



Highway No 10
Design & Construction
of
Pacific Highway Upgrade

COOPERNOOK TO HERONS CREEK
(incorporating Coopernook to Moorland and Moorland to
Herons Creek projects)

PROJECT ALLIANCE AGREEMENT



Copy 1



**H10 PACIFIC HIGHWAY
UPGRADE**

**COOPERNOOK TO
HERONS CREEK**

**(Combined Coopernook to Moorland
and Moorland to Herons Creek
Projects)**

PROJECT ALLIANCE AGREEMENT

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**H 10 PACIFIC HIGHWAY UPGRADE COOPERNOOK TO HERONS CREEK
(Combined Coopernook to Moorland and Moorland to Herons Creek Projects)**

THIS AGREEMENT is made on 2ND APRIL 2007

PARTIES

Roads and Traffic Authority of New South Wales ABN 64 480 155 255 of
260 Elizabeth Street, Surry Hills, New South Wales (RTA)

The other parties to this Agreement set out in Part B of **Schedule 1** (each a **Non Owner Participant (NOP)**)

The Participants will generally be referred to as "We", "we", "our" or "us" in this Agreement, unless the context requires otherwise.

RECITALS

- A. RTA intends to upgrade the Coopernook to Herons Creek section of the Pacific Highway. This work will involve design and construction of a single continuous length of the Pacific Highway about 32 km between Coopernook and Herons Creek. The work will be focused on providing a high standard 4 lane dual carriageway highway. This will typically involve construction of two new carriageways located within or immediately adjacent to the existing Pacific Highway corridor and also includes deviations around the villages of Moorland, Johns River and Kew. The Alliance will aim to reuse existing highway assets into the upgraded highway where appropriate, such as some bridges, drainage structures and the existing highway formation. For the purpose of this Agreement, the work will be known as the Alliance Works.
- B. Completion of the Alliance Works is scheduled for December 2009, although sections of work may be progressively opened to traffic upon completion of those sections. We acknowledge that the Alliance Works must be completed by no later than 17 December 2009 to ensure that Commonwealth funding is retained. We recognise that completion of the Alliance Works within this period is:
- (a) a fundamental outcome to be achieved by the Alliance; and
 - (b) the primary reason why RTA has elected to proceed with the Project utilising an Alliance arrangement.
- C. We have agreed to form an Alliance for the purpose of carrying out the Alliance Works and to develop innovative solutions which aim to achieve outstanding outcomes and result in a win-win position for all of the Participants in performing the Alliance Works.
- D. We will use our best endeavours to ensure that the Alliance Works are carried out in a co-operative, co-ordinated and efficient manner so as to achieve the Alliance Objectives in compliance with the Alliance Principles.
- E. This Agreement sets out the Alliance Principles by which we are to carry out the Alliance Works so as to achieve the Alliance Objectives and the manner in which we will be reimbursed for that participation in the Alliance.

OPERATIVE PROVISIONS

1. OUR ROLES AND RESPONSIBILITIES

1.1 Our responsibilities

We are committed to:

- (a) adopting all reasonable measures to ensure that the Alliance Objectives are achieved;
- (b) conducting our activities under this Agreement in a way which is consistent with the Alliance Principles;
- (c) acting in an innovative way for the purpose of:
 - (i) meeting or exceeding the Alliance Objectives and fully complying with the Alliance Principles;
 - (ii) producing outstanding results for the Project;
 - (iii) ensuring that the Alliance Works are carried out in a co-operative, co-ordinated and efficient manner;
 - (iv) creating a win-win position for each of the Participants;
 - (v) ensuring the successful completion of the Alliance Works in accordance with this Agreement;
- (d) promoting the interests of the Project where possible;
- (e) encouraging and maintaining honest, open and timely sharing of information; and
- (f) vigorously encouraging behavioural compliance with the Alliance Principles so as to achieve the Alliance Objectives within an ethical, positive, dynamic and results-oriented culture amongst those associated with carrying out the Alliance Works.

1.2 Commitment to act in good faith

We will, at all times, act in good faith and with trust and mutual respect in relation to the rights of the other Participants under this Agreement as well as our obligations to the other Participants, and this commitment includes, but is not limited to:

- (a) being fair, reasonable and honest;
- (b) doing all things reasonably expected of each other by the others to give effect to the spirit and intent of this Agreement;



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- (c) not impeding or restricting the performance of any other Participant's responsibilities under this Agreement; and
 - (d) if a Participant believes this Agreement is operating unfairly or unreasonably with respect to any other Participant, using best endeavours to achieve an agreement amongst all Participants on such action as may be necessary to remove the cause or causes of such unfairness or unreasonableness.

2. ALLIANCE LEADERSHIP TEAM

2.1 Creation of the ALT

The ALT is established on the date of this Agreement in accordance with this clause 2 and comprises the Representatives.

2.2 ALT Representation

- (a) At any one time, membership of the ALT is limited to no more than two Representatives from each Participant. 
- (b) The Representatives nominated at the date of this Agreement are set out in **Schedule 6 (Alliance Leadership Team)**.
- (c) We may only nominate Representatives who are in a position to be able to fully participate as a member of the ALT and we must inform each other of the availability times of our Representatives.
- (d) We may, with prior written nomination to each other, be represented by an alternate person to act in place of our Representative during absences caused by normal planned leave and emergencies.
- (e) We may replace our Representatives at any time, or nominate a substitute Representative by giving notice in writing to each other at least 10 Business Days before the change in representation takes place.
- (f) If there is a new Participant which becomes a party to this Agreement, that Participant must nominate no more than two Representatives in writing for acceptance by the ALT. 
- (g) Membership of the ALT by a Representative will lapse immediately upon the Participant ceasing to be a party to this Agreement.
- (h) From time to time and as required, the ALT will update the details in **Schedule 6 (Alliance Leadership Team)** to reflect the new members of the ALT.

2.3 ALT Chairperson

- (a) At the date of this Agreement, the chairperson of the ALT is the Representative identified in **Schedule 6 (Alliance Leadership Team)** as the Chairperson.

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- (b) The Chairperson will convene the meetings under clause 2.5.
 - (c) The ALT will appoint, in writing, another Representative as Chairperson or reappoint the existing Chairperson every six months and update **Schedule 6** (Alliance Leadership Team) to include the details of any change in the Chairperson.

2.4 Functions of the ALT

We authorise the ALT to carry out the functions listed in Part 1 of **Schedule 8** (Functions of ALT, AMT and Alliance Manager).

2.5 Meetings of the ALT

- (a) The ALT will:
 - (i) hold a meeting as soon as practicable after the date of this Agreement;
 - (ii) hold meetings at least once every calendar month and otherwise when considered necessary by any of us;
 - (iii) not hold a meeting unless at least one Representative of each Participant is present at that meeting; and
 - (iv) determine the procedures and rules for those meetings.
- (b) Each Representative must fully disclose any relevant interest or duty before participating in a discussion or determination of the ALT on an issue. Provided that the Representative has made such a full disclosure and complies with clause 1.1(d), the Representative will be entitled to fully participate in any such discussion or determination if a majority of the other Representatives (without the presence of that Representative) agrees that the Representative can fully participate, even though that Representative has, or may have, a conflicting interest or duty.
- (c) Unless a Representative:
 - (i) has made full disclosure under clause 2.5(b); and
 - (ii) at all times acts in a manner consistent with clause 1.1(d),the Representative is not entitled to participate in any discussion of the ALT.
- (d) Each Representative will have equal rights at meetings of the ALT.
- (e) The ALT may:
 - (i) conduct a meeting even though the Representatives are not at the same location, provided that all Representatives who wish to participate in that meeting are linked by an agreed method of instant voice recognition;

- (ii) use independent experts to assist the ALT with any decision in connection with this Agreement; and
- (iii) establish subcommittees to advise the ALT in connection with the Alliance. Any such committee will be given written terms of reference from the ALT and will be subject to procedures and rules determined by the ALT.

2.6 Decisions of the ALT

- (a) To be effective, a decision of the ALT must be an unanimous decision of all Representatives entitled to participate in that decision. No decision will be deemed to have been made by the ALT unless it is unanimous.
- (b) We will comply with all effective decisions of the ALT made in accordance with this Agreement.

2.7 Minutes of ALT meetings

- (a) The ALT will nominate a secretary to attend all ALT meetings and record the resolutions and actions of the ALT arising out of the meetings.
- (b) The secretary will issue a copy of the minutes of the meeting to each Representative within 7 Business Days after the relevant meeting.
- (c) Each Representative will, as soon as practicable and if he or she accepts the minutes as accurate, notify the secretary of acceptance of the minutes. If a Representative does not accept the minutes as accurate, the Representative must promptly provide any amendments to the minutes to the secretary and the secretary must promptly issue amended minutes to each Representative for approval. The procedures set out in this clause 2.7 will apply to the amended minutes.
- (d) Following acceptance of the minutes by each of the Representatives, the minutes will be deemed to be the official record of the relevant meeting.

3. ALLIANCE MANAGEMENT TEAM AND ALLIANCE MANAGER

3.1 Appointment of Alliance Manager

- (a) The Alliance Manager will:
 - (i) be appointed by the ALT as soon as practicable after the date of this Agreement;
 - (ii) be subject to the control and direction of the ALT; and
 - (iii) assist us in fulfilling our obligations under this Agreement.

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- (b) The ALT must, as soon as practicable after the date of this Agreement and in consultation with the Alliance Manager, arrange for the establishment of the AMT including the appointment of the members of the AMT.

3.2 Functions of the Alliance Manager

We authorise the Alliance Manager to carry out the functions listed in Part 3 of **Schedule 8** (Functions of ALT, AMT and Alliance Manager).

3.3 Functions of the AMT

We authorise the AMT to carry out, under the direction of the Alliance Manager, the functions listed in Part 2 of **Schedule 8** (Functions of ALT, AMT and Alliance Manager).

4. WIDER ALLIANCE TEAM

4.1 Creation of the Wider Alliance Team

The Wider Alliance Team is created upon the establishment of the AMT and comprises the members of the AMT and those people who the AMT appoints, from time to time, to the Wider Alliance Team.

4.2 Functions of the Wider Alliance Team

The Wider Alliance Team will:

- (a) act as a fully integrated team to function effectively and efficiently in accordance with the Alliance Objectives;
- (b) carry out the Alliance Works under the leadership and management of the Alliance Manager; and
- (c) comply with the requirements of the ALT, AMT, Alliance Manager and this Agreement at all times.

4.3 Members of the Wider Alliance Team

- (a) The Wider Alliance Team will consist of the best available resources of each of us or other resources we agree to engage to ensure the successful completion of the Alliance Works.
- (b) We will use our best endeavours to ensure that our personnel who are members of the Wider Alliance Team remain (subject to satisfactory performance by the personnel) members of the Wider Alliance Team until the AMT decides that those personnel are no longer required.

5. INVESTIGATION AND DESIGN

5.1 Development and approval of scope of work

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- (a) We will carry out investigations to enable us to recommend to RTA a scope of work for the Alliance Works as contemplated under clause 5.1(b).
 - (b) The scope of work referred to in clause 5.1(a) must:
 - (i) be delivered by us to RTA within 40 Business Days after the date of this Agreement or such other period agreed in writing by RTA;
 - (ii) include the concept design for the new carriageway(s) or separate sections of the carriageway(s);
 - (iii) set out a draft cash flow schedule; and
 - (iv) set out a budget estimate of the cost of the scope of work.
 - (c) Following receipt by RTA of the scope of work referred to in clauses 5.1(a) and (b), RTA may, in its discretion, elect to:
 - (i) approve the scope of work by notice in writing to the NOPs, in which case, clause 5.2 will apply on and from the date of that notice;
 - (ii) request the Participants to:
 - (A) carry out further investigations in relation to the proposed scope of work;
 - (B) amend the proposed scope of work to take into consideration the findings derived from the further investigations carried out by the Participants or any other amendments as otherwise required by RTA; and
 - (C) re-submit the amended scope of work to RTA for approval in accordance with this clause 5.1(c); or
 - (iii) give the ALT a notice in writing informing the ALT that the Alliance Works will not proceed under this Agreement, in which case, clause 11.1 will apply on and from the date of that notice.

5.2 Development and approval of a TOC and construction program

- (a) If RTA approves the scope of work under clause 5.1(c)(i), we will prepare a proposed target outturn estimate and a construction program in respect of the Alliance Works and deliver the proposed target outturn estimate and construction program to RTA within 60 Business Days after the date on which RTA notifies us in writing that it has approved the scope of work under clause 5.1(c)(i) or such other period agreed in writing by RTA.
- (b) Following receipt of the items referred to in clause 5.2(a), RTA may, in its discretion, elect to:

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- (i) approve the proposed target outturn estimate and the construction program by notice in writing to the NOPs;
 - (ii) request the Participants to amend the proposed target outturn estimate and/or the construction program and re-submit those items to RTA for approval in accordance with this clause 5.2(b); or
 - (iii) give the ALT a notice in writing informing the ALT that the Alliance Works will not proceed under this Agreement, in which case, clause 11.1 will apply on and from the date of that notice.

5.3 Separable Portions

RTA may, as part of the process contemplated under clause 5.2, require the Participants to develop and submit to RTA a proposed target outturn estimate and a construction program for each Separable Portion of the Alliance Works (if applicable).

6. ALLIANCE WORKS

6.1 Commencement and duration of Alliance Works

- (a) We will not commence construction of the Alliance Works unless and until RTA provides its approval in writing to the proposed target outturn estimate and the construction program pursuant to clauses 5.2(a) and (b) or as otherwise agreed by RTA in writing.
- (b) We will carry out the Alliance Works in accordance with the construction program approved under clauses 5.2(a) and (b).
- (c) We may extend the Date for Completion only by written agreement of the ALT.

6.2 Compensation for Alliance Works

- (a) RTA will pay the NOPs for carrying out the work under this Agreement in accordance with the Commercial Framework.
- (b) Payment to the NOPs pursuant to clause 6.2(a) will be the sole compensation to the NOPs for the fulfilment of their obligations under this Agreement.
- (c) Despite any other provision of this Agreement, RTA will be under no obligation to pay a NOP unless the NOP is in compliance with clauses 8.2 and 8.3 (inclusive).
- (d) The terms of compensation under the Commercial Framework may be modified as determined by the ALT, but only where there is a Scope Change.

6.3 Set-off

- (a) Without prejudice to any other rights, RTA may deduct from any monies which may be, or become, payable to a NOP any money due from that NOP to RTA.

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- (b) Nothing in this clause 6.3 will affect the right of RTA to recover from the NOP the whole of any debt or any balance that remains owing by that NOP after deduction.

6.4 Date for Completion

We agree that the Alliance Works must be executed to achieve Completion by the Date for Completion.

6.5 Certificate of Completion

- (a) If the Alliance Manager considers that we have not achieved Completion by the Date for Completion, the Alliance Manager may issue a list of Defects which the Alliance Manager determines must be rectified by us prior to the issue of the Certificate of Completion.
- (b) When the Alliance Manager considers that we have achieved Completion, the Alliance Manager will submit a draft Certificate of Completion to the ALT for its approval. The draft Certificate of Completion must include a statement by the Alliance Manager to the effect that:
 - (i) the Alliance Manager is not aware of any Defects; and
 - (ii) to the best knowledge of the Alliance Manager, having made reasonable enquiry, the Alliance Works have reached Completion.
- (c) If the ALT approves the draft Certificate of Completion, the Alliance Manager will sign and date the certificate and issue it to the Participants.
- (d) If the ALT does not consider the Alliance Works to have reached Completion:
 - (i) the ALT will provide details to the Alliance Manager of work the ALT considers to be outstanding to achieve Completion; and
 - (ii) the Alliance Manager will promptly inform the Participants that Completion has not been achieved and the details of the outstanding work required to achieve Completion.
- (e) Once the Alliance Manager is satisfied that the outstanding work has been completed in accordance with this Agreement, the Alliance Manager will again initiate the approval process under this clause 6.5.
- (f) The Certificate of Completion must also refer to the date which the ALT determines is the Date of Completion.

6.6 Certificate of Final Completion

- (a) After expiry of the Defects Correction Period, and provided the Alliance Manager is not aware of any outstanding Defects, the Alliance Manager will submit a draft Certificate of Final Completion to the ALT for its approval.

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- (b) If the ALT approves the draft Certificate of Final Completion, the Alliance Manager will sign and date the certificate and issue it to the Participants.
 - (c) If the ALT does not consider the Alliance Works to have reached Completion or considers that there is some other obligation under this Agreement which has not been performed or observed:
 - (i) the ALT will inform the Alliance Manager as to what the ALT considers to be outstanding to achieve Completion or to perform or observe the relevant obligation under this Agreement; and
 - (ii) the Alliance Manager will promptly inform the Participants that Completion has not been achieved and any details of the outstanding work or the failure to perform or observe some other obligation under this Agreement.
 - (d) Once the Alliance Manager is satisfied that the outstanding work or obligation has been completed, performed or observed in accordance with this Agreement, the Alliance Manager will again initiate the approval process under this clause 6.6.
 - (e) The Certificate of Final Completion must also refer to the date which the ALT determines is the Date of Final Completion.

6.7 Separable Portions

The ALT may determine that any part of the Alliance Works will be a Separable Portion and the interpretations of:

- (a) Certificate of Completion;
- (b) Completion;
- (c) Date for Completion;
- (d) Date of Completion; and
- (e) Alliance Works,

will apply separately to each Separable Portion.

6.8 Supply of Design and other documents by RTA

- (a) RTA may provide the NOPs with Design and other documentation from time to time.
- (b) The NOPs will not use, copy or reproduce the Design or other documentation provided by RTA for any purpose other than for the Alliance Works.
- (c) The Design and other documentation provided by RTA will remain the property of RTA and will be returned by the NOPs to RTA if requested in writing by RTA.

6.9 Supply of Design and other documents by NOPs

We will:

- (a) prepare Design and other documentation referred to in this clause 6.9 as is necessary to enable us to construct the Alliance Works;
- (b) ensure that RTA is provided with copies of all such Design and other documentation as RTA may require from time to time; and
- (c) ensure that RTA is provided with a complete set of "as-built" drawings and, where appropriate, maintenance manuals, in relation to the completed Alliance Works.

6.10 Site access

We recognise the importance of the efficient and effective use of the Site, and to that end:

- (a) RTA will give the NOPs such access to and use and control of the Site or any part of the Site, as is appropriate, to enable the Alliance to execute the Alliance Works to achieve Completion. Any delay by RTA in giving the Alliance access to and use and control of the Site will not be a breach of this Agreement, but may be an Excusable Delay and, consequently, may be grounds for a Scope Change;
- (b) Subject to any access protocols determined by the ALT, RTA, its officers, employees and agents and any other person (for example, a contractor carrying out work or services for RTA) nominated by RTA may at any reasonable time (and, where appropriate, with reasonable notice) have access to any part of the Site, the Alliance Works or at any other place where the work under this Agreement is being carried out or materials are being prepared or stored for the purpose of performing the work under this Agreement;
- (c) the NOPs will comply with all reasonable directions of RTA in relation to access to and use and control of the Site or any part of the Site by any of the NOPs, Subcontractors and other persons;
- (d) we will maintain the Site and any other lands and places required to complete the Alliance Works in a safe, clean and tidy condition and regularly remove surplus materials and rubbish from the Site; and
- (e) on completing work at the Site and as a condition precedent to Completion, we will:
 - (i) remove all Construction Plant, Temporary Works and all surplus materials and rubbish from the Site; and
 - (ii) leave the whole of the Site in a safe, clean and tidy condition.

6.11 Rectification of defective work

- (a) RTA may, at any time prior to the expiration of the Defects Correction Period, issue a Rectification Notice directing the Alliance to carry out Rectification Work in relation to a Defect.
- (b) On receipt of a Rectification Notice, the Alliance will carry out the Rectification Work within the period stated in the Rectification Notice and in accordance with any other requirement stated in the Rectification Notice.
- (c) RTA will be entitled to rectify a Defect itself or engage others to do the Rectification Work if RTA considers that:
 - (i) the Rectification Work must be carried out urgently for safety reasons or other reasons of urgency; or
 - (ii) the Alliance will not be able to undertake the Rectification Work in the time and/or manner specified in a Rectification Notice.
- (d) The ALT must, within a reasonable time after Completion, determine any amount which should be either:
 - (i) withheld until the Date of Final Completion from a Participant's payment of the Fee and/or initial distribution of Gainshare determined in accordance with the Commercial Framework; or
 - (ii) deducted from any final payment of the Fee or Gainshare payable to that Participant in accordance with the Commercial Framework,in order to ensure that the obligations of the NOPs in relation to Rectification Work are completed or that RTA is compensated in accordance with the Commercial Framework.

6.12 Long Service Levy

Before commencing Design or construction work under this Agreement, we must:

- (a) pay to the Building and Construction Industry Long Service Payments Corporation or the Corporation's agent the amount of the long service levy payable in respect of the building and/or construction work under the *Building and Construction Industry Long Service Payments Act 1986* (NSW); and
- (b) ensure that RTA is provided with the documentary evidence of payment of the levy.

7. PERFORMANCE OF ALLIANCE WORKS

7.1 Primary performance obligation

Subject to this Agreement, we will collectively undertake and complete the Alliance Works (to permit them to be certified under clauses 6.5 and 6.6):

- (a) in a careful, diligent, skilful and workmanlike manner so that the Alliance Works are of the required quality and fit for intended purposes stated in this Agreement;
- (b) with the equal aim, at all times, of minimising cost expenditure and satisfying all non-cost objectives of this Agreement; and
- (c) with the skill, experience, capacity and resources necessary to perform the work under this Agreement.

7.2 Primary performance obligations of RTA

RTA will pay each NOP and grant access to the Site in accordance with the terms of this Agreement.

7.3 Subcontracts

- (a) We will ensure that:
 - (i) all Subcontracts are entered into in accordance with the authorisation protocols set by the ALT from time to time;
 - (ii) a NOP enters into a Subcontract in its own right and not as our agent or as an agent of RTA; and
 - (iii) where possible, all Subcontractors are pre-qualified by RTA pursuant to RTA's usual qualification procedures for contractors from time to time.
- (b) The terms of any Subcontract must:
 - (i) contain a requirement that the relevant Subcontractor execute a deed (in such form as RTA may from time to time require) with RTA creating a duty of care in favour of RTA in relation to the works or services to be conducted under the Subcontract, unless RTA decides in its discretion that a deed is not necessary;
 - (ii) be approved by the Alliance Manager;
 - (iii) contain an assignment of Intellectual Property Rights by the Subcontractor to the NOP on terms identical to clause 16.1(a)(except for substituting the relevant Subcontractor for the NOP); and

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- (iv) contain confidentiality obligations substantially the same as those in clause 16.5.
 - (c) If any of us engage a Subcontractor we must, where required in writing by either the ALT or RTA, enforce or defend the relevant Subcontract for the benefit of the Alliance and any:
 - (i) such enforcement or defence actions, settlement or proceedings must be conducted under the written direction of either the ALT or RTA; and
 - (ii) costs of such enforcement actions or proceedings will be dealt with in accordance with the Commercial Framework.

7.4 Compliance with Statutory Requirements

We will satisfy and comply with the requirements of all Statutory Requirements in relation to the Alliance, the Alliance Works or this Agreement.

7.5 Subcontractor warranties

We will obtain written warranties in favour of RTA from Subcontractors, to the extent such warranties are relevant, that any:

- (a) materials incorporated into the Alliance Works are correctly designed, fabricated and installed to the standards set out in this Agreement or, if not set out, then to good industry standards and codes of practice; and
- (b) design and any materials incorporated into the Alliance Works are of the required quality and fit for the intended uses stated in this Agreement.

7.6 Quality assurance

We are committed to ensuring that the Alliance Works are consistent with a "best for project" approach. For the achievement of this objective, we will establish, implement and maintain a quality assurance system to a standard equivalent to or better than RTA's *QA Specification DCM Q6*.

7.7 Health and safety

- (a) We are committed to achieving outstanding performance in relation to health and safety and making every effort to maintain a workplace free of accidents and injuries.
- (b) In this clause 7.7, the terms "principal contractor" and "place of work" have the same meanings assigned to those terms under the *Occupational Health and Safety Act 2000* (in this clause, **the Act**) and the *Occupational Health and Safety Regulation 2001* (in this clause, **the Regulation**).

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- (c) Without limiting our obligations under any other provision of this Agreement, we agree as follows:
- (i) to the extent that RTA is able to validly appoint Thiess Pty Limited (**Thiess**) as the principal contractor under clause 210 of the Regulation then, from the date on which RTA notifies Thiess:
- (A) Thiess is appointed as principal contractor under clause 210 of the Regulation; and
- (B) RTA and the NOPs give all necessary authority to Thiess to allow it to fulfil and exercise the obligations and functions of the principal contractor under the Regulation;
- (ii) Thiess must, from the date on which RTA notifies Thiess:
- (A) where clause 7.7(c)(i) applies, exercise and fulfil the functions and obligations of the principal contractor under the Regulation;
- (B) where clause 7.7(c)(i) does not apply, exercise and fulfil the functions and obligations of the principal contractor under the Regulation as if Thiess had been validly appointed as the principal contractor under clause 210 of the Regulation;
- (C) ensure that all Subcontractors comply with their respective obligations under the Act and the Regulation;
- (D) at all reasonable times provide the other Participants with access to such records as may be necessary to establish Thiess' compliance with its obligations under this clause;
- (E) ensure that the Participants execute the Alliance Works in a manner which ensures that the Participants satisfy their obligations under the Act and the Regulations; and
- (F) immediately inform the other Participants in writing of all incidents involving injury to any person arising during the execution of the Alliance Works; and
- (iii) in carrying out the Alliance Works or in exercising our rights under this Agreement, we will ensure that we (and our respective officers, employees, Subcontractors and agents) comply with:
- (A) the latest OH&S Plan;
- (B) all applicable Statutory Requirements; and

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- (C) all reasonable safety directives, procedures and work instructions issued by the Alliance Manager or personnel authorised by the ALT to issue such directives, procedures and instructions.

7.8 Occupational health and safety management plan

The ALT will ensure that the Alliance Manager:

- (a) after this Agreement is executed and prior to accessing any part of the Site, promptly:
 - (i) develops an OH&S Plan in accordance with the New South Wales *OHS Management Systems Guidelines* and which is equivalent to or better than the standards set out in RTA's *DCM G22 Specification for Occupational Health and Safety (Major Works)*; and
 - (ii) submits the OH&S Plan to ALT and obtains the ALT's approval to the OH&S Plan; and
- (b) oversees strict compliance with the requirements of the OH&S Plan.

7.9 Protection of people, the environment and property

- (a) We are dedicated to protecting both people, the environment and property in executing the Alliance Works and we will:
 - (i) provide all things and take all measures necessary to protect people and property;
 - (ii) avoid unnecessary interference with the passage of people and vehicles;
 - (iii) prevent damage, obstruction or other interference with services;
 - (iv) prevent nuisance and unnecessary noise and disturbance;
 - (v) prevent environmental damage or pollution; and
 - (vi) ensure that the Alliance Works do not have any adverse impact on RTA infrastructure and operations to a greater extent than is inherently necessary for the performance of the work under this Agreement,

provided that this clause will not be taken to mean that RTA authorises any action constituting a breach of any Statutory Requirements.

- (b) Our obligations include the provision of barricades, guards, fencing, temporary roads, footpaths, warning signs, lighting, watching, traffic flagging, safety helmets and clothing, removal of obstructions and protection of services.

7.10 Care of the Alliance Works

- (a) From the date of commencement of the Alliance Works until the Date of Completion, we will be responsible for the care of the Alliance Works.
- (b) After the Date of Completion, we will remain responsible for the care of such parts of the Alliance Works as are necessary to carry out our obligations under clause 6.11 until the date on which the Certificate of Final Completion is issued by the Alliance Manager under clause 6.6.

