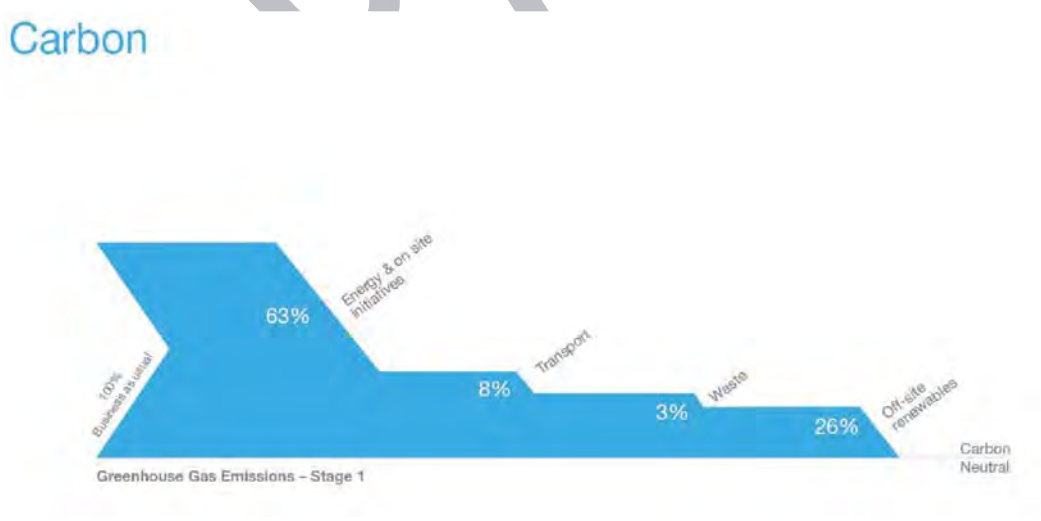
The United Nations Sustainable Buildings and Construction Initiative estimates that buildings are responsible for 40% of the total global greenhouse gas emissions. In Australia, due to the fact that the majority of our electricity is generated by coal-fired power stations, the per capita carbon dioxide emission rate is particularly high (contributing to a per-capita Ecological Footprint ranked 6th highest in the world).

In relation to the reduction of greenhouse gas emissions, the overall target for the Barangaroo site as a whole is to create a carbon neutral precinct when measured across operational energy, transport and waste components. Through achieving the Climate Positive Benchmarks for carbon, Lend Lease's strategy for Barnagaroo South will support this aspiration.

1.2 GREENHOUSE GAS EMMISSIONS REDUCTION

Over time, our carbon strategy for Barangaroo South aims to achieve zero net carbon emissions in operation (including operational waste and related transport modes defined as journeys to and from work) through energy efficiency and a combination of on and offsite renewable energy generation combined with Gold Standard carbon offsets.

The operational carbon and energy reduction strategies are shown in the figures below



Energy use will be the single largest contributor to the Greenhouse Gas Emissions from the site followed by Transport with Waste related emissions reductions assisting the achievement of carbon neutrality.

The key onsite initiative is the goal of working cooperatively with the Authority to achieve a 75% reduction in building energy carbon through efficienct building design, centralized precinct infrastrure and low carbon energy

production as compared to a NABERS office 2 star whole building rating (defined as business as usual as part of the bid evaluation).

Energy Related Greenhouse Gas Emission Reduction

Energy related greenhouse gas emissions are intended to be reduced from a business as usual "BAU" level through improved building performance including:

- more efficient building design;
- centralised precinct infrastructure that provides more efficient air conditioning in particular through central chilled water reticulation and
- Other forms of centralised low carbon energy solutions

On -site renewable energy will be installed to offset carbon generated from public domain lighting and onsite sewage treatment.

The remainder of energy related greenhouse gas emissions reductions will be offset through the purchase and voluntary retirement of Renewable Energy Certificates (RECs) and Gold Standard carbon offsets.

The RECs to be purchased are to encourage new offsite renewable energy generation within NSW and Gold Standard carbon offsets funding relevant, preferably local, carbon offset projects. The site in general will also benefit from the greening of the electricity grid connected energy during the life of the development as a result of the federal government's renewable energy target of 20% by 2020.

Transport Greenhouse Gas Emission Reductions

In line with the commitment to reduce carbon emissions associated with Barangaroo South, the transportation strategy for Barangaroo South aims to achieve a targeted mode split of only 4% of journey to work trips by car and zero net carbon emissions associated with travel to and from work. In order to achieve this, the following overall mode split targets for Barangaroo South for journeys to work are as noted in the table below. This table also includes the business as usual (BAU) mode split[1].

Table 1: BAU & Target Mode Splits[1]

Transport Mode Share	2008 - Benchmark	Target 2018
Bus / Light Rail	21%	20%
Train	47%	63%
Ferry	2%	1%
Public Transport	**70%**	**84%**
Pedestrian/Cycle/Other	11%	12%
Car	19%	4%

[1] Refer "Modified Concept Plan Traffic Report" prepared by Masson Wilson Twiney dated 3 July 2008

These targets represent world's best practice for the development of a new urban precinct adjacent to an existing CBD.

This mode split can be achieved through the consideration of the following:

- Road Network – adequate access while not degrading current CBD traffic performance;
- Parking – restricted on-site supply to ensure the mode share targets are achieved;
- Pedestrians – a dedicated tunnel link to Wynyard to support major access on foot as well as some surface routes;
- Rail – integration with the proposed the Western Express City Relief Line and existing rail services at Wynyard;
- Buses – the potential for new services to Barangaroo South, including supporting infrastructure;
- Waterfront – an active harbour frontage; and
- Cycling – new bike paths and centralised bike facilities to encourage cycling in and to the precinct.

With the provision of significant transport infrastructure being controlled by various Government agencies, Lend Lease will collaborate with the Barangaroo Delivery Authority and other Government agencies in order to plan these transport connections for Barangaroo South.

The residual greenhouse gas emissions associated with journeys to work will be offset by carbon offsets to produce a carbon neutral outcome.

Waste Greenhouse Gas Emissions

Waste greenhouse gas emissions only account for 3% of the total carbon footprint of the precinct on a business as usual basis. Through a combination of waste minimisation, source segregation and advanced waste treatment technologies including energy recovery, the waste related greenhouse gas emissions will be reduced to zero with no untreated waste going to landfill by the commencement of operation of the buildings. For more information on the waste strategy for Barangaroo, see Section 4.0 Zero Waste.

Materials Emissions

Althoughembodied carbon is not part of the carbon neutral commitment it is our intent to be a leader in reducing the embodied energy in the materials used at Barangaroo. Lend Lease's materials strategy for Barangaroo South will not only aim to reduce embodied carbon, but also protect occupant health, environmental biodiversity and natural resources. Our strategies go beyond the Green Star building rating process in order better understand, measure and reduce our impact.

The key outcomes from this strategy are to:

- Develop a carbon and eco footprint for the project
- Undertake a Life Cycle Analysis of the top 20 materials used on the site
- Reduce the embodied greenhouse gas emissions by 20% against a Business as Usual baseline
- Develop a stakeholder engagement strategy and materials selection process designed to
- Preserve natural resources
- Protect human health and ecosystems
- Support local industry and new innovative approaches

- Buildings to specify sustainable building materials to achieve 6 Star Green Star Commercial and 5 Star Green Star Multi Unit Residential and Retail As Built ratings
- Document and communicate our outcomes to the broader industry to leave a lasting legacy and inspire change.

1.3 STRATEGY

Our proposed carbon management strategy is based on the following processes:

c) Reduction in carbon emissions in the operation of the Barangaroo South precinct through optimising the design of the buildings and educating the Barangaroo community as to their role in reducing operational carbon emissions

d) Providing centralised infrastructure to further reduce carbon emissions across the development

e) Onsite low carbon energy generation and use of waste heat.

f) Sourcing renewable energy and Gold Standard carbon offsets to cover the energy demand for the precinct, including on-site renewable energy production equal to the public realm and blackwater treatment plant demand and off-site renewable energy for the residual energy demand

g) Reducing the embodied carbon in the built form by 20% based on standard construction practice

Our sustainable transport strategy for Barangaroo South consists of:

a) Integrated Transport Planning

b) Built Environment and Facilities – supporting a variety of transport modes

c) Travel Behaviour Changes – promoted through education and targeted initiatives.

d) Purchase of carbon offsets for the residual transport carbon.