7.11 Reinstatement

We will promptly make good any loss or damage to the Alliance Works that occurs during any period in which we are responsible for the care of the Alliance Works under clause 7.10.

7.12 Industrial relations

- (a) To the extent that it is not inconsistent with the code referred to in clause 7.13, we must comply with the *NSW Government Industrial Relations Management Guidelines* and acknowledge that the Project constitutes a Category 1 Project as defined in those guidelines.
- (b) Before starting the Alliance Works, the ALT must ensure that the Alliance Manager prepares and submits to the ALT:
 - (i) evidence of compliance by each of the NOPs with all employment and legal obligations in the preceding twelve months (and the NOPs must provide this evidence when requested by the Alliance Manager);
 - (ii) the location of time and wage records and other documents that are required to be kept to verify ongoing compliance with all employment and legal obligations;
 - (iii) the names of Federal or New South Wales awards that are likely to cover Subcontractors and other contractors on the Project;
 - (iv) the names of those responsible for co-ordinating industrial relations in relation to any part of the Project;
 - (v) an outline of:
 - (A) consultation and communications mechanisms;
 - (B) measures to coordinate the interface with Subcontractors, other contractors and unions;
 - (C) measures for assessing Subcontractors; and

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- (D) measures to monitor and verify ongoing compliance; and
- (vi) a project industrial relations plan.

7.13 National Code of Practice

- (a) This clause 7.13 applies only if **Schedule 14** (Role of National Code of Practice) specifies that the National Code of Practice for the Construction Industry (the **code**) is applicable to the Temporary Works, Construction Plant and Alliance Works.
- (b) We must comply, in the performance of this Agreement, with the requirements of the code and the Industry Guidelines for the Workplace Relations and Occupational Health and Safety Components of the Code (the **industry guidelines**). Copies of the code and the Australian Government Implementation Guidelines for the code and the industry guidelines are available at <http://www.workplace.gov.au>;
- (c) Compliance with the code or the industry guidelines will not relieve us from responsibility to perform this Agreement, or from any liability under this Agreement arising from compliance with the code or the industry guidelines;
- (d) Where a change in this Agreement is proposed and that change would affect compliance with the code or the industry guidelines, we must submit a report to the Commonwealth of Australia (the **Commonwealth**) specifying the extent to which our compliance with the code or the industry guidelines will be affected;
- (e) We must maintain adequate records of the compliance with the code and industry guidelines by us and our Subcontractors. We must permit the Commonwealth or any person authorised by the Commonwealth, including the Interim Building Industry Taskforce or any successor of it, to have access to our records and to our premises (to inspect and copy records), as is necessary to allow validation of our progress in complying with the code and industry guidelines. We, in all our Subcontracts, must require Subcontractors to maintain and provide access for the Commonwealth or any person authorised by the Commonwealth to the Subcontractor's records and premises to the same extent as required from us by this clause;
- (f) If we do not comply with the requirements of the code or the industry guidelines in the performance of this Agreement such that a sanction is applied by the Code Monitoring Group, the Commonwealth, without prejudice to any rights that would otherwise accrue, will be entitled to record that non-compliance and take it into account in the evaluation of any future tenders that may be lodged by us or a related corporation in respect of work for any part of the Commonwealth or its agencies;
- (g) We must not appoint a Subcontractor, consultant or supplier in relation to the Alliance Works where the appointment would breach a sanction imposed by the Code Monitoring Group; and

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- (h) We must ensure that all Subcontracts contain requirements functionally equivalent to the requirements of this clause.

7.14 Environment

We are committed to achieving the highest possible performance in all aspects of the Project in regard to environmental practices. For the achievement of this objective, we will establish, implement and maintain an environmental management system to a standard equivalent to or better than RTA's *Specification DCM G36*.

7.15 Community and social issues

We are committed to practices and procedures which are rated as world class with genuine sensitivity and responsiveness being shown at all times to community members and groups. RTA may direct the Alliance and the ALT in relation to any matters dealing with the community or other stakeholders, and the Alliance and the ALT must comply with RTA's directions.

7.16 Regulatory approvals

- (a) We appreciate that RTA may be subject to the Works Approvals and those Works Approvals may create various rights, obligations and requirements in connection with the Alliance Works.
- (b) We, in executing the Alliance Works, will observe the requirements of the Works Approvals as if we were RTA, and will not, and will ensure that our officers, employees, Subcontractors and agents do not, proceed with any course of action during the execution of the Alliance Works which may prejudice or in any way affect any of RTA's rights or obligations under the Works Approvals.
- (c) Nothing in this Agreement will operate to fetter the statutory functions of RTA.

7.17 RTA Statement of Business Ethics

We agree that we must comply, in the performance of this Agreement, with the RTA Statement of Business Ethics. Copies of the statement are available at http://www.rta.nsw.gov.au/doingbusinesswithus/downloads/rta_businessethics_d111.html.

7.18 Protection of Aboriginal heritage and Aboriginal rights

We are committed to the protection of Aboriginal heritage and Aboriginal rights and, without limitation, we will ensure that Subcontractors and other contractors and their officers, employees and agents similarly:

- (a) do not enter Aboriginal sites or disturb, interfere with or remove anything from such Aboriginal sites or their vicinity, except with the prior written approval of RTA;

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- (b) should any Aboriginal sites be identified in or in the vicinity of the Site, immediately cease all activities which could impact on such Aboriginal site; and
 - (c) comply with RTA's instructions reasonably required to enable RTA to comply with any obligations arising as a result of the operation of Statutory Requirements in relation to native title.

7.19 Aboriginal participation in construction

We must ensure that the Alliance Manager prepares a Project Aboriginal Participation Plan as defined in, and in accordance with, the *NSW Government Aboriginal Participation in Construction Implementation Guidelines*, as soon as practicable after the commencement of the Alliance Works, and obtains the approval of that plan by the ALT.

7.20 Training management

As soon as practicable after the commencement of the Alliance Works, we must ensure that the Alliance Manager:

- (a) prepares a Project Training Management Plan based on the project training management targets for Civil Construction Projects in accordance with the *NSW Government Training Management Guidelines*, and obtains the approval of that plan by the ALT;
- (b) makes available on request, all relevant training management records, including those relating to Subcontractors, for the purpose of reviews; and
- (c) provides all reasonable assistance to the reviewer during the review process, including attending the review and promptly implementing any corrective action required by the ALT.

7.21 Suspension of Alliance Works

- (a) Except to the extent necessary to avoid an event having an adverse, or being likely to have an adverse, impact on the environment, public health or safety or to avoid a breach of a statutory requirement, we will not suspend the whole or any part of the work under this Agreement without a written direction from RTA.
- (b) If RTA considers that suspension of the whole or part of the work under this Agreement is necessary or appropriate for any reason, RTA may direct that we suspend the progress of the whole or part of the work under this Agreement for such time as RTA decides and we will promptly suspend that part of the work under this Agreement.
- (c) RTA may direct that we are to recommence the whole or the relevant part of the work under this Agreement at any time.

- (d) If RTA requires a suspension under this clause 7.21, the ALT must determine whether the compensation set out in the Commercial Framework payable to the NOPs should be amended to take into account the effect of the suspension.
- (e) We must use all reasonable endeavours to mitigate costs during the period of any suspension.

7.22 RTA may direct changes to the Alliance Works

- (a) RTA may direct us (**Direction**), through its authorised representative appointed under clause 7.22(g) to:
 - (i) change the design or specification of the whole or any part of the Alliance Works;
 - (ii) change the Alliance Works or any part of the Alliance Works;
 - (iii) change the conduct, order or program of the Alliance Works;
 - (iv) increase, decrease or omit any part of the Alliance Works;
 - (v) change the character or quality of any part of the Alliance Works;
 - (vi) change the levels, lines, positions or dimensions of all or any part of the Alliance Works;
 - (vii) change the means, methods or techniques in relation to the performance of all or any part of the work under this Agreement;
 - (viii) execute additional work or perform additional services under this Agreement; or
 - (ix) demolish or remove material or infrastructure no longer required by RTA,and we must promptly comply with that Direction.
- (b) No Direction will invalidate this Agreement.
- (c) RTA may, in respect of a Direction or a proposed Direction, issue to the ALT an Estimation Request.
- (d) If RTA issues an Estimation Request or if the ALT determines that RTA has issued a Direction that may give rise to a Scope Change, but has not issued an Estimation Request, the ALT must promptly determine:
 - (i) whether the matters contained in the Estimation Request or the subject of the Direction would constitute a Scope Change; and
 - (ii) if the matters contained in the Estimation Request or the subject of the Direction would constitute a Scope Change, the change in the terms of

compensation set out in the Commercial Framework to the NOPs which will result from the conduct of those matters,

and provide written notice as to its determination to RTA.

- (e) Following RTA's receipt of a notice under clause 7.22(d) or upon the ALT determining that unless a Direction referred to in clause 7.22(d) is withdrawn, a Scope Change will arise and RTA must notify the ALT in writing whether it wishes to:
 - (i) not proceed with the Direction;
 - (ii) revise the Estimation Request, in which case the provisions of this clause 7.22 will apply to the revised Estimation Request; or
 - (iii) confirm the Direction or issue a Direction for the matters contained in the Estimation Request, in which case the compensation payable to the NOPs under this Agreement will be altered in the manner set out in the ALT's notice under clause 7.22(d).
- (f) No Direction will result in a change in the compensation payable pursuant to this Agreement unless the Direction is determined by the ALT to give rise to a Scope Change and provided that all other requirements concerning compensation under this Agreement are satisfied.
- (g) The person authorised at the date of this Agreement by RTA under this clause 7.22 is the person from time to time occupying the position of "Director, Major Infrastructure". RTA will give written notice to the NOPs of any change in the person appointed by it as its authorised representative for the purpose of this clause 7.22.
- (h) RTA must use its reasonable endeavours to minimise any delays in the Alliance Works arising from the processes contemplated in this clause 7.22.

7.23 ALT may recommend changes to the Alliance Works

- (a) The ALT may, at any time during the period of the Alliance Works, recommend to RTA through its authorised representative appointed under clause 7.22(g):
 - (i) a change to the design or specification of the whole or any part of the Alliance Works;
 - (ii) a change in the Alliance Works or any part of the Alliance Works;
 - (iii) a change in the conduct, order or program of the Alliance Works;
 - (iv) an increase, decrease or omission of any part of the Alliance Works;
 - (v) a change in the character or quality of any part of the Alliance Works;

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- (vi) a change in the levels, lines, positions or dimensions of all or any part of the Alliance Works;
 - (vii) a change in the means, methods or techniques in relation to the performance of all or any part of the work under this Agreement;
 - (viii) to execute additional work or perform additional services under this Agreement; or
 - (ix) demolish or remove material or infrastructure no longer required by RTA.
- (b) Any recommendation given under this clause 7.23 must:
- (i) include details of the effect, if any, of the change to the Alliance Works on the Commercial Framework;
 - (ii) confirm the fitness of the Alliance Works for the purpose of satisfying the performance requirements nominated by RTA; and
 - (iii) clearly indicate that it is a recommendation given by the ALT to RTA's authorised representative under clause 7.23 of this Agreement.
- (c) The NOPs acknowledge and accept that RTA's authorised representative may consider the ALT's recommendation in its discretion.
- (d) If RTA's authorised representative accepts the ALT's recommendation, RTA's authorised representative will issue a notice to proceed with the recommendation and the ALT will ensure that the notice is immediately complied with.
- (e) The NOPs acknowledge and accept that RTA's authorised representative may place conditions, in its discretion, on any acceptance of the ALT's recommendation.
- (f) If RTA does not accept the ALT's recommendation, that recommendation must be withdrawn by the ALT and the Alliance shall continue to perform the work under this Agreement as if the recommendation had not been made by the ALT.

7.24 Benchmarking of Alliance performance

- (a) The Participants agree that it is a fundamental obligation of the Alliance to demonstrate, ensure and deliver value for money to RTA.
- (b) The NOPs will provide every opportunity to enable the ALT to effectively demonstrate that these value for money outcomes are and/or will be achieved and have agreed to benchmark the performance of the Alliance against the performance of other alliance participants delivering other works or projects similar to the Alliance Works.

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- (c) The NOPs agree that for the purposes of benchmarking the performance of the Participants they will, in a manner consistent with our Alliance Principles, fully, frankly and honestly disclose all information relating to the:
 - (i) actual outturn performance of all aspects of the Alliance; and
 - (ii) work under this Agreement or the Alliance Works other than that which the ALT determines is genuinely commercial in confidence.
 - (d) Where the ALT determines that information is genuinely commercial in confidence, the ALT must determine an acceptable and appropriate manner to protect the confidential nature of the information but will share the information for the purposes of benchmarking the actual outturn performance of all aspects of the Alliance.
 - (e) For the purposes of this Agreement, the expression "commercial in confidence" will have the interpretation that the term has under the operation of the *Freedom of Information Act 1989* (NSW).

7.25 Conference of Alliances

- (a) The RTA's authorised representative may, at any time prior to the Date of Final Completion, direct the ALT to attend a conference which will also be attended by:
 - (i) the representatives of RTA's other alliances; and
 - (ii) nominated invitees of RTA's authorised representative (which may specifically include alliance leadership team representatives from alliances sponsored by parties other than RTA).
- (b) RTA's expectation of this conference is to enable:
 - (i) alliance contracting best practice methodologies to be identified, shared and understood;
 - (ii) RTA to be satisfied that the behaviours, standards and governance of its alliances are equal to other alliances developed or being developed across Australasia; and
 - (iii) development of a benchmark for the performance of RTA's alliances against each other and/or against other alliances developed or being developed across Australasia to the extent that it is practicable to do so.
- (c) The NOPs agree that they will attend the conference and participate in a manner consistent with our Alliance Principles so as to fully, frankly and honestly disclose all information or lessons learned relating to the Alliance, the work under this Agreement or the Alliance Works, other than that which the ALT determines is genuinely commercial in confidence.

8. PAYMENTS

8.1 Invoices and payments

- (a) Payment claims may be submitted to RTA as follows:
 - (i) prior to the Date of Final Completion, the Alliance Manager may, with input from the NOPs, prepare and submit to RTA a single Payment Claim at the end of each calendar month in relation to the work done by the NOPs during the relevant period; and
 - (ii) after the Date of Final Completion, any NOP may submit a Payment Claim in relation to any payment of Direct Cost it becomes entitled to under the Commercial Framework in respect of legal and litigation expenses, including judgments and awards.
- (b) The amounts to be included in a Payment Claim submitted under this Agreement will be calculated in accordance with the terms of compensation set out in the Commercial Framework.
- (c) RTA must issue a Payment Schedule within 10 Business Days after receipt of a Payment Claim. The Payment Schedule must identify the Payment Claim to which it relates and must be based on the terms of compensation set out in the Commercial Framework. If the Payment Schedule shows an amount less than the claimed amount (excluding payments already made), the Payment Schedule must state why the amount is less.
- (d) Subject to clause 8.1(c), RTA may issue a Payment Schedule at any time even if the Alliance Manager has not lodged a Payment Claim.
- (e) The following conditions must be satisfied before RTA is obliged to make any payment to the NOPs:
 - (i) if required under clause 9, a Payment Claim must be accompanied by a Tax Invoice from a relevant NOP;
 - (ii) all relevant sections of the Payment Claim must be properly completed;
 - (iii) a Payment Claim must be accompanied by a statement by the Alliance Manager that the amounts shown in the Payment Claim are in accordance with the terms of this Agreement and are in order for payment by RTA;
 - (iv) a Payment Claim must be accompanied by a statutory declaration from each of the relevant NOPs:
 - (A) in the form set out in **Schedule 11** (Statutory Declaration);
 - (B) including the details required in **Schedule 11** (Statutory Declaration);

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- (C) made by a person who is in a position to know the facts attested to;
and
 - (D) be properly sworn or affirmed according to the *Oaths Act 1900* (NSW) or the equivalent legislation applicable in the place where the declaration is made; and
 - (v) the final Payment Claim must be accompanied by a statement by the Financial Auditor in a form approved by RTA confirming that the amounts shown in the Payment Claim are in accordance with the terms of this Agreement.
 - (f) Subject to the conditions contained in clause 8.1(e) being met, RTA will pay the NOPs (or the NOPs will pay RTA as the case may be) the amounts stated in a Payment Schedule in accordance with clause 8.1(g).
 - (g) RTA will pay each NOP under clause 8.1(f) no later than 10 Business Days after the Payment Schedule is issued or satisfaction of the conditions set out in clause 8.1(e) (whichever is the later). The NOPS will pay RTA under clause 8.1(f) no later than 10 Business Days after RTA supplies similar documents to those required in clause 8.1(e)
 - (h) No payment by RTA will be evidence of the value of work, an admission of liability or that the work has been executed satisfactorily, but will be deemed to be a provisional payment on account and subject to a final verification audit by the Financial Auditor and RTA.
 - (i) The Financial Auditor may undertake an audit of a Payment Claim (whether it has been paid or not) to confirm that the amounts shown in the Payment Claim are in accordance with the terms of this Agreement. If the Financial Auditor demonstrates to the ALT that any amount shown in the Payment Claim is not in accordance with the terms of this Agreement, then any adjustment necessary must be made in the Payment Claim following that demonstration.
 - (j) Nothing in this clause 8.1 limits or otherwise affects RTA's rights under section 175B(7) of the *Workers Compensation Act 1987* (NSW), section 31H(6) of the *Pay Roll Tax Act 1971* (NSW) or section 127 of the *Industrial Relations Act 1996* (NSW).
 - (k) In relation to Direct Costs incurred by RTA, RTA will submit to the Alliance Manager, at the times or periods required by the ALT:
 - (i) a statement of its Direct Costs for the relevant period; and
 - (ii) a statement by the Financial Auditor confirming that the amounts shown in the statement are in accordance with the terms of this Agreement.

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- (l) Statutory declarations as required by clause 8.1(e)(iv) must also be provided to RTA by a NOP at other times as requested by the Alliance Manager or, after the Date of Final Completion, by RTA

8.2 Payment for materials not incorporated

The ALT will ensure that the Alliance procurement procedures require that a NOP does not pay a supplier for materials delivered to the Site but not incorporated into the Alliance Works unless certain conditions precedent are met. The conditions precedent will, as a minimum, include:

- (a) the supplier providing evidence and documentation that unencumbered ownership will pass to RTA on or before payment to the supplier; and
- (b) the NOP properly storing the materials at the Site and labelling them as property of RTA.

8.3 Payment for materials not delivered

The ALT will ensure that the Alliance procurement procedures require that a NOP does not pay a supplier for materials not delivered to the Site unless certain conditions precedent are met. The conditions precedent will, as a minimum, include the supplier providing evidence and documentation that:

- (a) the material exists and its value exceeds \$100,000;
- (b) unencumbered ownership will pass to RTA on or before payment to the supplier; and
- (c) the materials are properly stored, labelled as property of RTA and insured in the name of RTA and the relevant NOP.

8.4 RTA may make direct payments on request

At a NOP's written request and out of money due and payable to that NOP, RTA may pay money on that NOP's behalf to workers or Subcontractors of that NOP.

8.5 RTA may pay on court order

RTA may pay money direct to a worker or Subcontractor of a NOP and recover the amount paid from the NOP as a debt due if RTA is presented with:

- (a) a court order in respect of money payable to the worker or Subcontractor under an award, enterprise agreement or Subcontract for work, services, materials, plant, equipment or advice supplied for the Alliance Works; and
- (b) a statutory declaration that no money has been paid under the court order.

9. **GST**

- (a) In this clause 9:
- (i) the expressions "adjustment note", "consideration", "Goods and Services Tax", "GST", "supply", "tax invoice", "recipient" and "taxable supply" have the meaning given to those expressions in the *A New Tax System (Goods and Services Tax) Act 1999*;
 - (ii) a reference to a payment being made or received includes a reference to consideration other than money being given or received.
- (b) Unless otherwise expressly stated, all prices or other sums payable or payment to be made under or in accordance with this Agreement, do not include any amount for GST.
- (c) If GST is payable on any supply made under this Agreement, the consideration for the supply must be increased by, and the recipient of the supply must pay to the supplier, an additional amount equal to the GST payable on the supply.
- (d) Any contract entered into us with a third party which involves supplies being made, the cost of which will affect the cost of any supplies made under this Agreement, must include a clause including equivalent terms to this clause 9.
- (e) If a payment to a party under this Agreement is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party is entitled on the acquisition of the relevant supply.
- (f) If a payment is calculated by reference to or as a specified percentage of another amount or revenue stream, that payment must be calculated by reference to or as a specified percentage of the amount or revenue stream exclusive of any GST component.
- (g) RTA will issue a Tax Invoice for each taxable supply it makes to the NOPs.
- (h) RTA will issue to the NOPs a recipient created Tax Invoice (**RCTI**) for each taxable supply (other than an excluded supply) made by the NOPs to RTA under this Agreement, and will issue an adjustment note for any adjustment event. We may agree in writing from time to time which supplies are excluded supplies.
- (i) NOPs must not issue a Tax Invoice in respect of any supply made to RTA, other than for an excluded supply. NOPs must give RTA a Tax Invoice for an excluded supply as part of, or before, the making of a Payment Claim which includes the relevant supply.
- (j) We must notify each other if we cease to be registered for GST or cease to comply with any of the requirements of any taxation ruling issued by a taxation authority relating to the creation of RCTIs.

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- (k) We acknowledge that, at the time of entering into this Agreement, we are registered for GST.
 - (l) RTA will not issue a document that will otherwise be a RCTI, on or after the date when the NOPs fail to comply with any of the requirements of any taxation ruling issued by a taxation authority relating to the creation of RCTIs.

10. INSURANCES

10.1 Insurances provided by RTA

- (a) RTA has arranged the PPL Insurances referred to as being the responsibility of RTA in **Schedule 10 (Insurances)** which:
 - (i) covers the NOPs' liabilities to RTA and to third parties for the limits of liability identified in **Schedule 10 (Insurances)**; and
 - (ii) is in the names of the Participants and the Subcontractors for their respective rights and interests.
- (b) The NOPs acknowledge and agree that:
 - (i) before entering into this Agreement, they were given a copy of or access to, and satisfied themselves as to the provisions, terms, conditions, exclusions and excesses of the PPL Insurance; and
 - (ii) they accept the PPL Insurance as full satisfaction of RTA's obligation to insure for public and products liability insurance under this Agreement.
- (c) RTA will maintain the PPL Insurance for the term of this Agreement.
- (d) Before commencing any of the Alliance Works, the NOPs must contact RTA's insurance broker, Aon Risk Services Australia Limited, to provide contract, Subcontractor and insurance details necessary for the PPL Insurance.
- (e) The NOPs must provide any further details necessary for the PPL Insurance to RTA whenever directed by RTA to do so.
- (f) RTA will before the CW Insurance Date use its best endeavours to arrange the CW Insurance referred to as being the responsibility of RTA in **Schedule 10 (Insurances)** which:
 - (i) is intended to cover the NOPs' liabilities to RTA and to third parties for the limits of liability identified in **Schedule 10 (Insurances)**; and
 - (ii) will be in the names of the Participants and the Subcontractors for their respective rights and interests.
- (g) The NOPs acknowledge and agree that:

- (i) no work will be carried out as part of the Alliance Works before the CW Insurance Date that could result in an event which could give rise to a claim under the CW Insurance and as a consequence, the NOPs accept that there is no need for any Participant to have CW Insurance type cover at least before that date;
 - (ii) if RTA is unable to obtain CW Insurance by the CW Insurance Date, or it obtains CW Insurance by that date but on provisions, terms, conditions, exclusions or excesses materially and detrimentally different to those indicated in **Schedule 12** (Likely Indicative Terms of Construction Material Damage Insurance Policy), the NOPs may effect such CW Insurance type cover or top up cover as determined by the ALT and the cost of such cover will form part of the Direct Costs and the need for such cover will qualify as a Scope Change; and
 - (iii) if the NOPs effect such CW Insurance type cover under paragraph (ii), the insurance will be deemed to be insurance which was the responsibility of the NOPs to arrange under **Schedule 10** (Insurances).
- (h) RTA will give the NOPs a copy of or access to the provisions, terms, conditions, exclusions and excesses of the CW Insurance promptly after RTA has obtained those details.
 - (i) RTA will maintain the CW Insurance from the date it is obtained by RTA until the end of the term of this Agreement.
 - (j) As soon as practicable after the Date of this Agreement, the NOPs must contact RTA's insurance broker, Aon Risk Services Australia Limited, to provide contract, Subcontractor and insurance details necessary for the CW Insurance or CW Insurance type cover, as appropriate.
 - (k) The NOPs must provide any further details, necessary for the CW Insurance, if any, to RTA whenever directed by RTA to do so.
 - (l) Subject to clause 10.1(g), we must ensure that all Direct Costs and the Target Outturn Cost exclude any allowance for the cost of the Principal Arranged Insurances.
 - (m) We will comply with the exclusions and conditions of the Principal Arranged Insurances.

10.2 Insurances to be provided by NOPs

- (a) Before commencing the Alliance Works, the NOPs must effect and maintain with an insurer on terms approved in writing by RTA (which approval will not be unreasonably withheld or delayed), the insurance policies referred to in **Schedule 10** (Insurances) as being the responsibility of the NOPs and all other insurances required by Statutory Requirements.

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- (b) All insurances under clause 10.2(a) must be maintained until expiry of the Defects Correction Period.
 - (c) The NOPs must ensure that the Subcontractors have similar workers compensation insurance to that referred to in **Schedule 10 (Insurances)** in respect of their employees.

10.3 Other insurance requirements

- (a) We will take out all other insurances as required by the ALT.
- (b) The effecting or approval of any or all insurance as required under this Agreement will not in any way limit the liabilities or obligations of the Participants under other provisions of this Agreement.

10.4 Proof of insurance

- (a) Before commencing the Alliance Works, we must provide to RTA evidence (including for non-statutory insurances, a copy of the policy) of each of the policies required to be effected by the NOPs under this Agreement, except in the case of CW Insurance type cover when the evidence is required upon the cover being obtained, and such further proof of the currency of such insurances as may be required from time to time by the ALT or RTA.
- (b) Nothing in this clause 10.4, nor any act or omission or failure by RTA will derogate from our liability to effect and maintain insurances under this Agreement.

10.5 Notices from or to the insurer

The NOPs must, as soon as practicable after receiving any notice from the insurer, which is a notice of cancellation relevant to this Agreement or any other notice relevant to this Agreement under or in relation to the policy, inform RTA in writing that the notice has been given to or served on that NOP.

10.6 Cross liabilities

- (a) Wherever under this Agreement insurance is effected by the NOPs in more than one name, the policy of insurance must provide that, to the extent that the policy may cover more than one insured, all insuring agreements and endorsements must operate in the same manner as if there were a separate policy of insurance covering each party comprising the insured and that the insurer agrees not to impute any acts, omissions or nondisclosures before or after the policy was effected by one insured to any other insured.
- (b) Such policy must provide that the insurer waives all rights, remedies or relief to which it might become entitled by subrogation against any of the parties constituting the insured and that failure by any insured to observe and fulfil the terms of the policy will not prejudice the insurance in regard to any other insured party.

10.7 Insurance claims procedures

- (a) We must, as relevant to this Agreement:
 - (i) provide notice with full particulars of any occurrence likely to give rise to a claim under any insurance policy or on receipt of notice of any claim or subsequent proceeding as soon as practicable after becoming aware of any such event to:
 - (A) the relevant insurer or insurance broker; and
 - (B) each other (other than a potential claim by one party against another);
 - (ii) not, without the consent of the insurer, or each other, make any admission, offer, promise or payment in connection with any occurrence or claim;
 - (iii) give all information and reasonable assistance as the insurer may require in the prosecution, defence or settlement of any claim; and
 - (iv) give notice to each other as soon as practicable after discovery that a term, condition or clause of any insurance policy has been unintentionally or inadvertently breached.
- (b) Notwithstanding the provisions of this clause, we may take immediate action to avoid loss of life or damage to property where that is reasonably necessary in the circumstances and any such action will not prejudice the position of us under the policies of insurance in respect of any loss, destruction or damage.