Our proposed materials strategy is based on the following processes:

a) Measure the baseline of carbon and ecological footprint for the precinct

b) Analyse through a Life Cycle Analysis process how to reduce the embodied carbon by 20% focussing on the top 20 materials

c) Develop a stakeholder engagement strategy to ensure materials selection preserves natural resources, protects human health and ecosystems and supports innovation and local businesses

d) Document and communicate these outcomes to the broader industry to leave a lasting legacy and to inspire change

1.4 KEY INITIATIVES

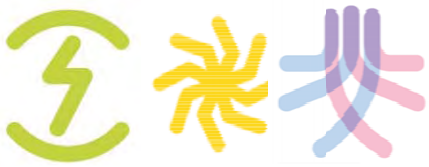
- Achieving a Green Star 6 Star Office As Built Rating and Green Star 6 Star Office Design Rating for commercial buildings
- Achieving a Green Star 5 Star Multi Unit Residential As Built Rating and Green Star 5 Star Multi Unit Residential Design Rating for residential buildings
- Achieving a Green Star 5 Star Retail As Built Rating and Green Star 5 Star Retail Design Rating for retail buildings that can be formally rated under the rating system certified by the GBCA
- Achieving a NABERS base building energy rating of 5 stars for Hotel buildings and where such a rating exists, achieve world's best practice Green Star rating for the Hotel
- Base building for office Buildings of 10,000m2 GFA or more has been designed and constructed to operate at no less than 25% better than the 5 Star NABERS Energy requirement (based on the NABERS Assumptions set out in the PDA)
- The average base building energy consumption (calculated on a GFA basis) for all office Buildings of over 10,000m2 achieves at least 30% better than the 5 Star NABERS Energy requirement (based on the NABERS Assumptions set out in the PDA)
- Implement extensive energy metering and sub metering to support energy monitoring
- Behavioural demand reduction supported by education of occupants
- Undertake a joint feasibility study with the Council of the City of Sydney concerning the provision of a district based energy solution for Barangaroo and the surrounding CBD.
- Subject to this study, provide space for a tri-generation plant and potential funding for a tri-gen facility
- Enter into discussions with the Council of the City of Sydney the possibility of district based heating, cooling and/or blackwater solutions for Barangaroo and the surrounding CBD.
- Producing more renewable energy on the site than is required to service public domain and the blackwater treatment plant
- Purchase and voluntary retirement of Renewable Energy Certificates and Gold Standard carbon offsets to cover the greenhouse gas emissions generated in connection with the operation of the precinct including transportation.

- Undertake a feasibility study on the viability of offsite renewable energy generation for Barangaroo
- Undertake a feasibility study of the Barangaroo residential solar initiative for 2300 homes in Sydney
- Undertake a feasibility study of the Barangaroo 23 MW solar farm initiative located in rural NSW
- Offsite renewable energy generation linked to site by real time monitoring and education initiatives
- Enter into a memorandum of understanding with the William J Clinton Foundation so as to enable the Project to be designated as a 'First Stage Development' and be part of a Climate Positive Developments Program
- Develop Barangaroo South precinct cycling and pedestrian strategy
- Seek a commitment from the NSW Government for the construction of a Barangaroo South ferry terminal wharf
- Provision for operating subsidy to Sussex bus service (subject to reaching agreement with relevant authorities)
- Develop a Travel Demand Management Plan
- Develop a Green Travel Plan for the Barangaroo South precinct
- Influence the development of public transport to benefit the Barangaroo precinct
- Completion of ecological footprint and carbon footprint reports and assessments
- Develop an engagement strategy for key stakeholders to support material selection initiatives and focussed on:

  (vii) the preservation of natural resources
  (viii) the protection of human health and ecosystems
  (ix) supporting local industry and innovative approaches (eg minority supply groups)
  (x) conduct a lifecycle analysis of the top 20 materials used on the site

- The reduction in the embodied carbon footprint for the buildings of 20% compared to standard construction practice.

ENERGY EFFICIENCY & ENERGY SOURCES / CARBON COMMITMENTS



The relevant Climate Positive Benchmarks and Climate Positive Initiatives relating to carbon management and reduction are set out below. The benchmarks relate to the key targets of the Barangaroo South development and the initiatives relate to a variety of supporting actions related to the development and areas beyond the Barangaroo South precinct:

In summary, the Climate Positive Benchmarks relating to carbon are:

CLIMATE POSITIVE BENCHMARKS - CARBON	MEASURED
6 Star Green Star for Office buildings	Works Portion
5 Star Green Star for Multi Unit Residential buildings	By Works Portion
5 Star Green Star for Retail buildings (if eligible for ratings)	By Works Portion
5 Star NABERS base building energy rating for Hotel buildings	By Works Portion
On site renewable energy to ate not less than the energy consumed by the public domain of Barangaroo South and th ckwater treatment plant servicing Barangaroo South	[redacted]
Subject to Cl 9.10 of the PDA, acqu nd voluntarily retire RECs equivalent to the GHG Emissions gene erations	[redacted]
Enter in ussions with the f Sydney to undertake a joint feasibility study for a district based en solution and contribu to $ towards the study	[redacted]
Subject to agreem n the above, make space available in the basement to accommodate a 8MW trigeneration pl nd contribute not less than $ toward the funding of this facility.	[redacted]
Enter into discussions with th of Sydney regarding the possibility of district based heating, cooling and blackwater solutions garoo and CBD	[redacted]
Prepare and provide to Barangaroo Delivery Authority, a feasibility study (to the value of $) for offsite renewable energy generation for Barangaroo.	[redacted]

In summary, the Climate Positive Initiatives related to carbon measurement and reductions are:

CLAUSE	INTIATIVE	MEASURED
9.13	Undertake an ecological footprint and carbon footprint for the development	[redacted]
9.13	Reducing the embodied carbon per sqm of the base building by 20%, these reductions are to be greater than the respective emissions generated in connection with the development and construction of the building (exclusive of offsite disposal of spoil)	Per building, [redacted]
9.13	The achievement of 75% of the initiatives relating to carbon as set out in Schedule 4 of the PDA: a) Offsite renewable energy generation linked to site by real time monitoring and education initiatives b) Behavioural demand reduction supported by education of occupants c) Work with the City of Sydney to investigate a district heating and cooling system d) Implement extensive energy metering and sub metering to support energy monitoring e) Identification of suitable offsite renewable energy projects to supply RECs for the precinct f) Undertake a feasibility study of the Barangaroo residential solar initiative for 2300 homes in Sydney g) Undertake a feasibility study of the Barangaroo 23 MW solar farm initiative located in rural NSW	[redacted]
9.13	Office base buildings (>10,000 m2 GFA) to be NABERS 5 Star + 25% at a minimum with an average of NABERS 5 Star +30% (based on the NABERS Assumptions set out in the PDA).	Per building, [redacted]
9.15	Enter into an MOU with the William J Clinton Foundation as part of the Climate Positive Development Program	
9.21	Work together with the Barangaroo Delivery Authority to target a 75% reduction in carbon emissions from operation of the buildings (as compared to business as usual) through building demand initiatives and in accordance with the PDA obligations.	

This section covers carbon management for the design and operational phase of the development only. Refer to the Sustainability in Delivery section for discussion of carbon minimisation and management approaches to be undertaken during the construction phase of the Project.

Carbon reduction initiatives are also outlined in the Transport, Waste and Materials sections of this plan. For ease of use, these initiatives have not been repeated in this section of the plan. For more detail on these initiatives refer to the relevant sections.

CARBON ACTION PLAN

ACTION	MECHANISM	COMPLETED BY	WHO	DOCUMENTED
Achieving a Green Star 6 Star Office As Built Rating and Green Star 6 Star Office Design Rating for commercial buildings 	▪ Ensure design of buildings meets these minimum standards ▪ Ensure construction of these buildings achieves the As Built ratings	[redacted]	Prepared by Lend Lease Approved by Green Building Council	Evidence: A schedule of GBCA ratings will be maintained for all buildings in the development.
Achieving a Green Star 5 Star Multi Unit Residential As Built Rating and Green Star 5 Star Multi Unit Residential Design Rating for residential buildings 	▪ Ensure design of buildings meets these minimum standards ▪ Ensure construction of these buildings achieves the As Built ratings		Prepared by Lend Lease Approved by Green Building Council	Evidence: A schedule of GBCA ratings will be maintained for all buildings in the development.
Achieving a Green Star 5 Star Retail As Built Rating and Green Star 5 Star Retail Design Rating for retail buildings that can be formally rated under the rating system certified by the GBCA 	▪ Ensure design of buildings meets these minimum standards ▪ Ensure construction of these buildings achieves the As Built ratings		Prepared by Lend Lease Approved by Green Building Council	Evidence: A schedule of GBCA ratings will be maintained for all buildings in the development.
Achieving a NABERS base building energy rating of 5 stars for Hotel buildings 	▪ Ensure design of buildings meets these minimum standards		Prepared by Lend Lease Approved by NSW DECCW	Evidence: A schedule of NABERS ratings will be maintained for all buildings in the development.