10.8 Pass through of insurance payouts

To the extent that any Participant receives payment under any insurance policy maintained pursuant to this clause 10 that reimburses any cost, loss or expense that was reimbursed or is reimbursable under this Agreement, then the relevant NOP (if applicable) will pass on that payment to RTA in full and RTA will:

- (a) arrange for the Alliance Manager to issue a further statement under clause 8.1(e)(iii) to take into account the payment received under the policy; and
- (b) issue further payments to the NOPs so that the total amounts paid to the NOPs under this Agreement are in accordance with the recalculated final Payment Schedule.

11. WITHDRAWAL AND TERMINATION

11.1 Notice of termination

Notwithstanding any express or implied term of this Agreement and without prejudice to any of RTA's other rights under this Agreement, RTA may at any time in its discretion, for its sole convenience and for any reason, by written notice to the NOPs:

- (a) terminate this Agreement; and
- (b) in its discretion, complete the uncompleted part of the Alliance Works either itself or by engaging any other person, including any one or more of the NOPs.

11.2 Effect of termination

- (a) If this Agreement is terminated under clauses 11.1 or 13.3(d), RTA may take and use, in any way, the whole or any part of the Alliance Works.
- (b) The NOPs will not be liable in any way for that portion of the Alliance Works that is not completed as a result of termination of this Agreement under clauses 11.1 or 13.3(d).

11.3 Our actions

If this Agreement is terminated under either clause 11.1 or 13.3(d), we will immediately:

- (a) cease work under this Agreement;
- (b) protect property in our possession in which RTA has or may acquire an interest;
- (c) demobilise from the Site all persons, Construction Plant, Temporary Works, vehicles, equipment and other things owned by or under the control of the NOPs;
- (d) assign to RTA all rights and benefits under Subcontracts;
- (e) provide RTA with possession of all materials and other things on the Site or off-Site and deliver to RTA all necessary documents, which are required for the Alliance Works; and
- (f) comply with any directions of RTA, including any directions to carry out the activities or do the things referred to in clauses 11.3(a) to (e) (inclusive).

11.4 Termination payments

Subject to RTA's rights under or in connection with this Agreement, including the rights to withhold or set-off payment and recover damages, if this Agreement is terminated under either clause 11.1 or clause 13.3(d), RTA will pay the NOPs or the NOPs will pay RTA, as the case may be, the difference between:

- (a) the sum of:

-
- (i) the amounts payable for the work executed prior to the date of termination which will in respect of the Gainshare regime be determined on a just and equitable basis by the ALT;
 - (ii) the cost of materials reasonably ordered by the NOPs for the Alliance Works, which they are legally liable to accept, but only if the materials become the property of RTA after payment;
 - (iii) costs reasonably incurred by the NOPs in the expectation of completing the whole of the Alliance Works and not included in any payment by RTA;
 - (iv) reasonable costs of demobilisation; and
 - (v) the reasonable costs of complying with any directions given by RTA on or after termination; and
- (b) an amount equal to any amounts which RTA previously paid to the NOPs, and RTA will not otherwise be liable to the NOPs for any cost, loss, expense or damage incurred by the NOPs as a consequence of, or in connection with the Alliance Works, this Agreement or the termination of this Agreement.

12. NO ARBITRATION OR LITIGATION

Except to the extent required by any law:

- (a) the ALT will attempt to determine, resolve or settle any dispute between us, other than a dispute arising out of or in connection with a Material Default; and
- (b) except as provided in this Agreement, there will be no arbitration or litigation between us in relation to any dispute, other than a dispute arising out of or in connection with a Material Default.

13. DEFAULT BY PARTICIPANT

13.1 Default by us

This clause 13 applies if any of us commits a default that amounts to a Material Default (**Defaulting Participant**).

13.2 Notice of default

The Non-Defaulting Participants may give a joint written notice to the Defaulting Participant of:

- (a) the default and the Non-Defaulting Participants' intention to exercise the Non-Defaulting Participants' rights under clause 13.4 on the expiry of 7 Business Days if the default is capable of being rectified but is not rectified within the 7 Business Day period; or

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- (b) the Non-Defaulting Participants' intention to exercise the Non-Defaulting Participants' rights under clause 13.3 if the default is not capable of being rectified.

Any such notice must specify that it is a notice under this clause.

13.3 Failure to remedy

If:

- (a) the Defaulting Participant fails within 7 Business Days after receiving a notice given under clause 13.2 to rectify a default; or
- (b) the Non-Defaulting Participants give notice under clause 13.2(b),
the Non-Defaulting Participants may, as the Non-Defaulting Participants' sole remedy,
- (c) where the Defaulting Participant is a NOP:
 - (i) wholly or partly suspend any payment due to the Defaulting Participant under this Agreement until the default has been remedied; and
 - (ii) by joint notice exclude the Defaulting Participant from further participation in the performance of this Agreement under clause 13.4; or
- (d) where the Defaulting Participant is RTA, wholly or partly suspend the Alliance Works until the default has been remedied. If RTA fails to remedy the default within a further 20 Business Days after receiving a notice given under clause 13.2 to rectify a default, then the NOPs may give notice in writing to RTA terminating this Agreement.

13.4 Exclusion from further participation in this Agreement

If the Non-Defaulting Participants exclude the Defaulting Participant from further participation in the performance of this Agreement by notice under clause 13.3(c)(ii):

- (a) the other Participants may employ and pay other persons to replace the Defaulting Participant in the performance of the Alliance Works and may use all Design Documentation, Temporary Works and Construction Plant provided by the Defaulting Participant and necessary to perform the Alliance Works;
- (b) the Defaulting Participant will promptly, if required by the Non-Defaulting Participants, assign to RTA without payment the benefit of any agreements for the performance of any part of the Alliance Works;
- (c) as and when required by the ALT (and not before), the Defaulting Participant will remove from the Site any Temporary Works, Construction Plant and other property provided by the Defaulting Participant and if it fails to do so, not less than 10 Business Days after written notice of the Non-Defaulting Participants' intention to do so (but without being responsible for any loss or damage), the Non-Defaulting

Participants may remove and/or sell any such Temporary Works, Construction Plant or other property;

- (d) the Defaulting Participant and its Representatives will no longer be entitled to be represented on the ALT or otherwise participate in the Project; and
- (e) the Non-Defaulting Participants may execute all deeds and documents and do all such things on behalf of the Defaulting Participant as is necessary for the performance of the Alliance Works and the Defaulting Participant irrevocably authorises any directors or managers of the Non-Defaulting Participants to act as its attorneys for the purpose of executing such deeds and documents and doing those things.

14. REMEDIES AND LIABILITY

14.1 Rights and remedies

- (a) Subject to any requirement of law, the respective rights, obligations and liabilities of each of us as set out in this Agreement exclusively govern our rights in relation to this Agreement and the Alliance Works and we do not have any other rights or remedies arising out of or in connection with this Agreement and the Alliance Works, at law (including negligence) or equity, other than as set out in this Agreement.
- (b) Subject to clause 14.3(b), this Agreement creates legally enforceable rights:
 - (i) despite the fact that certain matters are to be settled, resolved, determined or agreed by the ALT; and
 - (ii) irrespective of how or whether any matters to be settled, resolved, determined or agreed by the ALT are resolved, determined or agreed.
- (c) Interpretation of this Agreement which is consistent with the principles in clauses 14.1(a) and (b) is to be adopted.

14.2 Civil Liability Act

- (a) The operation of Part 4 of the *Civil Liability Act 2002* (NSW) is excluded in relation to any rights, obligations and liabilities arising under or in relation to this Agreement regardless of how such rights, obligations or liabilities are sought to be enforced.
- (b) We will ensure that a clause equivalent to clause 14.2(a) is included in:
 - (i) each Subcontract; and
 - (ii) any further contract that any Subcontractor enters into with others for the carrying out of works.

14.3 Liability under this Agreement

(a) Subject to;

- (i) the indemnities in clauses 14.3(b), 16.1 and 16.3; and
- (ii) the provisions of clause 14.5,

none of us will be liable to each other under or in connection with this Agreement, at law (including negligence) or equity, for any claim, action, demand or any other right for costs, expenses, damages, losses or other amounts, arising from or in connection with this Agreement, the performance (or non-performance) of our obligations under this Agreement or the termination of this Agreement. This clause survives termination, completion or expiration of this Agreement.

(b) Each Participant is liable for and indemnifies the other Participants for all costs, expenses, damages, losses or other amounts arising from:

- (i) that Participant's Material Default;
- (ii) exercise of the right of suspension or exclusion under clauses 13.3 or 13.4; or
- (iii) termination of this Agreement arising from that Participant's Material Default.

(c) Each indemnity in this Agreement is a continuing obligation, separate and independent from the other obligations under this Agreement and survives termination, completion or expiration of this Agreement.

(d) It is not necessary for us to incur expense or to make any payment before enforcing a right of indemnity conferred by this Agreement.

14.4 Limitations and exclusions of rights and liabilities

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

14.5 Preservation of insurance rights

The provisions of this clause 14 operate to release a party to this Agreement from liability to another party to this Agreement to the extent only that either:

- (a) the liability is not recoverable from an insurer of any policy of insurance forming part of the insurance regime agreed by the ALT or contemplated under this Agreement; or
- (b) while recoverable under such insurance policy, is not in fact recovered due to the insolvency of the insurer.

15. DOCUMENT MAINTENANCE AND AUDITING

15.1 Maintenance of accounts, records and documentation

- (a) Due to the "open book" nature of this Agreement, we will maintain in Australia for a period of at least seven years after the Completion or termination of this Agreement (as the case may be), a complete set of:
 - (i) invoices, accounts and records in accordance with good and accepted accounting principles showing all costs and expenses incurred in the performance of the Alliance Works; and
 - (ii) Records associated with the Alliance Works.
- (b) This clause 15.1 survives termination of this Agreement.

15.2 Access to accounts, records and documentation

We will give every assistance to RTA and make available to RTA on request all invoices, accounts, Records and documentation which we are required to maintain pursuant to clause 15.1.

15.3 Audit

- (a) At all reasonable times and with reasonable notice to the Alliance Manager, RTA and/or the Financial Auditor may undertake an inspection, audit or copying of Records in relation to the Alliance Works.
- (b) We will provide RTA and the Financial Auditor with such access and facilities as is necessary to enable RTA and the Financial Auditor to undertake any such inspection and audit or to take such copies of any Records.
- (c) RTA and the Financial Auditor will have the right to reproduce any Records obtained under clause 15.3(a).

16. CARE OF INFORMATION

16.1 Intellectual Property

- (a) Unless agreed otherwise, all Intellectual Property Rights created in any document, matter or thing created or written in the course of performance of this Agreement will vest in RTA on creation and, by this Agreement, each NOP assigns to the RTA absolutely all such Intellectual Property Rights immediately upon creation.
- (b) RTA grants the NOPs a non-exclusive, royalty-free licence to use RTA's Intellectual Property Rights vested under clause 16.1(a) and any other Intellectual Property Rights of or licensed to RTA that are necessary for undertaking the Alliance Works in Australia, solely for the purposes of the conduct of the Alliance Works. The licence created by this clause 16.1(b) continues subject to the exercise

of any rights of RTA under clause 13 and until termination under clauses 11.1 or 13.3(d).

- (c) Nothing in this clause 16.1 is intended to vest in RTA any Intellectual Property Rights in the pricing information or pre-existing business methodologies of any NOP.
- (d) We must ensure that, in providing the Alliance Works, we will not infringe the Intellectual Property Rights of any person or company, and each NOP must ensure that Intellectual Property Rights sufficient to permit RTA's use, maintenance and future modification of the Alliance Works are available to RTA as part of the Alliance Works.
- (e) Records relating to Intellectual Property Rights created by us for the purposes of undertaking the Alliance Works are and will remain the sole property of RTA.
- (f) Records relating to Intellectual Property Rights must be provided to RTA (in such form as RTA may reasonably require) on completion of the Alliance Works and within 7 Business Days of being requested to do so by RTA.
- (g) Each of us will indemnify each other against all costs, losses, damages and claims to the extent arising from our breach of clause 16.1(d).

16.2 Moral rights

Each NOP must use its best endeavours to:

- (a) obtain in writing from its officers, employees, Subcontractors, agents and licensees all necessary, unconditional and irrevocable:
 - (i) consents permitted by applicable law, to any alterations to, or use of the Material that would otherwise infringe their respective moral rights in the Material, whether occurring before or after the consent is given; or
 - (ii) to the extent a consent is not permitted by applicable law, waivers permitted by applicable law of their respective moral rights in the Material, for the benefit of RTA;
- (b) provide RTA with copies of each written consent and waiver obtained under this clause 16.2, at RTA's request; and
- (c) use its best endeavours to ensure that none of its officers, employees, Subcontractors, agents or licensees institutes, maintains or supports any claim or proceeding for infringement by RTA of any of the NOP's employees', Subcontractors', or licensees' moral rights in the Material.

16.3 Claims

Each NOP must:

- (a) provide, at no cost to RTA, all reasonable assistance required by RTA to defend a claim or any proceedings arising from defending any claim for the infringement of Intellectual Property Rights vested in RTA under clause 16.1 or moral rights of third parties;
- (b) keep RTA fully informed of all suspected or actual infringements and claims by any person that the Materials, or their use, infringe the Intellectual Property rights or moral rights of any person;
- (c) indemnify RTA against all cost, loss, expense or damage (including without limitation legal costs on a solicitor and own client basis and whether incurred by or awarded against RTA) any claim or proceedings, that RTA may sustain or incur as a result of a breach of clause 16.1 or clause 16.2; and
- (d) satisfy any settlement of, or judgement given, in any claim or proceedings to be made by or against RTA to the extent of the indemnity contained in this clause 16.3.

16.4 Conflict of interest

We must:

- (a) disclose the full particulars of any actual, potential or possible conflict of interest which arises or may arise in connection with this Agreement, whether that conflict concerns us or any person employed or retained by us for or in connection with the provision of the Alliance Works;
- (b) not allow ourselves to be placed in a position of conflict of interest or duty in regard to any of our rights or obligations under this Agreement (without the prior consent of each other) before we participate in any decision in respect of that matter; and
- (c) ensure that our Representatives and our other officers, agents and employees also comply with the requirements of paragraphs (a) and (b) when acting in connection with this Agreement.

16.5 Confidentiality

- (a) Except for the efficient performance of the Alliance Works, the NOPs will not, and will ensure that those for whom they are responsible for do not:
 - (i) disclose to any person any information; or
 - (ii) publish any photographs, texts, documents, articles, advertisements or other information,

relating to this Agreement, the Alliance Works or the Project, without obtaining RTA's prior written consent (which consent can be withheld in the discretion of RTA).

- (b) If requested by RTA, the NOPs will execute a confidentiality agreement, on terms reasonably required by RTA, in relation to any information obtained by us for the purposes of this Agreement, the Alliance Works or the Project.
- (c) Subject to this clause 16.5, we must take all reasonable steps to protect the confidentiality of all information relating to the Agreement, the Alliance Works and the Project.
- (d) Clause 16.5(a) does not apply to any information that is:
 - (i) in or enters the public domain, except through disclosure contrary to this Agreement; or
 - (ii) or was made available to the NOP by a person who is or was not under an obligation of confidence in relation to that information.
- (e) The obligations of confidentiality set out in this clause 16.5 do not apply to the extent that a Participant is required by any applicable law, the requirement of any Authority or the rules of any stock exchange to disclose any information, provided the Participant:
 - (i) promptly gives notice to the other Participants of that requirement;
 - (ii) takes all lawful measures available, and allows the other Participants to take all lawful measures available, to restrict disclosure of information; and
 - (iii) discloses only that portion of information which it is legally required to disclose.
- (f) RTA may make information concerning the NOPs available to other NSW Government authorities and ministries, including information provided by a NOP to RTA and information relating to a NOP's performance under this Agreement.
- (g) Each NOP:
 - (i) acknowledges that RTA will disclose information on this Agreement under section 15A(2) of the *Freedom of Information Act 1989* (NSW);
 - (ii) must provide RTA with details of any Related Body Corporate, or any other private sector entity in which the NOP has an interest, that will be involved in performing any of the NOP's obligations under this Agreement or that will receive a benefit under this Agreement; and
 - (iii) agrees that the obligation in clause 16.5(g)(ii) is a continuing obligation under this Agreement.

17. MISCELLANEOUS PROVISIONS

17.1 Service of notices

- (a) Any notice or other communication given by one Participant to the other, unless the contrary intention appears, will only be effective if it is in writing and signed on behalf of the Participant giving the notice.
- (b) To be valid, a written notice under this Agreement must be delivered by hand, registered mail or facsimile, addressed in accordance with the contact details for the receiving Participant stated in **Schedule 5 (Contact Details)**.
- (c) A notice, consent or other communication that complies with this clause is regarded as given and received:
 - (i) if it is delivered or sent by fax:
 - (A) by 5.00 pm (local time in the place of receipt) on a Business Day - on that day; or
 - (B) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day - on the next Business Day; and
 - (ii) if it is sent by mail:
 - (A) within Australia - 3 Business Days after posting; or
 - (B) to or from a place outside Australia - 7 Business Days after posting.
- (d) Electronic communication by email will not constitute a valid notice under this Agreement, but a hard copy of an email may be issued as a valid notice using any of the means listed in clause 17.1(b).
- (e) We may change our address to which notices can be sent to us by giving each other notice of the change in accordance with this clause.

17.2 Right to assign or Subcontract

We must not:

- (a) assign our rights under this Agreement; or
- (b) subcontract the performance of any of our obligations under this Agreement (except pursuant to clause 7.3),

without the prior written approval of each other, which must not be unreasonably withheld.

17.3 Governing law

This Agreement is governed by the laws of New South Wales.

17.4 Status of Agreement

This Agreement:

- (a) is a contract for services, not a contract of service; and
- (b) does not give rise to any legally binding obligation between any of our officers or employees and each other one of us.

17.5 Tariff concessions

Where goods are to be imported into Australia in connection with the Alliance Works, the NOPs will do all that is reasonably necessary to assist RTA in obtaining the full benefit of any tariff concession in respect of the same.

17.6 Australian currency

Except where expressed to the contrary, all prices and sums of money and all payments made under this Agreement are in Australian currency.

17.7 Relationship of the Participants

- (a) Except as expressly provided in this clause, this Agreement is not intended to create and should not be construed as creating, any partnership, joint venture or fiduciary relationship between any one or more of us or confer a right in favour of any of us to enter into any commitment on behalf of each other or otherwise to act as its agent.
- (b) Each of us is an independent entity, and for the purposes of this Agreement, the officers, employees, agents or Subcontractors of us will not be deemed to be officers, employees, agents or Subcontractors of each other, unless deemed otherwise by law and without limiting the generality of this clause we will pay all costs associated with our own officers and employees including any fringe benefits tax liability attaching to the grant of any fringe benefit to our officers and employees in respect of their employment.
- (c) As between RTA on the one part and the NOPs on the other part:
 - (i) except in relation to clause 14.3(b), a liability of the NOPs under this Agreement is a joint liability of all of them and a several liability of each of them;
 - (ii) a right given to the NOPs under this Agreement is a right given severally to each of them; and

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- (iii) a representation or acknowledgement made by the NOPs is made by each of them.

17.8 Entire agreement

This Agreement as amended from time to time contains the entire agreement between us and supersedes all prior arrangements whether written or oral and any heads of agreement, letters of intent, representations and other documents in relation to the Alliance Works issued or entered into prior to the date of this Agreement.

17.9 Non-waiver

Waiver or relaxation partly or wholly of any of the terms of this Agreement will:

- (a) be effective only if in writing and signed by each of us;
- (b) apply only to a particular occasion unless expressed to be continuing; and
- (c) not constitute a waiver or relaxation of any other term of this Agreement.

17.10 Corporate power and authority

We represent to each other and must ensure that we have full power to enter into and perform our obligations under this Agreement and that when executed it will constitute legal, valid and binding obligations in accordance with its terms.

17.11 No representation or reliance

We each acknowledge that we:

- (a) (or any person acting on our behalf) have not made any representation or other inducement to enter into this Agreement, except for representations or inducements expressly set out in this Agreement; and
- (b) do not enter into this Agreement in reliance on any representation or other inducement by or on behalf of each other, except for any representation or inducement expressly set out in this Agreement.

17.12 Severability

If any provision of this Agreement, or its application to any of us, is or becomes invalid, void, voidable or otherwise unenforceable for any reason:

- (a) that provision or its application to any of us will be severed from this Agreement; and
- (b) the remainder of this Agreement or the application of its provisions to any of us will not be affected.

17.13 Financial Auditor

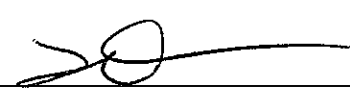
-
- (a) RTA will engage and pay the Financial Auditor under a separate agreement. Costs associated with the engagement of the Financial Auditor will not form part of the AOC or TOC or otherwise be costs of the Alliance.
 - (b) RTA must ensure that the Financial Auditor acts independently of the Participants and in a timely manner.

EXECUTED by the parties

SIGNED for ROADS AND TRAFFIC
AUTHORITY OF NEW SOUTH WALES,
by its duly authorised delegate, in the presence of:



Signature of delegate



Signature of witness

IAN H MATTHEWS

Name

GENERAL MANAGER
INFRASTRUCTURE CONTRACTS

Title

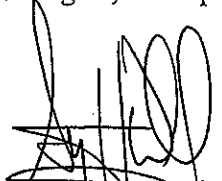
HELENA MANTAKOUN

Name

SIGNED for Thiess Pty Limited, by its duly
authorised agent, in the presence of:



Signature of agent



Signature of witness

DAVID R SAXELSBY

Name

MANAGING DIRECTOR

Title

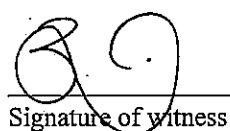
Steve Wille

Name

SIGNED for Parsons Brinckerhoff Australia
Pty Limited, by its duly authorised agent, in
the presence of:



Signature of agent



Signature of witness

STUART C GUENN

Name

MANAGING DIRECTOR

Title

NICOLE ANNE BATTERSBY

Name

SCHEDULE 1
ALLIANCE PARTICIPANTS

PART A

RTA

Roads and Traffic Authority (ABN 64 480 155 255)

Address for notices, etc: 260 Elizabeth Street, Surry Hills, New South Wales

RTA Interface Manager: Dick Whibley
59 Darby Street, Newcastle, New South Wales

PART B

NOPs

Thiess Pty Limited (ABN 87 010 221 486)

Address for notices, etc: Level 5, 26 College Street, Sydney, New South Wales

Parsons Brinckerhoff Australia Pty Limited (ABN 80 078 004 798)

Address for notices, etc: Level 27, 680 George Street, Sydney, New South Wales

SCHEDULE 2

DICTIONARY

1. INTERPRETATION

1.1 Definitions

Defined terms set out in the Commercial Framework apply in this Agreement and the following definitions apply in this Agreement:

Actual Outturn Cost or **AOC** means the sum of all Direct Costs actually incurred by the Alliance Participants in performing the work under this Agreement to bring the Alliance Works to Final Completion plus the Fee paid or payable by RTA to the NOPs.

Agreement means this document and includes its schedules, annexures and attachments.

Alliance has the meaning given to it in **Recital C**.

Alliance Brief means the document set out in **Schedule 9** (Alliance Brief) as may be updated by RTA.

Alliance Leadership Team or **ALT** means the alliance leadership team established under clause 2.1.

Alliance Management Team or **AMT** means the alliance management team established by the ALT under clause 3.1(b).

Alliance Manager means the person appointed by the ALT under clause 3.1(a).

Alliance Objectives means the matters set out in **Schedule 4** (Alliance Objectives) or any other objectives determined by the ALT from time to time.

Alliance Principles means the matters set out in **Schedule 3** (Alliance Principles) or any other principles determined by the ALT from time to time.

Alliance Works means the whole of the work to be carried out by us in accordance with this Agreement, as varied in accordance with this Agreement, which is to be handed over to RTA, but excluding Construction Plant and Temporary Works.

AMT Member has the meaning given to it in clause 3.1(b).

Approval Process means any process required to obtain the approval or consent of an Authority or under any Statutory Requirement, including but not limited to any approval process under the *Environmental Planning and Assessment Act 1979* (NSW).

ARTC means Australian Rail Track Corporation Ltd (ABN 75 081 455 754).

Authority means:

-
- (a) any governmental or semi-governmental or local government authority, administrative or judicial body or tribunal, department, commission, public authority, agency, minister, statutory corporation or instrumentality; or
 - (b) any other person having a right to impose a requirement, or whose consent is required, with respect to any part of the Alliance Works.

Business Day means a day that is not a Saturday, Sunday or public holiday in Sydney or 27, 28, 29, 30 or 31 December in any year.

Certificate of Completion means the certificate referred to in clause 6.5(c).

Certificate of Final Completion means the certificate referred to in clause 6.6(b) in which the Alliance Manager states that the Defects Correction Period has expired and the date of such expiry and that the Alliance Manager is not aware of any outstanding Defects.

Chairperson means the chairperson of the ALT as referred to in clause 2.3(a) and appointed from time to time under clause 2.3(c).

Commercial Framework means the commercial framework contained in **Schedule 7** (Commercial Framework), as amended or modified by the ALT in writing from time to time, but only where there is a Scope Change.

Completion is that stage when:

- (a) the Alliance Works are 100% complete and free from any known Defects;
- (b) the requirements of all relevant certifying Authorities and insurance surveyors have been met and all certificates, authorisations, approvals and consents from Authorities and service providers required for the occupation, use and maintenance of the Alliance Works have been issued;
- (c) those tests that are required to be carried out before the Alliance Works reach Completion have been carried out and passed;
- (d) all testing, training, documents and other information associated with the Alliance Works and essential for the use, operation and maintenance of the Alliance Works have been supplied to RTA including but not limited to all Subcontractors' warranties, operating manuals, licences, access codes, as-built drawings or work-as-executed drawings; and
- (e) any other things required to be done under this Agreement as part of the Alliance Works have been done.

Construction Plant means appliances, vehicles and other things (including devices, equipment, instruments and tools) used in connection with the Alliance Works, but not forming part of the Alliance Works.

CW Insurance means contract works (construction material damage) insurance.

CW Insurance Date means the date on which CW Insurance is to commence, as determined by the ALT.

Date for Completion means 17 December 2009.

Date of Completion means the date stated in a Certificate of Completion issued in accordance with clause 6.5.

Date of Final Completion means the date stated in the Certificate of Final Completion.

Defaulting Participant has the meaning given to it in clause 13.

Defect means a defect or omission in the Alliance Works and includes any damage caused to the Alliance Works by any one of us in the course of performing the Alliance Works or any non compliance with the Alliance Brief.

Defects Correction Period means the period expiring on the later of the date:

- (a) which is 12 months after the Date of Completion; and
- (b) on which all Defects notified under clause 6.11(a) during the period in paragraph (a) have been rectified in accordance with clause 6.11.

Design means such design, conceptual design, design development and Design Documentation provided in accordance with this Agreement.

Design Documentation means all:

- (a) design documentation (including design standards, design reports, durability reports, specifications, models, samples, calculations, drawings, digital records and all other relevant data) in computer readable and written forms, or stored by any other means, which are required for the performance of the Alliance Works or which a Participant or any other person creates in performing the Alliance Works (including the design of Temporary Works);
- (b) computer software (including both source code and object code versions) specifically created or modified for the purposes of the Alliance Works; and
- (c) reports and submissions to Authorities.

Direct Cost has the meaning given to that term in **Schedule 7** (Commercial Framework).

Direction means a direction under clause 7.22.

Estimation Request means a notice from RTA to the ALT, requesting the ALT to make a determination under clause 7.22(d).

Excusable Delay means:

-
- (a) war, revolution, act of public enemies, terrorism, epidemic, tidal wave, earthquake, lightning or explosion;
 - (b) action or inaction by, or orders, judgements, rulings, decisions or enforcement actions of any State or Federal court, government, tribunal or Authority (including denial, refusal or failure to grant any permit, authorisation, licence, approval or acknowledgment despite the use of timely best endeavours by the Alliance to obtain same) or a change in laws, such change not being foreseeable at the time of entering into this Agreement;
 - (c) suspension by RTA of all or part of the Alliance Works pursuant to clause 7.21; or
 - (d) any other reasonable cause that the ALT decides.

Fee means the fee calculated in accordance with **Schedule 7** (Commercial Framework).

Final Completion means the stage when all obligations in relation to the Alliance Works have been completed and a Certificate of Final Completion has been issued.

Financial Auditor means the person or persons named in **Schedule 5** (Contact Details).

Gainshare means the payments made by RTA to the NOPs calculated in accordance with **Schedule 7** (Commercial Framework).

Gainshare Modifiers has the meaning described in **Schedule 7** (Commercial Framework).

Gainshare Regime is the regime of risk and reward payments paid by the NOPs or RTA, as the case may be, as calculated in accordance with **Schedule 7** (Commercial Framework).

GST means the tax payable on taxable supplies (as that term is defined in the GST Legislation) under the GST Legislation.

GST Legislation means the *New Tax System (Goods and Services Tax) Act 1999* and any related legislation imposing such tax or legislation that is enacted to validate, recapture or recoup such tax.

Intellectual Property Rights means all present and future rights conferred by statute, common law or equity in or in relation to copyright, trade marks, patents, designs, circuit layouts, plant varieties, business and domain names, inventions and confidential information, and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields whether or not registrable, registered or patentable. These rights include:

- (a) all rights in all applications to register these rights;
- (b) all renewals and extensions of these rights; and
- (c) all rights in the nature of these rights, such as moral rights.

Key Performance Indicators or KPIs means the performance indicators identified in **Schedule 7** (Commercial Framework) as components of the KRAs which determine Performance Gainshare.

Key Result Areas or KRAs means the performance indicators determined by the AMT and agreed by the ALT against which our performance in achieving Outstanding Performance in our Alliance Objectives will be measured for the purposes of this Agreement.

Material means in respect of the Alliance Works, any idea, document, work, process, product, result or solution introduced to the Alliance by a NOP or created by or on behalf of a NOP as part of the Alliance.

Material Default means in relation to a Participant:

- (a) any act or omission of the Participant which is fraudulent, intentionally illegal or an intentional breach of this Agreement;
- (b) any wanton or reckless act or omission of the Participant without regard to the possible harmful consequences arising from that act or omission;
- (c) the Participant informing another Participant in writing or creditors generally that the informer is insolvent;
- (d) the Participant committing an act of bankruptcy;
- (e) the Participant having a bankruptcy petition presented against it;
- (f) the Participant being made bankrupt;
- (g) the Participant having a meeting of its creditors called with a view to:
 - (i) entering a scheme of arrangement or composition with creditors; or
 - (ii) entering a deed of company arrangement;
- (h) the Participant having a deed of assignment or deed of arrangement made, or accepting a composition, or being required to present a debtor's petition, or having a sequestration order made, under Part X of the *Bankruptcy Act 1996* (Cwlth);
- (i) the Participant entering into a deed of company arrangement with creditors;
- (j) the Participant being subject to a resolution passed at a meeting of its creditors to place it under official management;
- (k) the Participant having a controller or administrator appointed or a receiver of its property or any part of its property appointed or a mortgagee take possession of any of its property;

-
- (l) the Participant being the subject of an application to a court for its winding up, which application is not stayed within 14 days;
 - (m) a winding up order being made in respect of the Participant;
 - (n) the Participant resolving by special resolution that it be wound up voluntarily (other than for a member's voluntary winding up);
 - (o) an execution is levied against the Participant by a creditor;
 - (p) a failure by the Participant to comply with clauses 14.3(b), 16.1, 16.2 or 16.3;
 - (q) a failure by the Participant to account for or diligently pursue recovery of insurance proceeds under insurance policies required under this Agreement or a failure by the Participant to comply with any such policy;
 - (r) a Participant:
 - (i) accessing the Site for the purpose of performing the Alliance Works prior to the approval by the ALT of the OH&S Plan; or
 - (ii) failing to comply with the requirements of the OH&S Plan by heedless, careless, intentional or systemic conduct where the Participant can foresee some probable or possible harmful consequence but nevertheless decides to continue with that conduct with an indifference to, or disregard of, that consequence;
 - (s) a Participant failing to pay another Participant money within 20 Business Days of a written demand which specifies that it is being made for the purposes of this paragraph (s) where that money is due and payable under this Agreement and has not been paid to the Participant within the time required by this Agreement;
 - (t) RTA failing to comply with the requirements under clause 10;
 - (u) a Participant failing to comply with clause 16; or
 - (v) a Participant repudiating this Agreement.

Minimum Conditions of Satisfaction or MCOS means the minimum level of performance for each Key Result Area nominated by RTA.

Non-Defaulting Participant means, in relation to a Material Default committed by a Defaulting Participant, the Participants other than that Defaulting Participant.

NOF means a Participant with the exception of RTA and where the plural is used means all of the Participants with the exception of RTA.

OH&S Plan means the occupational health and safety management plan prepared in accordance with clause 7.8.

Outstanding Performance means the levels of outstanding performance in the KPIs.

Painshare means the payments made by the NOPs to RTA calculated in accordance with **Schedule 7** (Commercial Framework).

Participant means a party as identified in **Schedule 1** (Alliance Participants) and any other person who becomes a party to this Agreement.

Payment Claim means a claim in such form as the ALT determines.

Payment Schedule means a payment schedule issued by RTA under clause 8.1(c) or clause 8.1(d).

Performance Gainshare has the meaning described in **Schedule 7** (Commercial Framework).

Performance Pool has the meaning described in **Schedule 7** (Commercial Framework).

Planning Approvals means:

- (a) the approval under section 115B of the Environmental Planning and Assessment Act 1979 issued by the Minister for Infrastructure and Planning (now the Minister for Planning) dated 24 September 2004, in respect of the Coopernook to Moorland section of the Project;
- (b) the approval under section 75J of the Environmental Planning and Assessment Act 1979 issued by the Minister for Planning dated [*insert date*], in respect of the Moorland to Herons Creek section of the Project;
- (c) all conditions to the approvals referred to in paragraphs (a) and (b), which approvals include all documents incorporated by reference, as those approvals may be modified from time to time; and
- (d) any other consent, concurrence or approval, or determination of satisfaction with any matter, which is made, given or issued under the approvals referred to paragraph (c) from time to time and all conditions to any of them, as that consent, concurrence, approval or determination may be modified from time to time.

PPL Insurance means public and products liability insurance.

Principal Arranged Insurances means:

- (a) the PPL Insurance referred to in clause 10.1 which has been effected by RTA under clause 10.1, details of which are contained in **Schedule 13** (Third Party Public and Products Liability Insurance Summary); and
- (b) the CW Insurance which is intended to be effected by RTA under clause 10.1, likely indicative details of which are contained in **Schedule 12** (Likely Indicative Terms of Construction Material Damage Insurance Policy).

Program Gainshare has the meaning described in **Schedule 7** (Commercial Framework).

Program Pool has the meaning described in **Schedule 7** (Commercial Framework).

Project means the project the subject of this Agreement as described in **Recital A**.

Rail Agreement means the deed between RTA each of the Participants and ARTC dated on or about the date of this Agreement which is in the form of the deed in **Schedule 15** (Form of Rail Agreement).

Records include, but are not limited to, both electronic and physical versions of records, accounts, ledgers, payroll, correspondence, tenders, minutes of meetings, notes, reports, instructions, plans, drawings, invoices, dockets, receipts, vouchers, computer programs. In relation to Intellectual Property Rights, it includes all plans, designs, drawings, specifications, records excluding normal internal business records, data reports and other technical information, both electronic and physical versions but does not include any electronic or physical record, including but not limited to correspondence or instruction, that is subject to legal professional privilege.

Rectification Notice means the rectification notice referred to in clause 6.11(a).

Rectification Work means the rectification of Defects as referred to in clause 6.11(a).

Related Body Corporate has the meaning defined in section 50 of the *Corporations Act 2001* (Cwlth).

Representative means the persons appointed to the ALT or nominated, replaced or substituted in accordance with clause 2.2.

RTA Budget means the budget for the Project nominated by RTA.

RTA Budget Gainshare has the meaning described in **Schedule 7** (Commercial Framework).

Scope Change means:

- (a) any delay in the Alliance Works achieving Completion as a result of an Excusable Delay; or
- (b) any other event or circumstance which the ALT agrees justifies a modification to the terms of compensation to the NOPs as determined by the ALT in accordance with this Agreement.

Separable Portion means a part of the Alliance Works which the ALT determines is a separable portion.

Site means the land and other places (including any existing buildings, other structures, services or anything else specified in this Agreement) and airspace through or on which the Alliance Works are to be constructed.

Statutory Requirements means:

- (a) acts, ordinances, regulations, by-laws, orders, awards and proclamations of the jurisdiction where the Alliance Works are being carried out;
- (b) certificates, licences, consents, permits, approvals, and requirements of organisations having jurisdiction in connection with the carrying out of the Alliance Works; and
- (c) fees and charges payable in connection with the matters referred to in paragraphs (a) and (b).

Subcontract means any contract or purchase order between a NOP and a Subcontractor in relation to any part of the Alliance Works.

Subcontractor means any person engaged by a NOP (including a supplier or hirer of materials, plant, equipment or testing services) to perform any part of the Alliance Works and includes, where it is not inconsistent with the context, the Subcontractor's officers, employees, agents, consultants and invitees.

Target Outturn Cost or **TOC** means the out-turn estimate determined by the AMT and approved by the ALT of the costs to achieve the Minimum Conditions of Satisfaction and Final Completion.

Tax Invoice has the meaning given to it by GST Legislation.

Temporary Areas means the areas detailed as such in the Alliance Brief.

Temporary Works means works (including Construction Plant, processes and other things) used for the purpose of carrying out the Alliance Works, but which does not form part of the Alliance Works.

TOC Gainshare has the meaning described in **Schedule 7** (Commercial Framework).

Variation means an alteration authorised in writing by the ALT or RTA to any:

- (a) part of the Alliance Works; or
- (b) service or work that the Participants must perform under this Agreement; or
- (c) date, milestone or program in connection with the Alliance.

Wider Alliance Team means the wider alliance team established under clause 4.1.

work under this Agreement means the work or service that any Participant is or may be required to carry out in accordance with this Agreement and includes Variations, Rectification Work, Construction Plant and Temporary Works.

Works Approvals means any approvals arising from Statutory Requirements in connection with the Alliance Works or the Site, including the Planning Approvals and the Rail Agreement.

1.2 Interpreting this Agreement

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

- (a) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a Participant includes a permitted substitute or a permitted assign of that Participant;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
 - (v) a discretion means an absolute and unfettered discretion, not limited by implication; and
 - (vi) anything (including a right, obligation or concept) includes each part of it.
- (b) Any reference to currency is a reference to Australian dollars, unless stated otherwise.
- (c) No rule of construction applies to the interpretation of this Agreement to the disadvantage of one Participant on the basis that the Participant prepared it.
- (d) A decision of the ALT includes a direction, determination, approval, authorisation, consent, agreement, recommendation or requirement of the ALT.

SCHEDULE 3

ALLIANCE PRINCIPLES

ALLIANCE PRINCIPLES

- Ensure safety first every day
- Commitment to team work
- Commitment to open and honest communication
- Commitment to listen, hear and be receptive to what the other has to say
- Commitment to hold "difficult" conversations so that no potentially divisive matter is kept in the background
- All ALT decisions will be unanimous
- Decisions will be made on a "best for project" basis
- At all times act with good faith and with mutual trust and respect
- No party or person will enhance its position at the expense of another
- Each party accepts 100% responsibility for our relationship and the success of the project
- Complete transparency in all arrangements
- Challenge our comfort zones through hard work and innovation to achieve outstanding results
- Everyone is accountable

These principles provide the framework to deliver an outstanding project

SCHEDULE 4

ALLIANCE OBJECTIVES

The objectives set out below apply to the Alliance Works.

Key Result Area (KRA)	Alliance objective
Schedule	Open the 4-lane dual carriageway to traffic over the full length of the Project to a posted speed of 100kph on or before 17 December 2009
Cost	Deliver the Project at Target Outturn Cost (TOC) or less
Value	All project outcomes represent value for money and reflect the RTA's commitment to road safety
Project Approvals	Satisfy Planning Approvals
Safety	No-one is injured as a result of construction
Environment & Social	Effective management of environmental and human impact
Quality	Deliver a durable product that meets or exceeds the quality requirements throughout the Project

SCHEDULE 5

CONTACT DETAILS

Financial Auditor:

Easdown Consulting

PO Box 65
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Attention: John Easdown
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Fax: (02) 4938 5006
E-mail: eamcon@bigpond.com

RTA:

Roads and Traffic Authority

PO Box K198
HAYMARKET NSW 1240
Attention: Ian Matthews
Tel: (02) 9218 6400
Fax: (02) 9218 6169
E-mail: ian_matthews@rta.nsw.gov.au

NOPs:

Thiess Pty Limited

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Attention: Steve Wille
Tel: (02) 9332 0444
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Parsons Brinckerhoff Australia Pty Limited

GPO Box 5394 SYDNEY NSW 2001
Attention: Mark Dimmock
Tel: (02) 9272 5400
Fax: (02) 9272 5101
E-mail: swille@thiess.com.au

SCHEDULE 6

ALLIANCE LEADERSHIP TEAM

Name of Representative	Telephone Number	e-mail	Representative of
Ian Matthews	(02) 9218 6400	Ian_Matthews@rta.nsw.gov.au	RTA
Mark Eastwood	(02) 6640 1333	Mark_Eastwood@rta.nsw.gov.au	RTA
Steve Wille	(02) 9332 9444	swille@thiess.com.au	Thiess Pty Ltd
Steve Burns	(02) 9332 9444	sburns@thiess.com.au	Thiess Pty Ltd
Greg Steele	(07) 3218 2222	gsteele@pb.com.au	Parsons Brinckerhoff Pty Ltd
Mark Dimmock	(02) 9272 5400	mdimmock@pb.com.au	Parsons Brinckerhoff Pty Ltd

SCHEDULE 8

FUNCTIONS OF ALT, AMT AND THE ALLIANCE MANAGER

1. PART 1 – ALT

The role of the ALT is to provide leadership, governance and oversight. In this regard the function may be described as:

- a) Be accountable to the project and project sponsor
- b) Commit the resources of own organisation
- c) Facilitate the development of an inspirational vision that is owned by all participants
- d) Facilitate the development of a set of values that reflect the desired culture of the alliance, champion the values and in the absence of policy make decisions based on the values.
- e) Set policy and provide strategic direction.
- f) Set challenging goals that represent outstanding performance in each of the objectives of the project (KRA's) and champion the objectives and goals.
- g) Challenge the APM and AMT
- h) Make timely decisions, informed by alliance values, commercial principals and characteristics.
- i) Support, coach and mentor the AM and AMT
- j) Provide high level support and stakeholder interface as requested by the AM
- k) Appoint the AM and provide empowerment
- l) Ratify the AM's recommendation for AMT and organisation structure
- m) Set review and revise limits of delegation to APM
- n) Review and approve an alliance management plan and ensure adherence to the plan
- o) Monitor the performance of the alliance against objectives and take corrective action as required
- p) Monitor the cultural health of the Alliance, the performance of the team and take corrective action
- q) Conduct periodic performance and development reviews of the APM
- r) Determine AM and AMT performance incentive for outstanding performance against the project objectives.
- s) Issue directions, approvals and decisions as required by the PAA

-
- t) Set reporting requirements for APM and AMT to the ALT
 - u) Agree and sign off on KPI's

2. PART 2 – AMT

The role of the AMT is to deliver outcomes to meet or exceed alliance objectives. The function may be described as:

- a) Appoint the wider project team on a best for project basis
- b) Provide effective leadership to the wider project team, provide clear accountabilities and mentoring
- c) Be accountable for objectives and outstanding performance goals.
- d) Drive innovation and deliver outstanding results and be accountable for the solution.
- e) Work collaboratively
- f) Provide day to day management of the project
- g) Measure forecast and report performance to the ALT
- h) Take appropriate corrective action
- i) Meet fortnightly (formally)
- j) Provide the AM items requiring the decision of the ALT and with the AM produce supporting papers for any item on the ALT meeting agenda no later than 14 days prior to the ALT meeting
- k) Conduct periodic performance and development reviews of the WPT
- l) Make timely decisions on a best for project basis informed by alliance values
- m) Communicate with the WPT
- n) Maintain an alliance culture
- o) Implement best for project systems
- p) Resolve issues and elevate as required.

3. PART 3 – ALLIANCE MANAGER

The role of the AM is to lead the AMT to ensure that the alliance objectives are exceeded. The function may be described as:

- a) Deliver outcomes that exceed the MCOS for each objective
- b) Recommend a structure and AMT for ratification by ALT
- c) Be accountable to the Alliance for delivery of the project
- d) Lead and empower the AMT to exceed the MCOS for each objective

-
- e) Mentor the AMT
 - f) Provide leadership to the entire project team
 - g) Be an advocate for the alliance team to the ALT
 - h) Make timely decisions on a best for project basis informed by alliance values, commercial principals and characteristics.
 - i) Set clear roles and responsibilities for AMT
 - j) Meet fortnightly (formally) with the AMT
 - k) Communicate with the WPT and stakeholders
 - l) Be the public face of the Alliance
 - m) Develop and maintain an alliance culture
 - n) Develop and implement best for project systems
 - o) Develop an alliance management plan for endorsement by the ALT
 - p) Report on performance of the alliance against agreed objectives
 - q) Following consultation with the AMT provide the ALT with an agenda and supporting papers for any item on the agenda no later than 14 days prior to the ALT meeting
 - r) Conduct periodic performance and development reviews of the AMT
 - s) Recommend for endorsement by the ALT any AMT performance incentive for outstanding performance against the project objectives.

The AM's delegated authority is:

- a) Commit the Alliance participants to expenditure up to the limits set out in the attachment, either as a single or continuous commitment, provided the commitment is within the budget line item for that expenditure within the TOC
- b) Delegate to any member of the AMT authorisation to commit the alliance participants to expenditure up to the limit set out in the attachment provided the commitment is within the budget line item for that expenditure within the TOC
- c) Delegate to any other member of the Wider Project Team authorisation to commit the alliance participants to expenditure up to the limit set out in the attachment provided the commitment is within the budget line item for that expenditure within the TOC
- d) Any procurement is to be conducted in accordance with the approved procedure

SCHEDULE 9
ALLIANCE BRIEF

Highway No. 10

Pacific Highway

Greater Taree City Council and Port Macquarie-Hastings Council

Pacific Highway Upgrade

COOPERNOOK TO HERONS CREEK

(incorporating Cooperbrook to Moorland
and Moorland to Herons Creek projects)

Alliance Brief

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1 INTRODUCTION

1.1 Project Objectives

- (a) RTA Pacific Highway objectives are to:
- significantly reduce road accidents and injuries;
 - reduce travel times;
 - reduce freight transport costs;
 - develop a route that involves the community and considers their interests;
 - provide a route that supports economic development;
 - manage the upgrading of the route in accordance with Ecologically Sustainable Development (ESD) principles; and
 - provide the best value for money.
- (b) Specific project objectives are detailed in the Environmental Documents.
- (c) Additional objectives are to:
- (i) satisfy the technical and procedural requirements of RTA with respect to investigation, design, construction and maintenance of the Upgrade;
 - (ii) utilise high quality urban design to ensure the final form, line, colour and texture of the Project Works is compatible with existing landscape;
 - (iii) provide all connections, modifications and improvements necessary to link the Upgrade to the existing traffic network;
 - (iv) make temporary arrangements during construction to minimise disruption to local and through traffic and to maintain access to affected properties and land;
 - (v) ensure that the Upgrade is handed over to RTA in the specified condition at the Date of Final Completion;
 - (vi) consider and accommodate the future design, construction and maintenance, by others, of future works as detailed in section 4.23 of this Alliance Scope; and
 - (vii) develop, operate and maintain effective systems to manage occupational health safety and rehabilitation, industrial relations, environment and quality.

1.2 Purpose and Interpretation of Alliance Scope

- (a) The criteria in this document are minimum criteria, including technical, operational and performance requirements for the Project Works, which the Alliance will satisfy to fulfil its obligations under the PAA.
- (b) If more than one criterion applies in respect of any part of the Alliance Work then all criteria will be satisfied.

1.3 Site Boundaries

- (a) Appendix 1 contains location sketches of the Project Works.
- (b) Appendix 2 contains details of the Project Site,
- (c) The Upgrade will be designed and constructed to lie completely within the Project Site.
- (d) Local Roads will be constructed entirely within local road reserves, the Project Site and/or areas provided for Local Road Works.

1.4 RTA Specifications and Australian Standards

- (a) Any reference to Specifications must be read as a reference to the specifications contained in Appendices 5, 6, 9, and 15.
- (b) Any references in Specifications to "Drawings" (or "drawings") must be read as a reference to drawings prepared by the Alliance and approved for construction
- (c) Any references in Specifications to "testing" must be read as a reference to "RTA Test Methods" on RTA's website, (www.rta.nsw.gov.au).
- (d) Any reference in Specifications to "you" means the Alliance.
- (e) References to Australian Standards or to codes refers to the publications of Standards Australia and, unless stated otherwise, to the version of each publication current at the date of the TOC.

1.5 Definitions

Unless the context otherwise requires, terms which have a defined meaning in the Project Alliance Agreement (also referred to herein as the "PAA") have the same meaning where used in this Alliance Scope.

In this Alliance Scope, unless the context otherwise indicates:

"**Upgrade**" means the physical works, Services, materials and equipment within the Project Site which the Alliance must design, construct and hand over to RTA in accordance with the Project Alliance Agreement excluding:

- (a) the Local Road Works;
- (b) the Property Works; and
- (c) the Service Works;

"**Environmental Documents**" means the following documents.

- (a) Appendix 4 to the Alliance Scope;
- (b) the Planning Approvals and all conditions to them and includes all documents incorporated by reference, as that approval may be modified from time to time;

"**Extra Land**" means any land in addition to the Project Site that the Alliance procures for itself and at its own cost to occupy, use or have relevant rights over that it may deem requisite or necessary for the execution of the Alliance Work including land required for the Local Road Works and the Service Works.

"**Hold Point**" means a point beyond which a work process must not proceed without the authorisation or release of a nominated authority.

"**Local Roads**" means all local roads, state highways, regional roads and main roads, including their associated road reserves, which:

- (a) cross; and/or
- (b) are adjacent to; and/or
- (c) connect to; and/or
- (d) are in any way affected by the Project Works or Temporary Works, including those sections of Local Roads that are made redundant or become service roads as part of the road network.

"**Local Road Works**" means the modification, reinstatement and improvement of Local Roads which the Alliance must design and construct and hand over to RTA or the relevant Authority in accordance with the PAA and as specified in section 2.3.1 (c) of this Alliance Scope.

"**Opening**" means the date that four lane dual carriageways are opened to traffic over the full length of the project to a posted speed of 100km/hr for the full length of the Upgrade.

"**Project Plan**" means any plan of the kind referred to in section 2.7 of the Alliance Scope as that plan may be updated, amended and further developed under section 2.7.

"Project Site" means the land and airspace through or on which the Upgrade is to be constructed and which is more particularly described in Appendix 2 to the Alliance Scope.

"Project Works" means the physical works which the Alliance must design, construct, complete and hand over under the Project Alliance Agreement including the Upgrade, Service Works, Property Works and Local Road Works, but excluding Temporary Works:

"Property Works" means:

- (a) those works described or specified in sections 2.3.1 (b) and 6.1 of the Alliance Scope; and
- (b) all other works necessary to ensure that:
 - (i) the amenity of;
 - (ii) access to and egress from; or
 - (iii) the functionality of,

any property (including any structure thereon) including such property located outside of the Project Site which is affected by the Alliance Works is maintained to at least the standard that it was in immediately prior to the date of the Project Alliance Agreement including:

- (iv) fencing work to separate the property located outside the Project Site from the property located within the Project Site;
- (v) construction of access;
- (vi) construction of drainage; and
- (vii) reinstatement and landscaping.

"Service" means any service or item of infrastructure, including water, electricity, gas, fuel, telephone, existing drainage, sewerage, railway, airport, industrial waste disposal and electronic communications service.

"Service Works" means the construction, modification, or relocation of Services all of which are to be designed and constructed by the Alliance and handed over to RTA, an Authority or any other person in accordance with the PAA.

"Temporary Works" means any temporary physical work performed for the purpose of the carrying out of the Alliance Work or the Maintenance Work but which does not form part of the Project Works.

"Assets" means all components of the Upgrade including all Asset Items and Asset Sub-Items

"Asset Elements" are the broader categorisations of the Asset Types, such as rigid pavement, concrete bridge components, warning signs or longitudinal linemarking.

"Asset Types" are the distinct class of Asset, such as plain concrete pavements, elastomeric bearings, fans, pumps, switchboards advisory speed signs, or barrier lines.

"Asset Items" are single occurrences of an Asset, such as a pavement section, a bridge bearing, specific items of plant or equipment, a warning sign or a length of barrier line.

"Asset Sub-Items" are components of Asset Items which have a specified design life or maintenance requirements which vary from that established for the Asset Item, of which the Asset Sub-Item forms a part, such as light lamps and fan bearings.

"Code of Maintenance Standards" are the set of performance measures for each Upgrade Asset Type set out in Appendix 9.

"Performance Measures" are the defined, quantifiable attributes describing the required performance of an Upgrade Asset Type.



2 BASIC REQUIREMENTS

2.1 General

- (a) The Alliance will implement a fully integrated approach to the Alliance Works which accommodates and addresses our role as the designer and constructor for a key part of the Pacific Highway.
- (b) In particular, we will
 - (i) ensure that our planning and programming is comprehensive and provides for the concurrent delivery of the performance and environmental requirements;
 - (ii) proactively liaise with and satisfy the requirements of all relevant Authorities;
 - (iii) diligently address safety, road safety, function, durability, reliability and aesthetics in all aspects of the Alliance Works;
 - (iv) preserve and protect existing infrastructure (including Services, structures, roads, railways and buildings);
 - (v) design the Project Works to accommodate maintenance and maintain user convenience;
 - (vi) provide for operation of the Upgrade which is coordinated with and complementary to the management of the rural road network;
 - (vii) implement a proactive community involvement strategy which enables the Alliance to respond to and accommodate reasonable community expectations;
 - (viii) incorporate appropriate urban and landscape design in all aspects of the Project Works; and
 - (ix) diligently minimise disruption and inconvenience to all road users, to the public and to other affected parties.

2.2 Alliance Works

2.2.1 Nature and Extent of the Alliance Works

The Alliance Works includes all tasks and things necessary to:

- (a) investigate, design, construct and commission the Project Works and any Temporary Works;
- (b) demolish, remove and rehabilitate all existing infrastructure including roads, road tie-ins, structures, services, buildings, improvements and properties that are affected by or are made redundant, except as identified otherwise by the Environmental Documents, as a result of the Project Works or the Temporary Works;

- (c) ensure we can hand over the Upgrade to RTA at the Date of Completion in the specified condition;
- (d) hand over and correct all Defects during the Defects Correction Periods applicable to the relevant parts of the Project Works;
- (e) secure, maintain, repair, reinstate and hand back (in the specified condition) areas occupied by or affected by Temporary Works;
- (f) connect, modify, make arrangements and undertake improvements necessary to link the Upgrade to the surrounding traffic network and accesses and to ensure the continuous functioning of the surrounding traffic network during and after completion of the Project Works;
- (g) prepare all Design Documentation (including detailed construction drawings and specifications) and prepare all programs;
- (h) provide quality assurance of the Alliance Works;
- (i) enable the EMR to perform the Services identified in the Environmental Documents;
- (j) develop, implement and maintain an environmental management system including environmental monitoring;
- (k) mitigate environmental impacts during the design and construction of the Project Works and the Temporary Works;
- (l) develop, implement and maintain an occupational health, safety and rehabilitation management system;
- (m) restore and rehabilitate lands outside of the Project Site owned by RTA which has been made available for temporary use by the Alliance
- (n) implement all necessary traffic management to effectively manage traffic affected by the construction of the Project Works and the Temporary Works during construction;
- (o) develop, implement and maintain the Project Plans;
- (p) provide effective community involvement;
- (q) open the Upgrade and Local Roads affected by the Local Road Works to traffic; and
- (r) prepare a OEMP by 30 June 2008 in a format that allows it to be used as a generic document for Upgrade projects
- (s) prepare maintenance documentation.

2.3 Project Works and Temporary Works

2.3.1 Categories

The Project Works and the Temporary Works include the following categories of works:

(a) The Upgrade

The Upgrade includes:

- (i) all the infrastructure necessary to provide the safe and efficient passage of motor vehicles, including the rest areas, as envisaged in the Environmental Documents;
- (ii) the items and the configurations contained in Appendix 30, but excluding the infrastructure associated with Property Works, Local Road Works, Service Works and Temporary Works;
- (iii) all works to allow pedestrians, disabled persons and pedal cyclists to use routes nominated in the Environmental Documents;
- (iv) drainage (including subsurface drainage), fencing, earthworks, all structures (including retaining walls, bridges, overpasses and underpasses), pavements (including ramps and connections to the existing road network), all finishes and landscaping;
- (v) all infrastructure necessary to operate and maintain the Upgrade including any buildings;
- (vi) the provision of all Services to any facility necessary to operate and maintain the Upgrade;
- (vii) pavement markings, signs, sign support systems, traffic light signals and the provision of all lighting (street, pedestrian and emergency lighting);
- (viii) all environmental safeguards and measures necessary to mitigate environmental impacts during operation of the Upgrade, including those identified in the Environmental Documents;
- (ix) all measures necessary to achieve discharge water quality;
- (x) all measures necessary to mitigate noise during operation of the Upgrade;
- (xi) all works required as a consequence of the community liaison process;
- (xii) all equipment necessary to monitor the environmental performance of the Upgrade and assess the durability of all elements;
- (xiii) all infrastructure required to connect the Upgrade to the surrounding road network;
- (xiv) all measures in the Upgrade which are necessary as a consequence of the requirements in Appendix 3; and
- (xv) those parts of the works identified in section 2.3.2 of this Alliance Scope, which are on, or in, the area of land upon which the Upgrade is located.

(b) Property Works

Property Works include:

- (i) all adjustments to existing infrastructure or property, excluding Local Road Works or Service Works, which are necessary as a consequence of the Alliance Works or as a consequence of the community liaison process;
- (ii) all changes in access arrangements;
- (iii) demolition and adjustment of built features;
- (iv) adjustments to buildings;
- (v) adjustments to property drainage;
- (vi) all adjustments to property which are necessary as a consequence of the requirements in Appendix 3;
- (vii) all other property adjustment works necessary as a consequence of the Alliance Works including those identified in the Environmental Documents; and
- (viii) those parts of the works identified in section 2.3.2 of this Alliance Scope, which relate to adjustments to property.

(c) Local Road Works

Local Road Works includes:

- (i) all works necessary to adjust any existing Local Road, footpath, cycleway, open space, landscaped area or street:
 - A. affected by the Upgrade;
 - B. required by the Environmental Documents; and
 - C. required as a consequence of the community liaison process;
- (ii) all fencing, drainage including subsurface drainage, erosion and sediment control works, earthworks, all structures (including retaining walls), pavements and planting;
- (iii) all provisions to allow all road users including public transport, pedestrians and pedal cyclists to use the surrounding road network affected by the Alliance Works;
- (iv) all permanent arrangements to allow people and vehicles access to properties affected by the Alliance Works;
- (v) all provision of adjustments to pavement markings, signs, sign support systems, traffic light control signals and street lighting;
- (vi) items of roadside furniture erected to improve safety (including safety barriers) and the provision of all fencing and other security measures necessary to prevent either unlawful or accidental access;
- (vii) measures to mitigate noise and vibration during operation of the Local Roads;

- (viii) all environmental safeguards necessary to mitigate environmental impacts which might arise as a consequence of the use of the Local Roads, including those identified in the Environmental Documents;
- (ix) all measures in the Local Road Works which are necessary as a consequence of the requirements of Appendix 3; and
- (x) those parts of the works identified in section 2.3.2 of this Alliance Scope which relate to adjustments to Local Roads. The Pacific Highway, with the exception of the portion defined by 2.3.2 (a), is a Local Road.

(d) Service Works

Service Works include:

- (i) the protection, adjustment or enhancement of infrastructure related to Services which are affected by the Alliance Works;
- (ii) the preservation of Services throughout the design and construction of the Project Works and the Temporary Works;
- (iii) the provision of all Services' connections for undertaking the Alliance Works;
- (iv) subject to section 2.3.1 (b) (vi), all measures to Services necessary to meet the requirements of, and all works required by, Appendix 3; and
- (v) those parts of works identified in section 2.3.2 of this Alliance Scope which relate to Services.

(e) Temporary Works

Temporary Works include:

- (i) temporary measures necessary to meet the needs of all road and pathway users during all stages of design and construction of the Project Works;
- (ii) temporary arrangements to divert and control traffic and to provide public amenity, security and safety during all stages of design and construction of the Project Works;
- (iii) temporary arrangements for people and vehicles to access all property affected by design and construction of the Project Works;
- (iv) all environmental safeguards and measures necessary to mitigate environmental effects during design and construction of the Project Works;
- (v) cleaning, maintenance, repair, replacement and reinstatement, as required, of all areas occupied by the Alliance during design and construction of the Project Works;
- (vi) temporary site facilities required for design and construction of the Project Works;

- (vii) temporary infrastructure installed or erected to undertake design and construction of the Project Works; and
- (viii) all temporary measures necessary to meet the requirements in Appendix 3.

2.3.2 Principal Items of Infrastructure to be Constructed

- (a) The permanent infrastructure includes approximately 32 km of two lane dual carriageways connecting to the existing Pacific Highway dual carriageways, at Point A on the northbound carriageway and Point B on the southbound carriageway, and running to Point C for the northbound carriageway and Point D for the southbound carriageway, as detailed in figure 20.1 of Appendix 20 to this Alliance Scope.

The permanent infrastructure also includes:

(b) Structures

- (i) a new bridge and widening of the existing bridge over Two Mile Creek at station 23km200
- (ii) new twin bridges over the Main Northern Railway Line on the southern side of Moorland south at station 24km500. The bridges have an additional span on the southern side of the railway line to cater for the northbound access into Moorland south via an off loading ramp and underpass of the highway
- (iii) twin two span bridges for drainage and provision of farm access under the new formation for severed property on Moorland south deviation at station 24km760.
- (iv) twin single span bridges or a large box culvert for provision of farm access for severed property on Moorland south deviation at station 25km560. Minimum opening size to be determined. (RTA has purchased the property and the requirement for an underpass can be deleted. Alternative access provision needs to be made to severed portions)
- (v) twin bridges for drainage and provision of farm access under the new formation for severed property on Moorland south deviation at station 25km700. Minimum clearance to underside of bridge structure from existing farm access track to be 4.0m.
- (vi) an overpass bridge to connect Forest Road to the existing highway through Moorland at station 26km430.
- (vii) new bridges or bridge size box culvert structures at Pipe Clay Creek at station 27km750
- (viii) new bridges or bridge size box culvert structures at Holy Flat Creek at station 28km760
- (ix) new bridges or bridge size box culvert structures at Tom Cat Creek at station 29km300

- (x) new farm underpass to provide cross highway access at station 29km430. The underpass must have a minimum width of 3.6m and minimum height height of 3.3m for passage of the farmer's tractor and farm implements.
- (xi) extensions to each side of skewed two cell box culvert structures at station 30km180
- (xii) new overbridge at Stewarts River Road;
- (xiii) new bridge at Stewarts River, to the west of the existing bridge with similar span lengths. Existing bridge retained for southbound traffic.
- (xiv) new twin bridges at Stony Creek – existing bridge demolished;
- (xv) duplicate railway overpass bridge to the west of the existing bridge over the Main Northern Railway Line at station 12050 with vertical clearance to match clearance of existing bridge structure,
- (xvi) new northbound bridge over Camden Haven River – existing bridge retained for southbound traffic. Old pylons in Camden Haven River (east of existing bridge) to be removed and debris removed from river;
- (xvii) new overbridge at Ocean Drive;
- (xviii) extension of existing culvert or new bridge at Walkers Creek;
- (xix) new northbound bridge at Herons Creek Floodplain. Existing bridge retained for southbound traffic.
- (xx) new twin bridges at Herons Creek – existing bridge to be demolished.

(c) Connections

- (i) half interchange with south facing ramps at main northern railway south of Moorland ;
- (ii) half interchange with north facing ramps at Forest Road;
- (iii) full interchange at Stewarts Road, Johns River with northbound onload and offload ramps, with southbound on and off traffic utilising existing Pacific Highway;
- (iv) full interchange at Ocean Drive, Kew with southbound onload and offload ramps, with northbound on and off traffic utilising existing Pacific Highway;
- (v) all necessary at-grade intersections and connections to Locals Roads, service roads and property accesses;

(d) Rest Areas

- (i) a rest area for northbound traffic between station 10800 and station 11100;
- (ii) connection to and upgrade of existing rest area for southbound traffic between station 11100 and station 11600;

(iii) connection to existing Tom Cat Creek rest area between station 29900 and station 30100

- (e) fauna fences.
- (f) drainage culverts;
- (g) drainage crossings and fauna underpasses and crossings.
- (h) stopping bays and bus bays;
- (i) emergency crossovers and u-turn facilities
- (j) minor drainage structures;
- (k) adjustments to Local Roads and the local road network;
- (l) the incorporation of architectural, urban and landscape design in all visible elements of the Project Works;
- (m) the incorporation of environmental mitigation measures;
- (n) pedestrian and cyclist amenity;
- (o) lighting at intersections and rest areas;
- (p) road signage;
- (q) pavement markings, signs and sign support systems;
- (r) roadside furniture, including safety barriers, bus shelters and rest area facilities;
- (s) all required noise attenuation;
- (t) all required security and fauna fencing;
- (u) all required property adjustments;
- (v) all necessary adjustments to Services and street lighting;
- (w) all infrastructure required for the maintenance and repairs of the Upgrade;
- (x) access arrangements to all parts of the Upgrade for maintenance;
- (y) emergency vehicle access to all parts of the Upgrade for Incident response; and
- (z) additional infrastructure identified in the Environmental Documents.

2.4 Commissioning and Testing

We will undertake comprehensive testing and commissioning of the Project Works to ensure that the Project Works comply with the requirements of the PAA.

2.5 Environment

2.5.1 Environmental Management System

We will develop, implement and maintain an Environmental Management System (EMS) which:

- (a) is in accordance with AS/NZS ISO 14000;
- (b) complies with RTA Specification G36 in Appendix 6;
- (c) complies with the Environmental Documents;
- (d) complies with New South Wales Government Environmental Management Systems Guidelines, November 1998; and
- (e) is accredited by a NSW Government construction agency.

2.6 Occupational Health, Safety and Rehabilitation

In addition to the requirements of the PAA, we will

- (a) incorporate occupational health, safety and rehabilitation in all aspects of the Alliance Works including the Project Plans, the Maintenance Manual, the design of the Project Works and the Temporary Works and the Design Documentation;
- (b) provide a suitably qualified Site Safety Representative (SSR) who has authority and responsibility for issues relating to occupational health, safety and rehabilitation throughout the Alliance Works. The SSR will be allocated to occupational health, safety and rehabilitation management on a full time basis.

2.7 Project Plans

- (a) We will prepare and update Project Plans in accordance with section 3, Appendix 6 and Appendix 14 of this Alliance Scope and the requirements of the PAA.
- (b) Each Project Plan will be a quality assurance document prepared in accordance with AS/NZS ISO 9001-2000.
- (c) All Project Plans will recognise and adhere to the requirements of the Quality Plan.

2.8 Durability

- (a) We will ensure the durability of all Assets. Durability will be addressed throughout the design, construction and maintenance of all Assets and will be reflected in the Project Plans and the Maintenance Manual.
- (b) The durability portions of the Project Plans and the Maintenance Manual will demonstrate how the selected design, materials, construction and maintenance will achieve the durability objectives of each Asset in conjunction with the specified Design

Life for that Asset in section 4.4 of this Alliance Scope. For each Asset which comprises part of the Upgrade, the Project Plans will:

- (i) define the characteristics of the environment;
 - (ii) identify the potential deterioration mechanisms in that environment;
 - (iii) determine the likely rate of deterioration;
 - (iv) assess the material life;
 - (v) define the required material performance;
 - (vi) assess the need for further protection;
 - (vii) if appropriate, develop procedures for replacement of Asset Items and Asset Sub-Items at intervals consistent with the Design Life specified in section 4.4 of this Alliance Scope;
 - (viii) determine inspection and monitoring requirements for both critical and non-critical Assets; and
 - (ix) if appropriate, outline possible remedial measures.
- (c) The durability requirements will be applied diligently and continuously throughout the process of design, including design review and design amendments, and during construction of the Project Works.

2.9 Effects of Alliance Work

- (a) We will ensure that the Project Works and the Temporary Works have no adverse impacts on the performance of any infrastructure (including roads, railways, Services, buildings and slopes).
- (b) We will undertake a detailed and rigorous engineering analysis to predict the effects (the 'Predicted Effects') of the Project Works and the Temporary Works on existing ground conditions and infrastructure (including roads, railways, Services, buildings and slopes). The Predicted Effects must include the limits of accuracy of the prediction and the expected statistical spread of measured results. We will also determine the extent to which the existing infrastructure may be acceptably affected (the 'Acceptable Effects'), consistent with satisfying the requirements of paragraph (a) above.
- (c) Throughout the Alliance Works we will monitor the actual effects of the Project Works and the Temporary Works and compare the actual effects to both the Predicted Effects and the Acceptable Effects.

2.10 Traffic and Transport Management and Safety

- (a) We will manage and minimise the impacts of the Alliance Works on the capacity and performance of the traffic and transport network.

(b) We will:

- (i) develop and implement a Traffic Management and Safety Plan; and
- (ii) update and develop the Traffic Management and Safety Plan based on the Traffic Management and Safety Plan which is attached as Appendix 43.

2.11 Investigation, Survey and Condition Monitoring

We will undertake all site investigations, property and land surveys and ground and infrastructure condition surveys required for the Alliance Works in accordance with Appendix 21.

2.12 Availability of Project Information and Data

2.12.1 Local Area Network

- (a) We will establish, operate and maintain a Local Area Network with a dedicated file control server on the Project Site, which includes RTA's Interface Manager and EMR as users.
- (b) Information and data on the Alliance Works will be stored in electronic format and be available, with access control and security, for searching, sharing and exchanging for all users of the Local Area Network.
- (c) Alliance information and data to be stored and available on the local Area Network include, as a minimum:
 - (i) progress and other reports, minutes of meetings, photographs, programs issues, requests, Changes, correspondence register, site personnel and subcontract registers;
 - (ii) developed, amended and/or updated Project Plans;
 - (iii) quality registers, lot registers, audit reports, NCR, CAR, checklists, conformance reports and test results;
 - (iv) the issues management database as specified in Appendix 8 of this Alliance Scope;
 - (v) environment inspection reports, incidents, action notes, improvement notices, reports required by the Environmental Documents and other environmental data;
 - (vi) OHS induction registers, dangerous goods information, hazardous substances register, material safety data sheets, incident-accident registers and reports, work method statements, safe work procedures, inspections, site safety meetings and toolbox sessions;
 - (vii) risk information, identification, assessment, actions and reports;

- (viii) community complaints, comments, newsletters and notices, registers, fact sheets and meetings; and
- (ix) training registers.

2.12.2 Information and Data on an Extranet

- (a) The Alliance will establish, operate and maintain an "extranet" linked to a dedicated internet site for the duration of the Alliance Works. Access will be controlled by the Alliance and be available to its agents, representatives of the RTA, EMR, Department of Planning (DoP), Department of Natural Resources (DNR), Department of Environment and Conservation (DEC), Department of Primary Industries(DPI), Authorities, local councils, community groups and others .
- (b) The extranet will use a document management system with a vault structure and determined user access. Training will be provided by the Alliance for RTA personnel and other stakeholders in the use of the system.
- (c) The Alliance will control advanced functions of changing workflow and access rights from the internet site. Access to the documents will be via a web browser client.
- (d) Information and data will be made available on the extranet and include general project information, project plans, reports, submissions, photographs and community newsletters and notices.

3 QUALITY AND PROJECT VERIFICATION

3.1 Quality Assurance

3.1.1 Quality System

- (a) We will provide a Quality Manager who is directly responsible to senior management and has responsibility for ensuring that the requirements of the Quality Plan are implemented and maintained throughout the Alliance Works
- (b) We will implement and maintain a quality system for the duration of the Alliance Works
- (c) The quality system will be in accordance with RTA Specification Q6 in Appendix 6 and AS/NZS ISO 9001 - 2000, Quality management systems - Requirements
- (d) We will develop and implement a Quality Plan, which documents the quality system referred to in paragraph (b).
- (e) We will comply with the quality system and Quality Plan.

3.1.2 Quality Plan

- (a) We will undertake surveillance, audit and review of our Quality Plan and report on all non-conformances in accordance with the requirements of Specification Q6 in Appendix 6.
- (b) Management Responsibilities

Without limiting section 3.1.1 of this Alliance Scope, the Quality Plan will:

- (i) nominate the Quality Manager who has the defined authority and responsibility for ensuring that the requirements of the Quality Plan are implemented and maintained;
- (ii) define the responsibilities and authority and reporting function of personnel primarily responsible for quality assurance;
- (iii) identify how independent inspection, witnessing and monitoring and reporting will be carried out;
- (iv) identify the interfaces, if any, between corporate support and on-site personnel in relation to paragraphs (i) and (ii) of this subsection (b);
- (v) identify the qualifications, experience and required competencies of personnel who must undertake the duties required in each of paragraphs (i), (ii) and (iii) of this subsection (b);
- (vi) contain systems, processes and procedures which give effect to and co-ordinate the implementation of each Project Plan and the Maintenance Manual;

- (vii) address the durability of the Project Works in every aspect of the Alliance Works; and
- (viii) address safety in every aspect of the Alliance Works.

3.1.3 Hold Points

- (a) The Quality Plan will include a schedule of Hold Points and Witness Points.
- (b) The schedule will include any Hold Points and Witness Points nominated in Specifications and Appendix 9 to this Alliance Scope. The schedule will contain sufficient additional Hold Points as are necessary to ensure that the Alliance Works and related activities are undertaken in a manner consistent with the quality system required under section 3.1.1 of this Alliance Scope.

3.1.4 Release of Hold Points

- (a) Each Hold Point will be assigned a nominated authority ("Nominated Authority") to release the Hold Point.
- (b) The Quality Manager must be satisfied that all activities in the Hold Point process (including methods of work, sequences of activities, inspections and tests preceding any Hold Point specified in the Quality Plan) comply fully with specified requirements and, once satisfied, must:
 - (i) release that Hold Point, where authorised according to the schedule of Hold Points, in order that work may proceed on that part of the Alliance Works; or
 - (ii) obtain release from the Nominated Authority that work may proceed on that part of the Alliance Works
- (c) We will not proceed beyond any Hold Point without release by the Nominated Authority.

3.1.5 Nonconformances and Continuous Improvement

- (a) We will regularly update and develop the Quality Plan and the Project Plans in order to minimise the recurrence of any nonconformances.
- (b) We will review and analyse the cause of all nonconformances and develop a plan of corrective action to minimise the likelihood of recurrence. Details of such corrective action will be entered in a nonconformance report or corrective action request as appropriate.

3.1.6 Nonconformances During Construction

- (a) The Quality Plan will make specific provision for recording and reporting all nonconformances that will impact the future durability or performance of the Upgrade.
- (b) Proposals for rectification work of such nonconformances will be reviewed by the relevant designer and will take all durability objectives and performance requirements into account..
- (c) Any proposal for a disposition of "use as is" must be endorsed by the ALT.

4 PERFORMANCE REQUIREMENTS

4.1 General

- (a) The Project Works and the Temporary Works will comply with the performance requirements in this section 4 of this Alliance Scope.
- (b) We will ensure that all investigation, design and construction are entirely integrated and compatible and that together they mutually satisfy all the requirements of the PAA. The required performance of the Project Works and the Temporary Works will be taken into account during all stages of the Alliance Works.
- (c) We will design the Project Works and the Temporary Works to:
 - (i) be fit for their intended purposes; and
 - (ii) integrate all the design components.
- (d) Safety requirements will be taken into account in all aspects of the Alliance Works.

In particular, the design will address:
 - (i) safety during construction;
 - (ii) safety during operation; and
 - (iii) safety during maintenance.
- (e) The concept design is detailed in Appendix 30. Adjustments to the concept design in Appendix 30 will be assessed with respect to the impact on:
 - (i) durability;
 - (ii) aesthetics and visible features;
 - (iii) whole of life performance;
 - (iv) user benefits and/or user costs; and
 - (v) functional performance.
- (f) Except where the provisions of this Alliance Scope specify otherwise, materials, manufactured articles and workmanship will, as a minimum, conform to the Reference Documents referred to in section 4.3 of this Alliance Scope and current at the time at which the relevant Alliance Works is undertaken.
- (g) All visible elements of the Project Works and the Temporary Works will be designed to have an attractive appearance of no lesser standard than the urban and landscape design requirements for the Project Works as described in Appendix 11 and Appendix 31.
- (h) The Project Works will be:

- (i) designed so that the Upgrade is contained within the Project Site;
- (ii) designed so that road furniture on the Upgrade is positioned in a way which is compatible with other sections of the existing Pacific Highway; and
- (iii) designed and constructed so that the Local Roads comply with the requirements of relevant Authorities, including RTA.

4.2 Safety

We will consider and address all safety issues and requirements in the development and production of the Design Documentation, including:

- (a) the identification of all hazards involved in the Alliance Works;
- (b) the identification and management of occupational health and safety (OHS) legislative requirements, OHS goals and objectives and generic hazards associated with the Alliance Works;
- (c) the analysis of health and safety issues, including generic issues, associated with the Alliance Works;
- (d) detailing the principles of the design, the identification of hazards which cannot be managed or mitigated by the design and the measures to be adopted in the construction and maintenance phases to manage and mitigate the hazards;
- (e) the identification and specification of hazards that require the development of specific procedures in the construction and maintenance phases;
- (f) consideration of health and safety issues related to the on-going repair, maintenance, upgrading and demolition of Assets, including issues related to shoulder widths, bridge widths, accessibility and working in confined spaces;
- (g) issues relating to working adjacent to or with live Services, including high voltages, overhead clearances, dangerous excavations and asbestos materials;
- (h) the risks identified as part of the risk management process;
- (i) the OHS implications of the site layout for the Alliance Works including the:
 - (i) positioning of site access and egress points;
 - (ii) location of site accommodation;
 - (iii) location of traffic/pedestrian routes;
 - (iv) safe height work requirements for bridge construction and repair; and
 - (v) proximity to traffic during the performance of the Alliance Works;

The Design Documentation will include specific site rules to address the issues identified in sections 4.2 (a) to (j) of this Alliance Scope and for any other reasons that require such

site rules. These site rules will include specific permit-to-work rules and emergency procedures. We will develop the Design Documentation to assist in the implementation of the site rules; and

- (j) the identification of health hazards which arise from the materials specified for the Alliance Works and require precautions either because of the nature of the materials or the manner of their intended use. The materials will be specified in sufficient detail to allow the use of the materials safely, based on precautionary information provided by the suppliers.

These health hazards include exposure to hazardous substances (including lime as a stabilising agent, preservatives used on timber materials, removal of lead based paint and asbestos) and issues relating to manual handling on site.

These safety issues will be addressed in the OHS Development Plan in accordance with the requirements of Appendix 8 of the Alliance Scope.

4.3 Reference Standards

4.3.1 General

The Alliance Works will meet the standards of RTA and AUSTROADS publications and relevant Australian Standards. Some of these documents are included in the listing of Reference Documents contained in Appendix 7. If suitable Australian Standards do not exist for the design of any element of the Alliance Works the Alliance may use international standards that reflect world's best practice.

4.3.2 Upgrade Classification

The Upgrade must be regarded as a controlled access road in accordance with section 49 of the Roads Act 1993 (NSW).

4.3.3 Order of Precedence

Unless otherwise stated, the following order of precedence will apply in the event of any inconsistency, ambiguity or discrepancy between the PAA, Reference Documents and other standards:

- (a) any specific provisions in the PAA;
- (b) this Alliance Scope;
- (c) RTA publications;
- (d) AUSTROADS publications;
- (e) Australian Standards;
- (f) Standards Australia handbooks; and
- (g) Other Reference Documents and standards.

4.3.4 Standard Units

Unless otherwise specified, SI units will be used on the Alliance Works and in all Design Documentation.

4.3.5 Design Datum

Design datum levels and Design Documentation will be produced in accordance with Appendix 21 of this Alliance Scope.

4.4 Design Life

- (a) Design Life is defined as the period over which an Asset must perform its intended function without replacement, refurbishment or significant maintenance. Assets include Asset Items and Asset Sub-Items which for the purpose of project Asset management are also identified by Asset Element and Asset Type.
- (b) Where Asset Items and Asset sub-items are defined in Appendix 24 as having a design life less than specified in Table 4.1 below or where they are determined as being accessible for the purposes of Table 4.1 below, the design will detail the methodology of replacement including access provisions for both inspection and replacement. Asset items which can not be replaced without closure or severe disruption to traffic (ie large culvert wingwalls) are deemed to be inaccessible.
- (c) Except as specified in Appendix 24 the various Assets will have the following minimum Design Life:

Table 4.1

Number	Asset	Minimum Design Life
(i)	Inaccessible drainage elements	100 years
(ii)	drainage elements that are accessible for refurbishment including sedimentation and detention ponds and basins	20 years
(iii)	sign faces	10 years
(iv)	sign support structures and other roadside furniture	40 years
(v)	fences, including fauna fences	20 years
(vi)	lighting and electrical equipment	20 years
(vii)	bridge structures, including underpasses, overpasses and wildlife tunnels	100 years
(viii)	retaining walls including reinforced soil walls	100 years
(ix)	noise barriers (noise attenuation devices)	50 years
(x)	dual carriageway and ramp pavements	40 years

(xi)	Local Road embankment and support structures	100 years
(xii)	new Local Road pavements	20 years
(xiii)	reconstructed Local Road pavements	10 years
(xiv)	embankments, including reinforced embankments	100 years
(xv)	cut batters, including batter treatments	100 years
(xvi)	timber furniture for environmental works	30 years
(xvii)	other Assets not detailed in numbers (i) to (xvi) inclusive above or in Appendix 24	Typical industry values for similar Assets of a high standard and quality

4.5 Road and Traffic Safety

- (a) Road safety during construction and operation will be incorporated into all aspects of the design and construction in accordance with this Alliance Scope
- (b) We will arrange for independent road safety audits to be undertaken, in accordance with RTA's Road Safety Manual, for Scope Approval and at final design stage and immediately prior to opening any part of the Project Works or Temporary Works to traffic.
- (c) We will consider and respond to the recommendations of the independent road safety audits and to the recommendations of any road safety audits which may be undertaken by RTA.
- (d) Provision will be made for the safe movement of all road users at all times.
- (e) Our use and care of Local Roads must be approved by the relevant Authority.
- (f) As a minimum, all traffic management will comply with the Environmental Documents and RTA Specification G10, traffic management practices set out in relevant Australian Standards, the RTA publication titled Traffic Control at Worksites and the Traffic Management and Safety Plan.
- (g) We will employ work practices and equipment that provide for the safe passage of all road users, including public transport, pedestrians and pedal cyclists, at all times during the performance of the Alliance Works.
- (h) We will define the traffic and safety management responsibilities of all relevant staff in regard to all aspects of construction.
- (i) We will carry out road safety audits of all temporary traffic management proposals.
- (j) We will obtain approval from RTA's Interface Manager and relevant Authorities prior to implementing any traffic adjustments or interruption. Traffic changes or lane closures which are considered by RTA as likely to cause unnecessary delay or disruption to traffic will not be implemented.

- (k) RTA's Interface Manager may order removal, or cessation of any activity, which causes delay to traffic or threatens the safety of the public, notwithstanding that approval has been given to the traffic change.

4.6 Urban Design

- (a) We design, construct, develop and establish urban design solutions that:
 - (i) are consistent with the urban and landscape design concepts contained in the Environmental Documents;
 - (ii) complies with the requirements of Appendix 11 of this Alliance Scope; and
 - (iii) is generally as shown in and incorporates no lesser standards than those provided in the Alliance's urban and landscape design in Appendix 31.
- (b) Our urban and landscape design through good design practice will be integrated into a cohesive urban and landscape design plan for all components of the Project Works.

4.7 Environmental Design

We will develop a high standard environmental design for the Alliance Works, including:

- (a) erosion, sedimentation and water quality infrastructure;
- (b) fauna underpasses, overpasses, arboreal crossings and fauna fencing;
- (c) fish friendly structures, including waterway design;
- (d) management and mitigation measures for environmentally sensitive areas, including marine environments and cultural heritage sites; and
- (e) construction and operational noise measures.
- (f) Noise mitigation measures and structures will be:
 - (i) provided in accordance with the requirements of the Environmental Documents;
 - (ii) designed in accordance with RTA Noise Wall Design Guidelines May 2003; and
 - (iii) integrated with the urban and landscape design.

The environmental design will be developed in consultation with appropriate agencies and Authorities and in accordance with the requirements of Appendix 5 and RTA Specification G36.

4.6 Traffic

As a minimum the Project Works will be designed and constructed to cater for:

- (a) the design speeds specified in section 4.11 and Appendix 20;

- (b) the provisions for traffic in Appendix 19;
- (c) the vehicle classifications in figure 7.1 and Table 7.1 of "Pavement Design – A Guide to the Structural Design of Road Pavements" Austroads, 2004;
- (d) all possible traffic conditions for Upgrade operation;
- (e) the design loadings in Appendix 12 of this Alliance Scope;
- (f) personnel movement associated with breakdowns and other incidents;
- (g) access by emergency service vehicles, personnel and plant;
- (h) access by maintenance vehicles, personnel and plant;
- (i) pedestrian, pedal cyclist and disabled persons movements as detailed in the Environmental Documents; and
- (j) turning movements of a B double truck except where excluded in the Environmental Documents.

4.7 Traffic Separation

- (a) Median barriers will be provided where the median width (between edge of traffic lanes) is less than 11 metres. Adequate sight distance will be provided.
- (b) Median widths and median barriers will comply with the requirements in Appendix 20.
- (c) An 11.0m clear zone will be provided on the nearside of the Upgrade. Where it is not cost effective for this requirement to be met, a safety barrier will be provided.
- (d) We will conduct a risk analysis on the design in accordance with section 6 of the RTA Road Design Guide to determine the warrant for and location of safety barriers.
- (e) Where wire rope safety barriers (WRSB) are provided, the minimum distance between the offside edge of a lane and the barrier will be in accordance with figure 20.8 in Appendix 20.
- (f) All safety barriers and crash attenuators will be designed in accordance with provisions of AS 3845 and RTA Specification R132.
- (g) Where shrubs are provided in the median to mitigate head light glare, the minimum planting/ seeding width will be a minimum of 4m.
- (h) Unprotected ends of concrete barriers and railings, bridge piers and other solid objects are not permitted within the design clear zone.
- (i) Solid barriers will not be used in areas where fauna habitat is adjacent to the Project Site and fauna has not been effectively prevented from crossing the Project Site, or where a solid barrier could adversely impact the effects of floods.

4.10 Durability

- (a) RTA Specifications have been developed in the context of RTA design guidelines and details.
- (b) We will make our own assessment of the performance requirements (including this Alliance Scope) in relation to each Asset, including Asset Items and Asset Sub-Items in terms of:
- (i) the micro-environment;
 - (ii) potential deterioration mechanisms in this micro-environment;
 - (iii) rate of deterioration;
 - (iv) the likely material life;
 - (v) the feasibility and cost of in-situ monitoring, maintenance and/or repair and replacement;
 - (vi) the necessity of providing additional protection (e.g. coatings); and
 - (vii) the significance of failure.

4.11 Geometric Design Requirements

4.11.1 General Standards and Applications

- (a) The design of the Upgrade and Local Road Works will be such that they form an integral part of the New South Wales road network in visual and functional respects.
- (b) The Upgrade and Local Road Works will comply with the RTA Road Design Guide and the requirements of section 4.11 and Appendix 20 of this Alliance Scope.
- (c) Design requirements will be in accordance with tables 4.2 to 4.5 below:

Table 4.2 Upgrade

Design Criteria	Minimum Requirement
Horizontal alignment design speed	110 km/h
Vertical alignment design speed	100 km/h ¹
Local Road acceleration and deceleration auxiliary lanes: <ul style="list-style-type: none">• Where lanes will be redundant when upgraded to Class M• Where lanes will be retained when upgraded to Class M	100 km/h 110 km/h
Stopping sight distance Reaction time (R _T)	2.5 sec

Horizontal distance	210 m
Vertical distance	175 m
Width of travel lanes (including interchange ramps and auxiliary lanes)	3.5 m
Median width between edgelines	12.0 m ²
Outside (nearside) shoulder width	2.5 m
Median (offside) shoulder width	0.5 m
Clearance from edge of travel lane to safety barrier	
Outside (nearside)	3.0 m
Median (offside)	1.0 m
Note 1: Clearance must be traversable	
Note 2: Where clearance does not comprise pavement or gutter the surface must be sealed	
Outside verge width	
Adjacent to 4 to 1 or flatter batters (excluding rounding)	0.5 m
Adjacent to safety barrier	1.0 m
Median verge width	
Adjacent to 4 to 1 or flatter batters (excluding rounding)	0.5 m
Verge width (adjacent to SO gutter)	2.0 m
Outside clear zone	11.0 m
Bridges:	
Width of bridges ≥ 50 metres in deck length	10.5 m
Width of bridges < 50 metres in deck length	11.0 m
Width of travel lanes	3.5 m
Outside shoulder width of bridges ≥ 50 metres in deck length	2.5 m
Outside shoulder width of bridges < 50 metres in deck length	3.0 m
Median shoulder width	1.0 m
Clearance on all bridges over roads	5.3 m

¹ Consideration will be given to increasing to 110 km/h where this can be achieved without substantial cost impacts

² Consistent with future third lane strategy where required

Local Road Works

(a) Table 4.3 Existing Pacific Highway

Design Criteria	Minimum Requirement
Horizontal alignment design speed	110 km/h

Design Criteria	Minimum Requirement
Vertical alignment design speed	100 km/h
Number and width of travel lanes	2 x 3.5 m
Width of shoulders	2.0 m

(b) Local Roads (Other than Pacific Highway)

(c) Table 4.4

Design Criteria	Minimum Requirement
Horizontal alignment design speed	60 km/h
Vertical alignment design speed	60 km/h
Number and width of travel lanes	2 x 2.8 m
Width of shoulders	1.2 m

(d) Table 4.5

Design Criteria	Minimum Requirement
Horizontal alignment design speed	60 km/h
Vertical alignment design speed	60 km/h
Number and width of travel lanes	2 x 2.8 m
Width of shoulders	1.2 m

(d) Where the longitudinal gradient on a carriageway is less than 1% for longer than 500 metres and where the crossfall/superelevation is 3%, consideration will be given to increasing the crossfall/superelevation to 4% to assist with surface drainage.

(e) The road geometry design will be integrated with the urban and landscape design to gain benefits from the views and to reduce the adverse affects of glare from sunlight and opposing vehicle headlights.

The desirable clearance between the road formation and the Project Site boundary is 6 metres. Where this clearance is not practical at specific locations, an absolute minimum clearance of 3 metres may be adopted subject to provision for facilities such as sedimentation basins and maintenance access.

(g) Stopping bays and bus bays will be provided in accordance with the configuration and locations detailed in Appendix 20.

4.11.2 Local Roads

(a) Horizontal and vertical alignment of Local Roads will be of similar standard to existing roads. All Local Roads will have a sealed wearing surface.

(b) The cross sections of Local Roads will comply, as a minimum, with the requirements of Appendix 20.

4.12 Functional Upgrade Design Requirements

4.12.1 Connections to the Upgrade

- (a) Interchanges, intersections and accesses to the Upgrade will be in accordance with Appendix 19 and Appendix 20.
- (b) All interchanges on the Upgrade will be provided with entry (onload) and exit (offload) auxiliary lanes in accordance with Appendix 20.
- (c) The design of interchanges and intersections will provide for the layouts, traffic movements and volumes shown in Appendix 19.
- (d) All local road intersections on the Upgrade will be provided with partial left turn deceleration auxiliary lanes in accordance with the lengths detailed in Appendix 20 and the warrants as defined in the RTA Road Design Guide;
- (e) All local road intersections on the Upgrade requiring sea-gull or modified sea-gull treatment will be provided with full right turn deceleration auxiliary lanes in accordance with the lengths detailed in Appendix 20 and the warrants as defined in the RTA Road Design Guide;
- (f) All local road and service road intersections on the Upgrade incorporating an access u-turn facility, will be provided with a full right turn deceleration auxiliary lane in accordance with the length detailed in Appendix 20 and the warrants defined in the RTA Road Design Guide;
- (g) Interchanges and intersections will provide for Level of Service "C" or better, in accordance with Austroads Traffic Engineering Practice Series Part 2, for design year 2029 for the 100th highest hour.
- (h) Interchanges will be designed in accordance with Grade Separated Interchanges (A Design Guide) NAASRA 1984;
- (i) The maximum rate of deceleration adopted in the design will be 2.5m/s²;
- (j) Intersections will be designed to provide for a 19.5 metre long semi-trailer, except where proclaimed B-double routes meet the Upgrade, in which case provision will be made for the longer B-double vehicles. The minimum lengths of auxiliary lanes at intersections will comply with figure 20.13 of Appendix 20 of this Alliance Scope; and

4.12.2 Cross Carriageway Access and Off Road Access

- (a) Cross carriageway accesses between the Upgrade main carriageways include:
 - (i) access u-turn bays to allow u-turn movements to gain access to and from properties and Local Roads on the adjacent carriageways; and
 - (ii) emergency crossover / u-turn bays to allow u-turn movements between adjacent carriageways for emergency services vehicles only and to allow diversion of traffic to adjacent carriageways for incident management

- (b) Cross carriageway accesses will comply with the layouts detailed in figures 20.11 of Appendix 20 of this Alliance Scope.
- (c) Access u-turn bays will be provided with deceleration lanes in accordance with Appendix 20 of this Alliance Scope;
- (d) Cross carriageway accesses will be located to achieve sight distances that provide for the safe use of each such access.
- (e) Emergency crossovers and emergency u-turn bays are for emergency incident management, are not for unrestricted use, and will be signposted accordingly.

4.12.3 Pedal Cyclists and Pedestrians

- (a) Continuous pedal cycle access will be provided for the full length of the Upgrade in accordance with the requirements of the Environmental Documents.
- (b) Bicycle paths will comply with the requirements for pedal cyclists as defined in the Reference Documents in Appendix 9 and the Environmental Documents. The minimum width of bicycle paths will be 2 metres, except where they are a part of a shared pedestrian / cycle pathway where the minimum width will be 2.5 metres. The surfaces will be concrete or asphaltic concrete.
- (c) The vertical alignment for paths will be in accordance with section 6.4 of AUSTRROADS "Guide to Engineering Practice Part 14 - Bicycles". Paths will be designed as commuter paths using a design speed of 50km/hr.
- (d) Approaches to underpasses and to footpaths and cycle-ways under bridges will be open and clearly visible.
- (e) Pavements for bicycle paths will comply, as a minimum, with the requirements of figures 8.1 (a), (b) or (c) of the NSW Bicycle Guidelines. Pavement thicknesses will be designed to accommodate maintenance vehicle access.
- (f) Access will be provided for pedestrian movements associated with Local Roads, Incidents and other emergencies on the Upgrade as identified in the Environmental Documents.

4.13 Earthworks Formation

4.13.1 Embankment Formation

- (a) Embankments must be globally and locally stable with no foreseeable possibility of a failure involving the whole embankment or a major part of it. The design will detail the proposed methods for the treatment of all embankment foundations;
- (b) We will design and construct the embankments to limit level changes in the pavement as a result of settlement of foundation layers, changes in moisture and compression within the constructed embankment.
- (c) Except as detailed under section 4.13.1 (g) of this Alliance Scope level changes in embankments will be limited to:

- (i) no increase in levels after construction of the pavement;
 - (ii) a maximum decrease in levels in the first ten years of operation of the greater of:
 - A. 15mm; or
 - B. 0.25% of embankment height at carriageway centreline; and
 - (iii) a maximum change of grade, in any direction, of 0.3% over pavement design life;
- (d) Embankment levels should at all times conform to the flood level requirements detailed in section 4.14 of this Alliance Scope.
- (e) RTA requires all embankment areas to be monitored to determine any movements in levels. Survey measurements must be made at 50m intervals along each carriageway's median side edge line and at 20m intervals within 100m of bridge abutments. We will establish and take baseline measurements for the embankment monitoring.
- (f) We will complete baseline surveys and measurements within 4 weeks of the completion of construction of the pavement over each embankment.
- (g) Where embankments are located above compressible foundation materials and where it is predicted that the requirements of section 4.13.1(c) of this Alliance Scope can not be met without the application of specific foundation improvement techniques then:
- (i) the construction of pavement layers above the compressible foundation materials will not commence until:
 - A. predicted total residual settlement and predicted differential settlements of the compressible foundation materials meets the requirements of Appendix 18;
 - B. the predicted residual settlements and differential settlements of the compressible foundation materials in both the transverse and longitudinal directions satisfy the specified pavement performance criteria; and
 - C. the geotechnical designer has released a Hold Point certifying that the requirements of section 4.13.1(g)(iii) A and B of this Alliance Scope above have been achieved;
 - (ii) instrumentation to measure internal settlement, external settlement, pore water pressure and lateral movement of the embankments will be provided at spacing intervals less than 100 metres along the embankment axis and within ten metres of structures. Monitoring of settlement must include at least three settlement plates and a horizontal profile gauge (HPG) at each location; and
 - (iii) over the design life of the pavement:
 - A. the maximum total residual settlements of embankments will be limited to the values detailed in Table 18.1 of Appendix 18; and
 - B. the maximum residual differential settlements of embankments will not exceed 0.3%.

4.13.2 Batters General

- (a) All slopes and batters within the Project Site, or affected by the Alliance Works will have an Assessed Risk Level (ARL) in accordance with "RTA Guide to Slope Risk Analysis Version 3.1 November 2001" of ARL 4 or better.
- (b) We will design and construct excavation and embankment batter slopes so that the slopes will not erode, fret or change shape, except as allowed for in section 4.13.2(e).
- (c) Material which becomes detached from excavation batters must be prevented from reaching the road shoulder.
- (d) Access to the final batter slopes must be available for plant and equipment to allow ready installation of any treatment measures which may become necessary and to facilitate inspection of the face of the batter.
- (e) Localised deviations, movements and changes in the batters, over areas of less than 10 m², must not exceed the limits detailed in the following table.

Year after opening	Maximum localised deviations, movements and changes in batters (relative to the baseline profile)
1	100mm
2	125mm
3	150mm
4	175mm
5	200mm
6	200mm
7	200mm
8	200mm
9	200mm
10	200mm

4.13.3 Cuttings Batters

- (a) Batters in cuttings will be designed to satisfy the following criteria:
 - (i) batters will satisfy the performance requirements in section 4.13.2 of this Alliance Scope;
 - (ii) the overall batter slope must be stable with no foreseeable possibility of a failure involving the whole slope or a major part of it;
 - (iii) limited failures during construction are acceptable but must not extend beyond one bench;

- (iv) batters must be designed so that material which may become detached is prevented from reaching the road shoulder; and
 - (v) plant and equipment access must be available to the final batter slope to allow ready installation of any treatment measures which may become necessary and to facilitate inspection and maintenance of the face of the batter.
- (b) Benches will be provided on batter slopes in accordance with the requirements of the following table, to restrict the length of unbroken batter face and to minimise erosion of soil and weathered materials.
- (c) Benches will be designed to accommodate safe access for maintenance plant items and to control runoff. The vertical spacing and width of benches will comply with the limits specified in the following table:

Batter Slope	Maximum Spacing Between Batters	Vertical Between	Minimum Width	Bench
Steeper than 2:1 H:V	7 metres		4.5 metres	
2:1 H:V or flatter	10 metres		4.5 metres	

- (d) Bench widths will be designed to accommodate safe access for maintenance plant items and to control runoff.
- (e) Designs for cutting batters will include logic for selection and application of batter protection for:
- (i) soft seams;
 - (ii) shattered, fractured or jointed rock;
 - (iii) degradable rock; and
 - (iv) stress release in rock cuts.
- (f) Batter designs will detail the required surface condition and roughness of cut batters including:
- (i) measures to control water flow and inhibit erosion; and
 - (ii) measures to retain topsoil and seed.
- (g) Batter designs will detail measures to prevent erosion of material from the seams in cuttings that are prone to rapid weathering.
- (h) Except for transitions at the ends of cuts, batter slopes between 0.75:1 H:V and 1.5:1 H:V will not be provided.
- (i) A rock fence will be provided on the lowest bench in cuttings where the batter above the lowest bench is steeper than 1.5H:1V.

- (j) Cut batters steeper than 3:1 H:V will be laid back and curved at the ends, for a minimum 50 m length, to reflect the influence of the subsurface profile and to blend in with adjacent slopes.

4.13.4 Embankments Batters

Embankment batters will be designed to satisfy the following criteria:

- (a) embankment design will include measures to ensure that scour and erosion of batters is minimised or protected;
- (b) benches will be provided on all embankment batters which are revegetated, in accordance with the requirements of the following table. The benches will be designed to satisfy the requirements of the proposed maintenance methodology;

Batter Slope	Vertical Height of Batter
Steeper than 2:1 H:V	Maximum 7 metres
2:1 H:V or flatter	Maximum 10 metres

- (c) where revegetation is proposed on batters steeper than 2:1 H:V benches will be a minimum of four (4) metres wide and will be designed to accommodate safe access for maintenance plant items;
- (d) berms are not required on rockfill batters or on rock-faced embankment batters; and
- (e) except for rock protected batters and abutment spill through batters, embankment batter slopes will not be steeper than 2:1 H:V.

4.14 Water Management

- (a) Drainage design will be in accordance with this Alliance Scope and the technical requirements detailed in Appendix 17

We will develop a drainage system and develop design solutions which comply with the Environmental Documents and avoid or minimise any potential damage or loss that may result from, or be contributed to by, water discharge from the Project Works and Temporary Works.

- (c) We will provide a water management system that requires a minimum of maintenance consistent with the need to ensure appropriate water quality discharge from the Project Works and Temporary Works.
- (d) We will provide a drainage system that:
 - (i) preserves the existing elements such as natural channels, wetland and riparian vegetation;
 - (ii) manages both the quality and quantity of stormwater as close to its sources as possible, including the installation of devices which treat the stormwater and

retain the run-off so that the system changes the existing water regime to the smallest amount practicable;

- (iii) is integrated with our construction process so that the total investment in drainage infrastructure is minimised and access is available to all devices which need on-going maintenance during both the construction phase and the maintenance phase;
 - (iv) is capable of being partitioned to contain spillage from Incidents;
 - (v) is designed for ease of maintenance; and
 - (vi) is structurally safe in any storm.
- (e) Bridge drainage will be connected to the road drainage system.
- (f) The Upgrade will be designed so that the two-lane dual carriageways are protected by physical means to prevent flooding of the Upgrade. The edge line on the pavement surface must be above the 1:100 year flood level, as detailed by the flood level in figure 20.6 of Appendix 20 to this Alliance Scope.
- (g) We will provide flood immunity in accordance with the Environmental Documents.
- (h) We will design the Upgrade so that the above requirement of paragraphs (f) and (g) are maintained for the design life of the Assets.

4.15 Pavements

4.15.1 Pavement Reference Documents

Pavement designs will be carried out in accordance with the requirements in this Alliance Scope and with the following pavement related Reference Documents in Appendix 7. For the purposes of pavement design, the following documents are listed in order of precedence:

- (a) RTA Supplement to AUSTRROADS Guide to the Structural Design of Road Pavements (Draft August 2006 Version 16).
- (b) CIRCLY - Geomechanics Computer Program Version 5 or later version.
- (c) RTA Rigid Pavements – Standard Details:
 - (i) Volume 1 – Continuously Reinforced Concrete Pavements (Drawing MD.R84.CC.A);
 - (ii) Volume 2 – Plain Concrete Pavements (Drawing MD.R83.CP.A); and
 - (iii) Volume 3 – Jointed Reinforced Concrete Pavements (Drawing MD.R83.CJ.A).
- (d) RTA Interim Guide to the Maintenance of Concrete Pavements (2000).
- (e) RTA Guide to the Design & Construction of Concrete Roundabout Pavements (March 2004).

- (f) AUSTRROADS (2004) – "Pavement Design – A Guide to the Structural Design of Road Pavements".

4.15.2 Pavement Types and Extents

The structural pavements for the Upgrade carriageways and ramps will comprise one or more of the pavement types listed below:

- (a) plain concrete (dowelled or undowelled);
- (b) continuously reinforced concrete;
- (c) jointed reinforced concrete (dowelled);
- (d) deep strength asphalt over cemented sub-base; and
- (e) deep strength asphalt over lean mix concrete sub-base.

Pavement types (a), (b) and (c) above are regarded as rigid pavements and types (d) and (e) are regarded as flexible pavements. The extent of Upgrade pavements on entry and exit from the main carriageways will comply with the requirements of figure 19.2 in Appendix 19 of this Alliance Scope.

The structural pavements for the Upgrade carriageways and ramps will be provided for the full carriageway width, which includes all lanes, auxiliary lanes, shoulders, outside shoulders and median shoulders identified in Appendix 20 of this Alliance Scope.

4.15.3 Pavement Performance

- (a) Pavements will:
- (i) incorporate drainage practices that maintain a constrained moisture regime which prevents significant variations in the capacity of the sub-base and subgrade to support the pavement;
 - (ii) accommodate movements of the subgrade associated with changes in moisture content (particularly near batters);
 - (iii) accommodate settlement and deformation of the embankments and subgrade resulting from settlement of foundations;
 - (iv) deliver the levels of performance of the wearing surface specified in Appendix 8 and the Code of Maintenance Standards;
 - (v) minimise spray in wet conditions;
 - (vi) separate surface and subsurface drainage systems to avoid overloading subsurface systems;
 - (vii) at all times conform to the surface flow requirements detailed in Appendix 17 of this Alliance Scope; and

(viii) have a wearing surface which produces noise levels and tonal noise characteristics that contribute to noise mitigation and compliance with the noise level requirements .

(b) Performance Measures

Pavement performance will be assessed using the following performance measures:

- (i) pavement deflection;
- (ii) pavement curvature;
- (iii) rutting;
- (iv) cracking;
- (v) roughness;
- (vi) skid resistance; and
- (vii) texture.

We will ensure that pavements are designed and constructed to comply with the performance measures specified in Appendix 8.

(c) The pavement wearing surfaces of structures will comply with the performance requirements of sections 4.15.3(a) (b) and (d) of this Alliance Scope.

(d) Dense grade asphalt does not provide the pavement texture depth of 0.5mm required by Appendix 12 of this Alliance Scope and will not be used as a surface course where the design speed is greater than 80 km/h.

4.16 Structures

(a) This section covers the requirements for the design of structural aspects of the Project Works and Temporary Works, including:

- (i) bridges;
- (ii) submerged structures;
- (iii) overpasses and underpasses;
- (iv) sign support structures;
- (v) retaining walls and other associated structures;
- (vi) noise walls;
- (vii) major components of drainage; and
- (viii) fauna crossings.

- (b) We will provide bridge inventory details to RTA in accordance with the requirements of Appendix 25.
- (c) Structures will be designed and constructed in accordance with the requirements Appendix 14
- (d) The Design Documentation for each bridge will include design summary drawings and bridge load ratings sufficient to assess the bridge's ability to accommodate wide, high and/or heavy loads.
- (e) Bridges located on separate carriageways will be designed as stand alone structures and will not be connected in any way either structurally or otherwise to each other. A minimum horizontal clearance of 50mm will be provided between the bridges. The traffic barriers on the median side of the bridges will be designed as two separate traffic barriers, one for each bridge.
- (f) We will provide structural designs to a high level of technical competence and will incorporate the most appropriate technology available.
- (g) The structures will be designed and detailed to ensure an economic life of 100 years in accordance with AS 5100.1 Bridge Design (Part 1), section 6.2 "Design Life".

4.17 Delineation and Signposting

- (a) Delineation and signposting must be appropriate to the climatic, lighting and traffic conditions reasonably expected in the Upgrade, Local Roads and all areas accessible by the public, which are affected by the Project Works.
- (b) Delineation Outcomes

We will deliver a project that provides:

- (i) definition of the Upgrade carriageways, particularly under adverse weather conditions;
- (ii) well sited intersections and interchanges with layouts that clearly identify to motorists the permitted manoeuvres, including those required to load and unload from the main carriageways;
- (iii) clear visibility of merge and diverge areas; and
- (iv) pavement wearing surfaces that combine with the delineation to give both audible and visual warnings that vehicles are moving out of a through lane.

- (c) Signposting Outcomes

We will provide signposting in accordance with the Environmental Documents and Appendix 13. The signposting strategy will provide:

- (i) regulatory signs;

- (ii) legibility at the posted speeds of the road taking into account the possible range of climatic conditions;
 - (iii) consistency and compatibility between the Upgrade and the rest of the State road network, including colour coordination and consistent messages with the Pacific Highway Route;
 - (iv) signs associated with warning speed zones, place names, height clearances, feature names and appropriate symbols;
 - (v) motorists with progressive information (particularly where interchanges and intersections occur) and reassurance about the route selected and trip distances involved; and
- Supporting structures that must collapse on impact where they are free standing or protection to supporting structures where they are not designed to collapse.

4.18 Lighting

- (a) Street lighting will be provided for interchanges, ramps, intersections, roundabouts and rest areas in accordance with Appendix 20.

4.19 Rest Areas

Rest areas will be designed in accordance with the requirements detailed in Appendix 15 of this Alliance Scope

- (b)

4.20 Roadside Furniture

- (a) Roadside furniture will not be placed within the shoulder and road verges will be kept as free of furniture as possible.
- (b) Any furniture within the design clear zone (refer to section 3.7 of the RTA Road Design Guide) that does not collapse on impact will be protected using a safety barrier which is designed for impact from a passenger car travelling at 110km/h at a departure angle from the road of 2.9° to 22°.
- (c) Batters of cuttings will be shaped and constructed to provide either a clear zone run-off area or features that emulate a rigid safety barrier.
- (d) Bridge piers in the clear zone will incorporate an appropriate safety barrier.
- (e) Safety barriers will comply with the requirements detailed in section 6 of the Road Design Guide.
- (f) Guide posts will be provided on the nearside and offside of the carriageways. Guidepost reflectors will be red on the nearside and yellow on the offside. The reflector

pattern will be integrated so that there is consistent guidance provided through cuttings and across embankments, especially where safety barriers are erected and on bridges.

4.21 Fences and Gates

- (a) Subject to section 4.21(c) of the Alliance Scope, the design will incorporate fauna exclusion fencing in accordance with Appendix 4 to this Alliance Scope. The fauna exclusion fences will include the requirements detailed in Appendix 5.
- (b) Subject to section 4.21(c) of the Alliance Scope, the design will incorporate fencing to the boundary of the Project Site in accordance with Appendix 4 and Appendix 3 to this Alliance Scope. The functions of boundary fencing and fauna exclusion fencing are separate and mutually exclusive and the requirements for fauna fencing are additional to those for boundary fencing.
- (c) The fencing will be designed to prevent livestock from entering the Project Site.
- (d) Fencing will be designed to prevent pedestrians from accessing the Upgrade.
- (e) Gates will be provided where required for maintenance or for access by relevant Authorities, including emergency services.
- (f) Materials used for fencing will be selected to fit sympathetically into the local environment. Timber fence posts must be suited to the local conditions and acceptable to property owners.

4.22 Authorities and Emergency Services

- (a) We will satisfy the reasonable requirements of all relevant Authorities including emergency service providers in accordance with RTA policy and consistent with the requirements of this Alliance Scope.
- (b) The Project Works will include the necessary infrastructure to provide access for operation and maintenance purposes, including incident responses.

4.23 Future Works

- (a) In the design of the Upgrade we will consider and accommodate the future detailed design and construction, by others, of an additional lane on each of the main carriageways
- (b) We will develop concept designs for the future widened carriageways as a part of the Design Documentation. The concept designs for the widened carriageways will demonstrate the impacts of the proposed widened carriageways on the Upgrade and how they have been addressed and accommodated in the design of the Upgrade. The concept designs for the widened carriageways will comply with the relevant design requirements of this Alliance Scope, except for minimum median width requirements of Appendix 20.

5 PROPERTY WORKS, LOCAL ROAD WORKS AND SERVICE WORKS

5.1 Property Works

- (a) We will carry out all Property Works arising from the Alliance Works including work as may be necessary to satisfy RTA's obligations arising from the Environmental Documents and property acquisition within the boundary of private properties and land controlled by Authorities.
- (b) We will repair any damage to property caused by the Alliance Works as soon as possible and at no cost to the owner or occupier of the relevant property. The property will be reinstated to a condition at least equivalent to the condition it was in immediately prior to the occurrence of the damage.
- (c) In respect of all Property Works, the consent of the owner and any occupier of each property affected by the Property Works will be obtained prior to any work commencing. The Property Works will be designed and implemented to the standards specified in the PAA and this Alliance Scope or, in the absence of any such specification, to reasonable engineering standards and must be fit for their intended purpose.

5.2 Local Road Works

- (a) We will modify, reinstate and reconstruct Local Roads as described in section 2.3 of this Alliance Scope.
- (b) The Local Road Works will be designed and constructed in accordance with the standards and requirements specified in this Alliance Scope and in accordance with the requirements of all relevant Authorities and RTA.
- (c) We will deliver the Local Road Works in such a way that it minimises delay and disruption to local and through traffic, including pedestrians, the disabled, pedal cyclists and public transport services, and maintains access to and minimises disruption to affected businesses, properties and land throughout construction. Appropriate signposting will be provided to assist safe movements and to demonstrate access arrangements.
- (d) We will communicate our planned processes, solutions and program to the tenants, occupiers and owners of properties that have the potential to be affected by Local Road Works.
- (e) The form and finishes of footpaths, land, public areas, street furniture and landscape areas will be constructed at least to the standards specified in Appendix 11 and Appendix 31.

5.3 Service Works

- (a) We will identify all the Services potentially affected by the Alliance Works to determine requirements for adjustment, protection and support. This will be undertaken in consultation with the relevant Service owner or Authority.
- (b) We will identify all Services required for the Alliance Works and do all things necessary to connect such Services to the Upgrade.
- (c) We will investigate, adjust, protect, support, relocate, enhance and/or provide for all Services that are affected by the Alliance Works or required for the Alliance Works.
- (d) We will ensure that there are no unplanned disruptions to Services resulting from the Alliance Works and that planned disruptions are minimised. We will advise local residents and businesses prior to any disruption of any Service.
- (e) We will arrange and coordinate the relocation of all Services and ensure that the requirements of each Service owner or Authority are met. We will obtain written approval and acceptance of all works to and around any Service from the relevant Service owner or Authority.
- (f) We will approach all relevant Service owners and Authorities to determine whether they require allowance for a provision of future Services on and in any of the proposed Upgrade structures.
- (g) Maintenance points for Services will be located within the Project Site only with the prior written approval of RTA's Interface Manager.
- (h) Permanent location markers will be provided as required by the relevant service owner or Authority.
- (i) All Services exposed to view as a consequence of the Alliance Works will be permanently concealed in a manner consistent with the urban and landscape design.

6 MAINTENANCE

6.1 Asset Management System

6.1.1 Asset Inventory

We will compile an "Asset Inventory" prior to Completion. The Asset Inventory will list all Asset Elements, Asset Types, Asset Items and Asset Sub-Items.

6.1.2 Location Referencing

We will use a location referencing system, based on RTA's ROADLOC road referencing system, for both reporting and Asset Inventory records.

6.2 Maintenance Documentation

6.2.1 General

We will develop a Maintenance Documentation. The Maintenance Documentation will contain a procedure for each maintenance activity and treatment and will describe any particular maintenance requirements of the fixed plant and equipment in the Upgrade.

6.2.2 Contents of the Maintenance Documentation

As a minimum, the Maintenance Documentation will include:

(a) Upgrade Description and Records

A description of the physical elements of the Upgrade, including fixed plant and equipment, operational and security systems and a comprehensive set of as constructed documentation as required in Appendix 24.

(b) Relevant Component of Project Plans

The components of the Project Plans which relate to maintenance of the Project Works.

(c) Performance Standards

The performance standards will address the performance requirements, including:

- (i) pavement riding quality targets;
- (ii) design life and durability strategies;
- (iii) as constructed information;
- (iv) load limits and ratings; and
- (v) bridge inventory.

(d) Fixed Plant and Equipment Inventory

The inventory will detail all fixed plant and equipment that is part of the Upgrade and that may require periodic maintenance and/or inspection.

This inventory will also contain associated data, which includes:

- (i) handbooks;
- (ii) typical operating levels of voltage, current etc., as appropriate;
- (iii) spare parts lists;
- (iv) any recommendations from the manufacturers with respect to servicing and/or inspection schedules; and
- (v) schedules of spare parts to be held in stock.

(e) Handover Procedure

We will develop a procedure for handing over the maintenance and operation of Asset Elements to RTA at Completion.

This procedure will detail the training of RTA personnel required, as well as the maintenance schedules for the Asset Elements/Asset Types in the Upgrade as required to satisfy the durability requirements.

7 COMMUNITY INVOLVEMENT OBLIGATIONS

7.1 General Community Involvement Obligations

- (a) We will develop and implement a Community Involvement Strategy and a Community Involvement Action Plan in accordance with the requirements of Appendix 8.
- (b) We will meet the reasonable needs and desires of the community and be responsible for overall management and coordination of community involvement and consultation.
- (c) We will comply with the requirements of the Privacy and Personal Information Protection Act 1998 (NSW).
- (d) We will, as a minimum, comply with the requirements of RTA guidelines, policies and the following Reference Documents in Appendix 9 in relation to its community relations obligations:
 - (i) NSW (Government) Guidelines for Advertising; and
 - (ii) RTA Visual Identity Guidelines.
- (e) During the investigation, design and construction of the Project Works and the Temporary Works, we will ensure that:
 - (i) the local community is informed of, and wherever possible contributes to, decisions taken on the details of the Alliance Works which materially affect it;
 - (ii) the community is informed of the progress of the Alliance Works, significant milestones, design changes, changed traffic conditions, opportunities for input and other matters that either affect or are of interest or concern to the community;
 - (iii) users of the affected road network are informed of planned traffic arrangements including any temporary traffic switches or likely delays;
 - (iv) all relevant authorities are informed of planned construction and maintenance activities;
 - (v) unless otherwise advised by RTA's Interface Manager, we will arrange and chair all group and public meetings relating to the Alliance Works;
 - (vi) RTA's Interface Manager is informed of all community issues, consulted on all decisions affecting the community and is invited to attend any session to which members of the community are invited (the Alliance must not commit to a specific date for a presentation or site tour to a community group without prior approval of RTA's Interface Manager); and
 - (vii) RTA's Interface Manager is contacted immediately in relation to planned or unplanned local community protests that may arise during the performance of the Alliance Works.

- (f) We will not release any information, in any form, regarding the Alliance Works to any organisation or person without the prior approval of RTA's Interface Manager.
- (g) We will refer all enquiries from Federal, State and/or local government representatives to RTA's Interface Manager. Any briefings for the above representatives will be arranged by RTA's Interface Manager.
- (h) We will take, and provide RTA with, regular photographs of the progress of the Alliance Works. The photographs will be of a professional quality suitable for RTA's use in publications, project communications and promotions of a broader nature and the resolution will be sufficient for use in display materials. Photographs will be provided on a monthly basis.
- (i) We will recognise and identify RTA's role in any promotional material or award submissions that we develop in relation to the Alliance Works.
- (j) If the Alliance or NOP's produce a professional video, then video objectives, format and content will be as agreed with RTA's Interface Manager. All proposed video content requires approval by RTA's Interface Manager prior to commencing the video production.
- (k) We will provide a 24 hour toll free telephone service, until two months after the Date of Completion, for the community to report incidents and register complaints. The Alliance will also provide a continuously operated business hours telephone service for the community to obtain information, report incidents or register complaints.

SCHEDULE 10

INSURANCES

INSURANCES – ALL STAGES			
Type of policy	Responsible Participant	Insurance limits	Excess
Contract works (construction material damage) insurance policy - project specific	RTA	Likely to be as set out in Schedule 12.	Likely to be as set out in Schedule 12
Public and products liability insurance policy	RTA	As set out in Schedule 13.	As set out in Schedule 13
Workers compensation insurance as required by law and where common law claims are possible outside of the relevant statutory scheme, cover for common law claims	Each Participant	Statutory cover – as required by statute Common law cover - \$50m each occurrence Where permitted by law the policies must indemnify RTA for statutory liability to employees of NOPs	
Plant and equipment belonging to, leased, hired or otherwise in the care, custody or control of any NOP or its employees, agents or Subcontractors at places where the Alliance Works are being carried out	Relevant NOPs	Not less than market value against all usually insured risks	
Comprehensive motor vehicle insurance for all motor vehicles used by NOPs at any time in connection with the Alliance Works (including for cover for third party property damage and, in relation to unregistered vehicles, personal injury) and Compulsory Third Party insurance for all registered vehicles	Relevant NOPs	An amount to cover amounts not less than \$20 million for any one event which the NOP or its employees or agents might become legally liable to pay	

SCHEDULE 11

STATUTORY DECLARATION ABOUT PAYMENT OF WORKERS,
SUBCONTRACTORS, WORKERS COMPENSATION AND PAY-ROLL TAX

RTA Form No 592 (Modified)

Schedule

Statutory Declaration

I, _____ of

Insert name of Declarant

_____ do solemnly and sincerely
declare that:

Insert address

1. I am a representative of _____
("NOP") in the Office Bearer capacity of _____

Insert name of
Contractor and ABN if
applicable

2. The NOP is a party to an alliance agreement with the Roads & Traffic Authority in respect of the
upgrade of two sections of the Pacific Highway between Coopernook and Herons Creek
("Contract").

Insert position title of
Declarant

3. Attached to and forming part of this declaration is a Subcontractor's Statement given by the NOP
in its capacity as 'Subcontractor' (as that term is defined in the Workers Compensation Act 1987,
Pay-roll Tax Act 1971 and Industrial Relations Act 1996) which is a written statement:

- a. under the Workers Compensation Act 1987, section 175B, in the form and providing the
detail required by that legislation;
- b. under the Pay-roll Tax Act 1971, section 31H, in the form and providing the detail required
by that legislation; and
- c. under the Industrial Relations Act 1996, section 127, in the form and providing the detail
required by that legislation.

Insert name of Contract

4. I personally know the truth of the matters which are contained in this declaration and the attached
Subcontractor's Statement.

5. All Subcontractors have been paid all amounts payable to them by the NOP for work or services
done or goods or materials supplied in connection with the Contract during the period noted in
clause 9.

6. If the NOP has Subcontractors and the subcontract price exceeds \$25,000 at commencement,
the NOP has received from each of those Subcontractors a statutory declaration and
Subcontractor's Statement in equivalent terms to this declaration (made no earlier than 14 days
before the date of this declaration).

7. All statutory declarations and Subcontractor's Statements received by the NOP from
Subcontractors referred to in clause 6 were:

- (a) given to the NOP in its capacity as 'Principal Contractor' as defined in the Workers
Compensation Act 1987, the Pay-roll Tax Act 1971 and the Industrial Relations Act 1996
('Acts'); and
- (b) given by the Subcontractors in their capacity as 'Subcontractors' as defined in the Acts.

8. I am not aware of anything that would contradict the statements made in the statutory
declarations and Subcontractor's Statements provided to the NOP by its Subcontractors.

9. The period of the Contract covered by this declaration and the attached Subcontractor's Statement is from _____ to _____.
10. The NOP is not, under any law, insolvent or unable to pay its debts as and when they fall due.
11. All Subcontractor security held in the form of cash and all cash retentions from payments to Subcontractors are held in trust by the NOP. The cash security and retentions are held in trust for whichever party is entitled to receive them, until it is paid in favour of that party.
12. The NOP is maintaining complete records to account for the cash security and cash retentions referred to in clause 11. The records are available to the relevant Subcontractors and to the RTA on request.

Insert the relevant payment period

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act 1900 (NSW). I am aware that I may be subject to punishment by law if I wilfully make a false statement in this declaration.

Declared at _____ (place where declaration made)
 on _____ (date of declaration) by

 Signature of person making the declaration

Before me: _____

Justice of the Peace/Solicitor of the Supreme Court of New South Wales

[or other person legally authorised to administer an oath under the Oaths Act 1900 (NSW) or where the declaration is sworn outside the State of New South Wales, any person having authority to administer an oath in that place]

SUBCONTRACTOR'S STATEMENT

REGARDING WORKERS COMPENSATION, PAY-ROLL TAX AND REMUNERATION (Note 1)

Workers Compensation

Pay-roll tax

Remuneration

s175B *Workers Compensation Act 1987* Part 5B s31G-31J *Pay-roll Tax Act 1971* ss127, 127A
Industrial Relations Act 1996

Sub Contractor: _____ ABN: _____

(Business name)

of _____
(Address of subcontractor)

has entered into a contract with _____ (Note 2)

(Business name of principal contractor)

ABN: _____ For work between: ____/____/____ and ____/____/____ (Note 3)

Date

Date

and/or Payment Claim Details: _____ (Note 4)

Nature of contract work: _____ (Note 5)

DECLARATION

I, _____ a Director of / a person authorised by the subcontractor on whose behalf
this

(delete as appropriate)

declaration is made, hereby state that the abovementioned subcontractor:

Is either

A sole trader or partnership without workers or subcontractors (Note 6).

OR

Has and will maintain in force valid workers compensation insurance,
policy _____

(Policy
Number)

(Policy
Number)

held with _____ as indicated on the attached
(Insurance Company)

Certificate of Currency dated _____, in respect of work done in connection with the contract, during any period of the contract and has paid all workers compensation insurance premiums payable in connection with the contract (Note 7).

- Is Is not also a principal contractor in connection with the work under contract (Note 8).
- Has Has not been given a written statement by subcontractors in connection with the work.
- Is Is not required to be registered as an employer under the *Pay-roll Tax Act 1971* _____

(Pay-roll tax client No.)

- Has paid all pay-roll tax due in respect of employees who performed the work for the principal contractor, as required at the date of this statement (Note 9).
- Has paid all remuneration payable to relevant employees, for work done under the contract during the period outlined above (Note 10).

Signature _____ Full Name _____
(please print)

Position/Title _____ Dated _____

WARNING

- Any subcontractor who knowingly provides a principal contractor with a written statement that is false, is guilty of an offence (Maximum penalty 100 units or \$11,000)
- Any written statement will not relieve the principal contractor of liability if, at the time the written statement was provided, the principal contractor believed the written statement to be false.
- The principal contractor must retain a copy of any written statement for a period of not less than five years (Pay-roll tax), six years (Remuneration) or seven years (Workers compensation).
- This statement must be accompanied by the relevant Certificate of Currency to comply with section 175B of the *Workers Compensation Act 1987*.

NOTES

1. This form is prepared for the purpose of section 175B of the *Workers Compensation Act 1987*, Part 5B section 31G-31J of the *Pay-roll Tax Act 1971* and section 127 of the *Industrial Relations Act 1996*. If this form is completed in accordance with these provisions, a principal contractor is relieved of liability for workers compensation premiums, pay-roll tax and remuneration payable by the subcontractor.
2. For the purpose of this statement, a principal contractor is a person (or other legal entity), who has entered into a contract with another person (or other legal entity), referred to as the subcontractor, and employees/workers of that subcontractor will perform the work under contract. The work must be connected to the business undertaking of the principal.
3. In order to meet the requirements of s127 Industrial Relations Act 1996, a statement in relation to remuneration must state the period to which the statement relates.

Section 127(6) Industrial Relations Act 1996 defines remuneration as 'remuneration or other amounts payable to relevant employees by legislation, or under an industrial instrument, in connection with work done by the employees.'

Section 127(11) of the Industrial Relations Act 1996 states 'to avoid doubt, this section extends to a principal contractor who is the owner or occupier of a building for the carrying out of work in connection with the building so long as the building is owned or occupied by the principal contractor in connection with a business undertaking of the principal contractor.'

4. Payment claim details – Where a subcontractor has entered into a payment schedule with a principal contractor they must identify the period or payment to which the statement applies.
5. An accurate description of the work covered by the contract must be included.
6. In completing the statement, a subcontractor declares that they are a sole trader or partnership without workers or subcontractors and is not required to hold workers compensation insurance.
7. In completing the statement, a subcontractor declares that workers compensation premiums payable up to and including the date(s) on the statement have been paid, and all premiums owing during the term of the contract will be paid.
8. It is important to note that a business could be both a subcontractor and a principal contractor, if a business 'in turn' engages subcontractors to carry out work. If your business falls within this category you should also obtain statements from your subcontractors.
9. In completing the statement, a subcontractor declares that all pay-roll tax payable relating to work undertaken as part of the contract has been paid.
10. In completing the statement, a subcontractor declares that all remuneration payable has been paid.

It is noted that definitions of employer, employee, remuneration, and specific provisions for employers of outworkers in the clothing trades are as defined in s127A of the Industrial Relations Act 1996.

11. Failure to complete this statement may result in the principal contractor withholding any payment due to the subcontractor. Any penalty for late payment under the contract does not apply to any payment withheld under this subsection. Subcontractors may wish to keep a copy of the statement for their own records.

For more information, please visit the WorkCover website www.workcover.nsw.gov.au, Office of State Revenue website www.osr.nsw.gov.au, or Office of Industrial Relations, Department of Commerce website www.commerce.nsw.gov.au. Copies of the Workers Compensation Act 1987, the Pay-roll Tax Act 1971 and the Industrial Relations Act 1996 can be found at www.legislation.nsw.gov.au.

SCHEDULE 12

**LIKELY INDICATIVE TERMS OF CONSTRUCTION MATERIAL DAMAGE
INSURANCE POLICY**

COOPERNOOK TO HERONS CREEK UPGRADE PROJECT

The Roads and Traffic Authority of NSW

Cooperook to Herons Creek Upgrade Project

Construction Risks - Material Damage Project Insurance Policy

Period: / / to / /

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Introduction

In consideration of the Named Insured's having paid or agreed to pay the Premium, the Insurers agree to indemnify the Insured in the manner and to the extent provided herein, subject always to the Limits and Sub-limits of Liability, Conditions, Exclusions and other terms of this Policy.

The liability of all of the Insurers collectively will in no case exceed the Limits of Liability and Sub-limits stated in the Schedule or elsewhere in this Policy. Furthermore, the liability of each of the Insurers individually will in no case exceed the proportion set against each Insurer's name.

Signed for and on behalf of the Insurers:

<u>Insurers</u>	<u>Policy No.</u>	<u>Proportion %</u>	<u>Signature</u>	<u>Place</u>	<u>Date</u>
		100%			

Schedule

Named Insured: The Roads and Traffic Authority of New South Wales (RTA) as Principal
(Insert name of Contractor)

This Policy also insures other parties as specified in the definition of the Insured herein.

Project: Contracts relating to
[Insert project title/description][Insert project title/description]
as more particularly defined in the scope of works in the [Insert contract agreement] including variations thereto.

Period of Insurance: From: _____ 200_ (Local Time)
To: As more particularly defined in this Policy, but estimated at:
(a) _____ 200_ Construction Period - ending
(b) _____ plus the Defects Liability Period as more particularly defined herein.

Maximum Defects Liability Period: 24 months (RTA to advise) any one Contract in respect of the original Defects Liability Period.

Project Site: To be advised
Specified Overseas Locations (if applicable):
None

Territorial Limits: Anywhere in Australia, including cover for Insured Property whilst in storage and in transit.

Limits of Liability:

(Condition 4.3)

Limit of Liability any one Event at any one situation:

Contract Works	\$	to be inserted
Existing Structures	\$	to be inserted
Construction Plant and Equipment	\$	Not insured

Sub-limits of Liability:

The liability of Insurers will be further limited in respect of any one Event at any one situation as set out in the Sub-limits below. These Sub-limits will apply in addition to the above Limits of Liability.

Extensions:		\$to be inserted
		combined limit in respect of items 2.1(a) to (i).
2.1(a) Removal of Debris and Other Costs	\$	to be inserted
2.1(b) Expediting Expenses	\$	to be inserted
2.1(c) Search and Locate Costs	\$	to be inserted
2.1(d) Professionals' Fees	\$	to be inserted
2.1(e) Mitigation Expenses	\$	to be inserted
2.1(f) Plant Hire Charges	\$	to be inserted
2.1(g) Claim Preparation Costs	\$	to be inserted
2.1(h) Government and other Fees	\$	to be inserted
2.1(i) Inflation Protection	\$	to be inserted
Offsite Storage	\$	to be inserted
Insured Property whilst in transit	\$	to be inserted

Basis of Settlement

(Insuring Clause 1.3(a)(ii))

In respect of Construction Plant and Equipment:

- Indemnity Value

Nominee for Insurers' Notices: To be inserted

(Condition 4.8(d))

Nominee for Legal Service: To be inserted

(Condition 4.13(c))

Agreed Loss Adjuster(s):

(Condition 4.17)

Claims under this Policy shall be adjusted with the following company(ies) or as otherwise agreed by the Insured and the Insurers:

RTA to advise

Loss Payee:
(Condition 4.18)

The Named Insured

Underlying Insurance:
(Condition 4.20)

Underlying Insurance includes, but is not limited to, those policies and types of policies described below or their substitute policies:

Policy Type	Policy No.	Insurer	Underlying Limit
None			\$

Excess:
(Condition 4.4)

Damage to Insured Property arising from Tunnelling \$250,000

Damage to Insured property from any other cause: \$100,000

Premium: As agreed

(Condition 4.9)

Definitions / Interpretations

The following Definitions/Interpretations will apply to this Policy.

Aircraft means any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space.

Computer Virus means a set of corrupting, harmful or otherwise unauthorised instructions or code including a set of maliciously introduced unauthorised instructions or code, programmatic or otherwise, that propagate themselves through a computer system or network of whatsoever nature.

Contract means all works, contracts or agreements undertaken by or on behalf of the Insured in connection with the Project.

Damage means physical loss, destruction or damage with the word Damaged having a corresponding meaning.

Defined Peril means, for the purposes of Exclusion 3.8, fire, lightning, explosion, earthquake, aircraft or other aerial devices or articles dropped there from riot, commotion, strikes, locked-out workers, persons taking part in labour disturbances, malicious persons, storm, flood, escape of water from any tank apparatus or pipe, impact by any road vehicle or animal, theft, accidental escape of water from any automatic sprinkler installation, subsidence, ground heave or landslide.

Electronic Data means facts, concepts and information converted to a form useable for communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.

Event means an occurrence or series of occurrences consequent upon or attributable to one source or original cause.

Indemnity Value means:

- i. where the Damage to Insured Property can be repaired, the Insurers will pay the cost necessarily incurred to restore the property to its former state of serviceability, plus the cost of dismantling and re-erection incurred for the purpose of effecting the repairs. Deductions will not be made for depreciation in respect of parts replaced, but the salvage value of such parts shall be taken into account;
- ii. where the Insured Property is totally destroyed or cannot be satisfactorily repaired at a cost not exceeding the market value immediately before the Damage, the Insurers will pay the market value of the item at the time of the Event. If due to the nature of the Insured Property, it is not possible to readily ascertain a market value, the basis of settlement shall be the replacement cost of the damaged property less due allowance for depreciation taking into consideration the anticipated useful life of the property and the nature of its usage;
- iii. if the Insured Property is reasonably abandoned because the cost of recovery would exceed the amount payable under this Policy in respect of such property, it shall be deemed to be a constructive total loss and settlement shall be made in accordance with clause i.

Insured means:

- i. the Named Insured;
- ii. any subsidiary company (including subsidiaries thereof) of the Named Insured and any other organisation under the control of the Named Insured and over which it is exercising active management, whether now or hereafter incorporated;
- iii. any of the following persons or entities for whom or for which the insured parties under clauses i and ii above are obliged to arrange insurance by virtue of a contract or assumption of responsibility, but only to the extent required by such contract or assumed responsibility and in any event only for such coverage and Limits of Liability as provided in this Policy:
 - a. any principal or owner or agent of the Principal; or joint venture partner;
 - b. any construction manager or project manager;
 - c. any contractor or sub-contractor of any tier;
 - d. any architect, engineer or other consultant for their onsite activities only;
 - e. any lessor, financier, mortgagee or trustee;
 - f. any government body;
 - g. any other party with an Insurable interest in the Project;

The architect, engineer or other consultant referred to in d. above shall not be construed as any other Insured.

- iv. any director, executive officer, employee, contract staff or partner of any of the insureds under clauses i, ii or iii whilst acting as such;
 - v. any office bearer or member of any social, sporting, safety, security, medical or welfare facility of any of the insureds under clauses i, ii, iii(a) iii(b) or iii(c) whilst acting as such; and
- all for their respective rights and interests.

Insured Property means:

i. Contract Works:

being property of every description used or to be used in part of or incidental to or having any connection whatsoever with the Project. It shall include but not be limited to:

- a. the whole of the works, whether permanent or temporary works, structures, materials and supplies including free supplied materials;
- b. temporary buildings, camp buildings and all other project buildings and their contents;
- c. formwork, falsework, scaffolding, access platforms, hoardings, mouldings, and the like, whether the foregoing be consumable or reusable;
- d. consumables, drawings and other documents, plant and improvements;

but excluding Construction Plant and Equipment not specified above.

ii. Existing Structures being existing structures, plant and real property of every description. Existing Structures are specifically excluded under this Policy unless an amount is specified against this item in the Schedule.

iii. Construction Plant and Equipment being:

- a. all construction plant, tools and equipment of every description including spare parts;
- b. employees' tools and equipment;

Construction Plant and Equipment is specifically excluded under this Policy unless an amount is specified against this item in the Schedule.

- iv. Property described in clauses i and iii above shall refer to property owned by the Insured or for which they are responsible or have assumed responsibility prior to any Event for which a claim may be made hereunder, or for which the Insured has agreed to insure, or in which the Insured otherwise has an insurable interest.

Major Perils means earthquake, fire, subterranean fire or volcanic eruption, subsidence, collapse, storm and/or tempest and/or rainwater and/or flood and/or tsunami and/or named cyclone.

Offsite Storage means locations where the Insured stores Insured Property away from where the works are being undertaken.

Period of Insurance means from the commencement date of this Policy and during the Construction Period and Defects Liability Period.

- i. **Construction Period** means the period of construction of any Contract until the earlier of:
- a. The date the Project has been formally accepted by the principal/owner as having achieved practical completion (as defined in the Contract(s));
 - b. with respect to each separable portion of the Project, until the date it is taken over or put into use (whichever is the earlier) by the principal/owner;
 - c. the date specified in item (a) of the Period of Insurance stated in the Schedule, or if such date is extended pursuant to Condition 4.10, that extended date.
- ii. **Defects Liability Period** means the period described in any Contract during which an Insured is obliged or legally liable to rectify defects, shrinkages, errors, omissions or other faults and/or to complete the obligations under such Contract (the original Defects Liability Period), which may include the granting of a further period, following rectification of defects under the original period.

The original Defects Liability Period shall not exceed the Maximum Defects Liability Period stated in the Schedule in respect of any one Contract.

- iii. **Local Time**, which appears in the Schedule means the time at the principal Project Site.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapour, soot, fumes, acids, chemicals or waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Project Site means the situation(s) stated in the Schedule against this item and any other situation where the Insured is performing the works or has property stored or being processed together with all surrounding areas in connection with the Project. Project Site shall extend to include overseas situations stated in the Schedule or subsequently endorsed onto this Policy.

Project Value means the total value of work and construction costs incurred by or on behalf of the Insured in respect of the Project and includes the value of principal supplied and other materials (if required to be insured under this Policy).

Reinstatement Value means:

- i. where the Insured Property is lost or destroyed, the replacement thereof by similar property in a condition equal to, but not better nor more extensive than, its condition when new;
- ii. where the Insured Property is Damaged and can be repaired, the Insurers will pay the cost necessarily incurred to restore the property to a condition substantially the same as, but not better nor more extensive than its condition when new, plus the cost of dismantling and re-erection incurred for the purpose of effecting the repairs;
- iii. the work of rebuilding, replacing, repairing or restoring as the case may be (which may be carried out upon any other site(s) and in any manner suitable to the requirements of the Named Insured, but subject to the liability of the Insurers not being thereby increased), must be commenced and carried out with reasonable dispatch;

- iv. where Insured Property has been Damaged and where the Named Insured elects not to reinstate such Insured Property, the Insurers will pay to the Named Insured an amount equal to the cost necessary to replace, repair or rebuild the Insured Property to a condition substantially the same as but not better nor more extensive than its condition at the time the Damage occurred;
- v. if the Insured Property is reasonably abandoned because the cost of recovery would exceed the amount payable under this Policy in respect of such property, it shall be deemed to be a constructive total loss and settlement shall be made in accordance with the above provisions (as applicable).

Tunnelling shall mean any work involving the excavation of any artificial subterranean passage. This definition shall not apply to open excavation work (e.g. trenches, foundation work pits, cuttings or cut and cover tunnels)

Underlying Insurance means a policy of insurance arranged by or on behalf of an Insured either voluntarily or pursuant to a contract (which may include a policy(ies) arranged by joint venture partners, principals, contractors, etc) that provides cover to the Insured for a risk, which save for the Underlying Insurance, would be covered by this Policy. Underlying Insurance includes those policies identified in the Schedule.

Singular/Plural

In this Policy, where the context admits, words denoting the singular shall include the plural and vice versa.

Headings

Headings have been included for ease of reference. The terms and conditions of this Policy are not to be construed or interpreted by reference to such headings.

Material Loss or Damage

The Insurers will indemnify the Insured as follows.

Insuring Clauses

1. Insured Property

The Insurers will indemnify the Insured in accordance with the Basis of Settlement, against Damage to the Insured Property other than from a cause specifically excluded, occurring at the Project Site or in transit within the Territorial Limits during the Construction Period.

2. Defects Liability

The Insurers will indemnify the Insured in accordance with the Basis of Settlement, against Damage to the Insured Property other than from a cause specifically excluded occurring at the Project Site, provided such Damage:

2.1 manifests itself during the Defects Liability Period; and

2.2 originates from

(a) a cause arising during the Construction Period and at the Project Site; or

(b) an act or omission of any of the Insured parties in the course of complying with the requirements of the Defects Liability Period provisions of the Contract.

3. Basis of Settlement

3.1 In the event of Damage to Insured Property the amount payable by the Insurers will be as follows and the provisions of clauses 1.3 (b) and 1.4 to 1.6 will also apply.

(a) for employees' tools and personal property, the basis of settlement shall be Reinstatement Value;

(b) in respect of Construction Plant and Equipment (other than as provided in (i) above), the amount payable shall be the Basis of Settlement stated in the Schedule, except:

A. where the item is financed and in the event of its total loss or constructive total loss, the amount settled shall be the greater of the cost of discharging the lease or the stated Basis of Settlement;

B. in respect of items leased, hired or rented, the basis of settlement shall be in accordance with the rectification provisions of the lease, hire or rental agreement but not exceeding the Reinstatement Value;

(c) for all other Insured Property, the basis of settlement shall be Reinstatement Value.

Notwithstanding the foregoing, in the event of Damage to Tunnelling, the maximum amount payable shall be limited to the costs incurred to reinstate the property insured to the standard or condition technically equivalent to that which existed immediately before the occurrence of the loss or damage but not in excess of 150% of the original average per-metre construction cost of the immediate damaged area.

Local Authorities Clause

The indemnity provided by this clause 1.3(b) shall, subject to a maximum of 10% of Project Value, extend to include the extra costs (including demolition or dismantling) of

Damaged Insured Property necessarily incurred to comply with the requirements of any Act of Parliament or regulation made thereunder or any by-law or regulation of any municipal or other statutory authority other than the Named Insured, other than such extra costs as aforesaid with which the Insured had been required to comply prior to the Damage occurring.

4. **Undamaged Foundations**

Where the Insured Property is destroyed but the foundations are not destroyed and due to the exercising of statutory powers and/or delegated legislation and/or authority by the government or any other statutory authority reinstatement of the Insured Property has to be carried out upon another site, then the abandoned foundations will be considered as being destroyed. The term "foundations" is deemed to include services such as, but not limited to, conduits, pipes, cables and wiring built into the footings and foundations (including concrete floor slabs).

5. **Output Replacement**

If any item(s) of the Insured Property having a measurable output is Damaged (in whole or in part) and which is capable of replacement with a new item(s) which performs a similar function, then the amount payable by the Insurers in respect of such property shall be on the following basis:

- 5.1 If any lost or destroyed Insured Property is to be replaced by an item(s) which has the same or a lesser total output, then the amount payable thereof is the new installed cost of such replacement item(s) as would give the same total output as the Damaged item(s);
- 5.2 If any Damaged Insured Property is to be replaced by an item(s) which has a greater total output and the replacement value is no greater than the value of the Damaged items(s) then the amount payable shall be the cost of the replacement item(s) and no deduction shall be made due to improved output;
- 5.3 If any Damaged Insured Property is to be replaced by an item(s) which has a greater total output and the replacement value is greater than the value of the Damaged item(s) then the insurable value thereof is that proportion of the new installed cost of the replacement item(s) as the output of the Damaged item(s) bears to the output of the replacement item(s). The difference between the insurable value as defined and the new installed cost of the replacement item(s) shall be borne by the Insured.

6. **Reasonable Margin for Profit**

In all cases, the cost of reinstatement shall refer to the final cost to the Insured after completion of the repair, reinstatement or replacement work (including materials and wages incurred for the purpose of repairs and a reasonable margin for profit, administration costs and overheads).

Extensions applying to this Policy

The following Extensions apply to this Policy

1. **Additional Costs and Expenses**

The Insurers shall, in addition to the Limits of Liability, pay the following extra costs and expenses necessarily and reasonably incurred by or on behalf of the Insured (over and above those already included in the Project Value), subject to the Sub-limits of Liability stated in the Schedule (if any):

1.1 Removal of Debris and Other Costs

(a) Debris

Costs and expenses necessarily incurred in respect of the demolition, removal, storage and/or disposal of debris, Insured Property (including Insured Property which is no longer useful for the purpose it was intended) and any other property or substances including ponded water affecting the Project arising out of Damage.

(b) Temporary Protection

Costs and expenses incurred by or on behalf of the Insured:

- (i) for the removal of and/or the temporary protection and safety of Insured Property;
- (ii) in the purchasing and/or hiring and in the erection and dismantling of hoardings, barriers, fences and any other forms of protection which the Insured must provide in order to comply with the requirements of any government, municipal or other statutory authority.

Provided that the indemnity afforded shall only apply where the costs and expenses are incurred as a result of Damage.

(c) Shoring, Propping and Other Costs

Costs and expenses necessarily incurred in respect of shoring up, propping, underpinning, temporary repairs, recovery and retrieval of Insured Property as a consequence of actual or imminent Damage.

1.2 Expediting Expenses

Costs and expenses incurred in connection with or incidental to expediting the commencement, carrying out or completion of the repair, reinstatement or replacement of the Insured Property consequent upon Damage. Such costs and expenses shall include but not be limited to:

- (a) express or chartered carriage or delivery (including by sea or air);
- (b) travel (including by sea or air) of the Insured's employees, agents, sub-contractors, consultants or representatives;
- (c) overtime or penalty rates of wages and other related allowances and payments;
- (d) hire of additional labour, plant, equipment, materials, expertise or services;
- (e) reasonable and necessary cost of earlier than usual delivery or manufacture and/or costs of purchasing resources;
- (f) accommodation and boarding costs (including meals and other costs associated therewith);
- (g) additional administrative and/or overhead expenses.

1.3 Search and Locate Costs

Leak search and other costs incurred following irregularities discovered in the results of a hydrostatic or other testing procedure up to a maximum of \$100,000 any one Event. Such costs will include but not be limited to:

- (a) the cost of hiring, operating and transporting apparatus, the cost of operation;

(b) the cost of all associated earthworks;

and are payable notwithstanding that physical damage may not have occurred to the affected item.

1.4 Professionals' Fees

The fees of project managers, architects, surveyors, quantity surveyors, engineers, legal and other consultants and clerks of works' salaries for estimates, plans, specifications, quantities, tenders and supervision necessarily incurred in reinstatement consequent upon Damage to the Insured Property, but not for preparing any claim.

1.5 Mitigation Expenses

Reasonable costs and expenses incurred by or on behalf of the Insured in connection with or incidental to mitigating, containing, eliminating or suppressing actual Damage occurring at or adjacent to or immediately threatening the Insured Property.

Such costs and expenses shall include but not be limited to:

- (a) the payment for additional labour (including the Insured's employees), services or resources;
- (b) the cost of replenishing fire fighting appliances or systems and costs and charges incurred for the purpose of shutting off the supply of water or any other substance following the accidental discharge or escape from intended confines of any such substance, whether from fire protection equipment or otherwise.

1.6 Government and other Fees

- (a) Any fee, contribution or other impost (excluding fines and/or penalties) payable to any government, municipal or other statutory authority other than the Named Insured, where payment of such fee, contribution or impost is a condition precedent to the obtaining of consent to reinstate Insured Property.
- (b) Any fee contribution or other impost (excluding fines and/or penalties) payable to any government, municipal or other statutory authority other than the Named Insured for services rendered or equipment supplied for the purpose of helping to prevent, mitigate or confine further actual Damage at or in the vicinity of the Project Site.

2. Civil Authority

This Policy is extended to include loss resulting from Damage by civil authority during a conflagration or other catastrophe incurred for the purpose of retarding the same.

Exclusions applying to this Policy

This Policy does not provide indemnity in respect of:

1. Consequential Loss

liquidated damages or penalties for non-completion of or delay in completion of the Contract or non-compliance with contract conditions or consequential loss, other than as specifically provided under this Policy.

2. **Wear and Tear**

Damage directly caused by:

- 2.1 normal wear and tear;
- 2.2 rust, oxidation, corrosion or gradual deterioration, in each case when due to atmospheric conditions or other gradual causes;

but this Exclusion 3.2, shall be limited to that part of the Insured Property which is immediately affected and shall not apply to any other parts lost or Damaged in consequence thereof.

3. **Defects (LEG 2/06)**

All costs rendered necessary by defects of material workmanship design plan or specification and should damage occur to any portion of the Insured Property containing any of the said defects the cost of replacement or rectification which is hereby excluded is that cost which would have been incurred if replacement or rectification of the Insured Property had been put in hand immediately prior to the said damage.

For the purpose of this Policy, and not merely this Exclusion 3.3, it is understood and agreed that any portion of the Insured Property shall not be regarded as Damaged solely by virtue of the existence of any defect of material, workmanship, design, plan or specification.

4. **Aircraft or waterborne craft**

Aircraft or waterborne craft or plant and equipment permanently mounted thereon.

5. **Disappearance or Shortage**

loss due to disappearance or revealed by inventory shortage alone, unless the shortage can be reasonably attributed to burglary, theft, pilferage or like dishonesty of persons other than the Insured.

6. **Money**

Damage to cash, bank notes, treasury notes, cheques, postal orders and money orders, stamps or securities.

7. **Transits Outside of Australia**

Damage to Insured Property in the course of ocean marine shipment.

8. **Electronic Data Exclusion**

loss, damage, destruction, distortion, erasure, corruption or alteration of Electronic Data from any cause whatsoever (including but not limited to Computer Virus) or loss of use, reduction in functionality, cost, expense of whatsoever nature resulting there from, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

However, Exclusion 3.8 will not apply to physical damage occurring during the Period of Insurance to Insured Property directly caused by a Defined Peril.

9. **Breakdown of Construction Plant and Equipment**

Damage to Construction Plant and Equipment other than that owned or the responsibility of RTA.

10. **Nuclear Risks**

loss, damage or liability directly or indirectly caused by or contributed to by or arising from:

10.1 ionising, radiations or contamination by radioactivity from any nuclear waste or from the combustion of nuclear fuel;

for the purpose of this Exclusion 3.10 (a) only, combustion shall include any self-sustaining process of nuclear fission;

10.2 nuclear weapons materials.

This Exclusion 3.10 shall not apply to liability resulting from the use of commercial radioactive isotopes.

11. War and Terrorism

notwithstanding any provision to the contrary within this Policy or any endorsement thereto, loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

- (a) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power. Notwithstanding this clause 3.11(a), this Policy shall cover loss, damage or liability caused by missiles and/or mines and/or bombs and/or other explosives not discovered at the moment of commencement of this Policy as long as no state of war exists in the country where the loss occurs; or
- (b) any act of terrorism

For the purpose of this clause an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This clause also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to 3.11(a) and/or 3.11 (b) above.

In the event any portion of this General Exclusion clause 3.11 is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

12. Vegetation

Damage to vegetation which forms part of the Insured Property and which rises directly or indirectly from:

- (a) disease
- (b) lack of water
- (c) excess water
- (d) moths, termites, or other insects, vermin, mildew, mould or wet or dry rot
- (e) replanting operations
- (f) transportation operations

13. Piling

Any costs in respect of:

- (a) foundation piles and/or casings and/or sheet pile constructions which are
 - (i) misplaced or misaligned or jammed; or
 - (ii) Damaged during driving and/or extraction; or
 - (iii) the subject of individual or block disconnection or declutchingfor the purpose of this Exclusion Damage to foundation piles and/or casings and/or sheet pile constructions shall be deemed to have occurred during driving unless the Insured can produce satisfactory evidence to demonstrate otherwise;
- (b) leakage or infiltration of liquid or material at seams joints connections and/or beneath sheet pile constructions or into casings;
- (c) abandoned piling work unless such abandonment is a direct consequence of Damage for which indemnity is provided by this Policy;
- (d) piles which have failed to pass a load bearing test or otherwise not having reached their designed load bearing capacity unless such failure is a direct consequence of Damage for which indemnity is provided by this Policy;
- (e) dependence on known sub-standard work unless the design has been appropriately re-worked to suit;
- (f) Costs in excess of the original pile value. The original pile value shall be calculated by dividing the total contract value for each particular section of the piling work by the total number of piles in each such section.

14. Graded Areas

Costs incurred for the repair of eroded slopes / batters or other graded areas from any cause whatsoever if you failed to take reasonable protective measures against erosion occurring.

15. Transmission & Distribution Lines

Damage to transmission & distribution lines including but not limited to transformers, poles, towers, wiring and equipment connected therewith.

16. Cessation of Work

Damage from cessation of work for any reason whether total or partial.

Conditions applying to this Policy

The following Conditions apply to this Policy.

1. Escalation

If during the Period of Insurance, the anticipated actual Project Value is estimated to exceed the estimated Project Value, then the Limits of Liability and Sub-limits of Liability shall be increased by the percentage that represents the amount the anticipated actual Project Value exceeds the estimated Project Value at commencement of the Project, but the total amount of all such increases shall not exceed 25% of the amount set against each item in the Limits of Liability and Sub-limits of Liability.

2. Claims Procedure

For estimated Damage up to \$50,000 the Insured is at liberty to immediately proceed with repairs or replacement and shall provide to the Insurers full details of the cause and circumstances of the Damage, followed by written notification of the claim, supported by the necessary invoices and other details.

For estimated Damage exceeding \$50,000 the Insured is to defer proceeding with repairs or replacement until the Insurers or their representatives have made a preliminary survey or have agreed to the Insured proceeding with repairs or replacement.

The amounts stated in this Condition 4.2 refer to estimates made by the Insured of amounts payable by Insurers after application of any relevant Excess.

3. Limits of Liability

3.1 No liability shall attach to the Insurers until the Damage in respect of each Event exceeds the amount of any relevant Excess stated in the Schedule.

3.2 The liability of the Insurers for any one Event at any one situation shall not exceed the Limits of Liability and the accumulative amounts of the Sub-limits of Liability stated in the Schedule.

3.3 The Limits of Liability and Sub-limits of Liability shall apply in excess of the amount of any relevant Excess.

4. Application of Excess

4.1 The Insured shall be liable to pay the amount of the Excess in respect of each Event. If a series of claims are made under this Policy arising out of the one Event then only one Excess shall apply.

4.2 Non-aggregation of Excesses

Should more than one Excess apply for any claim or series of claims arising from the one Event, such Excesses shall not be aggregated and only the highest single Excess amount shall apply.

4.3 72 Hour Clause

For the purpose of the application of any Excess, all Damage resulting from fire, earthquake, cyclone, flood, hail, storm and/or tempest, occurring during each period of 72 consecutive hours shall be considered as one Event where such peril is sporadic in its sweep and scope. The Insured shall select the time from which any such period shall commence but no two selected periods shall overlap.

4.4 Inland Transit

In respect of the transit Excess (if any), such Excess shall apply to Insured Property in the course of loading of the Insured Property, whilst in transit, including incidental storage until unloading at the point of discharge at the final destination.

5. Insurers' Rights

The Insured shall, at the request and the expense of the Insurers, do and concur in doing all such acts and things as the Insurers may reasonably require with a view to recovery of Damaged Insured Property or to preserve and enforce any rights the Insured may have against anyone in respect of Damage to Insured Property.

6. Subrogation and Settlement of Claims

6.1 The Insured shall inform the Insurers as soon as reasonably practicable of the happening of any Damage which may give rise to a claim under this Policy.

6.2 Upon the payment of any claim under this Policy, subject to any restrictions imposed by the Commonwealth Insurance Contracts Act 1984, the Insurers shall be subrogated to all the rights and remedies of the Insured arising out of such claim against any person or corporation whatsoever.

7. Multiple Insureds Clause

7.1 If the Insured comprises more than one insured party each operating as a separate and distinct entity then (save as provided in this clause 4.7), cover hereunder shall apply in the same manner and to the same extent as if individual policies had been issued to each such insured party provided that the total liability of the Insurers to all of the insured parties collectively shall not exceed the Limits of Liability or Sub-limits in this Policy.

7.2 The insured parties will, to the extent allowed under contract, at all times preserve the various contractual rights and agreements entered into by the insured parties and contractual remedies of such parties in the event of loss or damage.

7.3 The Insurers shall be entitled to avoid liability to or (as may be appropriate) claim damages from an insured party in circumstances of such insured party committing fraud, misrepresentation, material non-disclosure or breach of any warranty or Condition of this Policy referred to in this Condition 4.7 as a "Vitiating Act".

7.4 However a Vitiating Act or any other act or neglect committed by one insured party, either at the time of entering this contract or during the Period of Insurance, shall not prejudice the right to indemnity of any other insured party who has an insurable interest and who has not committed a Vitiating Act.

7.5 The Insurers agree to waive all rights of subrogation that they may have or acquire against:

- (a) any Insured other than those defined in the Insured definition iii.d. in circumstances where indemnity is not provided to that Insured under this Policy;
- (b) at the option of the Insured, any other parties or persons, subject to the Insured, waiving rights of subrogation prior to the loss, but only when required to do so under contract;

except where the rights of subrogation or recourse are acquired in consequence or otherwise following a Vitiating Act, in which circumstances the Insurers may enforce such rights against the party committing the Vitiating Act.

8. Notices

- 8.1 Any notice(s) required by the Conditions of this Policy to be given to the Insurers shall be given by the Insured through any office of their insurance broker, Aon Risk Services Australia Limited (Aon) or direct to the Insurers. Any notice(s) given to any office of the appointed broker constitutes notice upon Insurers.
- 8.2 Any notice(s) given by the Insurers to any party insured under this Policy shall also be given to all other named parties.
- 8.3 Any notice of claim given to the Insurers by any party insured under this Policy shall be accepted by the Insurers as a notice of claim given on behalf of all other parties insured under this Policy.
- 8.4 If a Nominee for Insurers' Notices is shown in the Schedule, the Insurers agree to give the nominated organisation 30 business days prior notice in the event of:
 - (a) the cancellation or expiry of this Policy before completion of the Construction Period and Defects Liability Period due to non payment of premium or for any other cause;
 - (b) the Insurers giving any notice under this Policy.

9. Declarations and Premium Payment

If the Premium with regard to an item of this Policy is shown in the Schedule as being adjustable, then such Premium is provisional and will be adjusted as follows.

- 9.1 Within 30 days of the expiry of the Construction Period, the Named Insured will declare to the Insurers the actual value of the Adjustment Factor for each relevant item shown in the Schedule.
- 9.2 The Premium will be adjusted (subject to any minimum Premium applicable) by payment to the Insurers of an additional Premium or by allowance to the Insured of a return Premium, as the case may be, calculated at the agreed rate on the difference between the estimated and actual value of the Adjustment Factor.
- 9.3 In the event of any dispute or difference between the Insurers and the Named Insured as to the actual declared values, then for the purposes of this clause and clause 4.1, at the request of either party, such values shall be determined by the President for the time being of the Australian Institute of Quantity Surveyors, or his nominee, acting as an expert and not as an arbitrator. The cost of any such determination shall be borne equally by the Insurers and the Named Insured.

10. Extension to Period of Insurance

The Insurers agree to automatically grant any required alteration/extensions to the Period of Insurance up to a maximum of 90 days at additional premium not exceeding pro-rata. The Named Insured shall notify the Insurers as soon as possible (but no later than the estimated end date of the Construction Period shown in the Schedule or endorsement of this Policy) of becoming aware that the completion date last notified to the Insurers will be exceeded and the revised estimated completion date.

Extensions to the estimated Period of Insurance of greater than 90 days will only be covered subject to the prior approval of the Insurers.

11. Insolvency or Bankruptcy

The insolvency or bankruptcy of any party comprising the Insured shall not release the Insurers from any of their obligations assumed hereunder.

12. Jurisdiction and Service of Proceedings

The Insurers agree that:

12.1 this Policy is governed by the laws of Australia;

12.2 in the event of a dispute arising under this Policy, Insurers at the request of the Insured will submit to the jurisdiction of any competent Court in the Commonwealth of Australia. Such dispute shall be determined in accordance with the law and practice applicable in such Court;

12.3 any summons notice or process to be served upon the Insurers may be served upon the Nominee For Legal Service stated in the Schedule. Such Nominee has authority to accept service and to enter an appearance on the Insurers' behalf. If directed by the Insured the Nominee shall give a written undertaking that the Nominee will enter an appearance on the Insurers' behalf;

12.4 if proceedings are instituted against any one of the Insurers, all Insurers hereon will abide by the decision of such Court or any competent Appellate Court.

13. Cancellation

13.1 By the Insurers

The Insurers may cancel this Policy for any of the reasons set forth in Section 60 of the Commonwealth Insurance Contracts Act 1984 by serving on the Named Insured sixty (60) days notice in accordance with Section 59 of that Act, in which case the Named Insured will be entitled to a pro-rata refund of the Premium.

13.2 By the Named Insured

The Named Insured (on behalf of itself and all other Insureds unless otherwise specified) may cancel this Policy thereof at any time by giving notice in writing to the Insurers.

13.3 After cancellation by the Named Insured, the Premium will be adjusted in accordance with Condition 4.9 or pro-rata for the period on risk if the outcome does not represent an equitable refund for the cancelled period. The Named Insured will be obliged to supply to the Insurers such information as is necessary to adjust the Premium.

14. Alterations in Material Fact/Error or Omission

14.1 The Insured will not be prejudiced under this Policy in the event of any alteration in material fact or otherwise regarding construction methods or procedures, an unintentional or inadvertent error, omission or misdescription or any other information contained or omitted from any underwriting information supplied to the Insurers.

14.2 The Named Insured undertakes to immediately notify the Insurers as soon as the alteration or omission becomes known to them, and the Insurers shall be entitled to make reasonable variations to this Policy's terms and Conditions as may be mutually agreed between the Insurers and the Insured.

15. Progress Payments

Provided that indemnity has been granted under this Policy, progress payments on account of any claim shall be made to the Insured, at such intervals and for such amounts as may be agreed upon production of an acceptable report by the Loss Adjuster (if appointed), provided such payments shall be deducted from the amount finally determined upon adjustment of the claim.

16. Engagement of Loss Adjusters

16.1 Aon is authorised to appoint a loss adjuster from the panel of Agreed Loss Adjusters to investigate and quantify losses that are potentially indemnifiable under this Policy. Loss adjuster fees and expenses shall be payable by the Insurers.

16.2 The Insurers and Insured agree that the Agreed Loss Adjusters shall be agents of the Insurers and the Insured and all documents, transcripts, reports (verbal and written) shall be made available to the Insurers and the Insured.

16.3 If at any time there shall be any dispute or difference between the Insurers and the Insured in respect of the adjustment of a loss, then the Insurers or the Named Insured shall be entitled to appoint an independent loss adjuster.

17. Loss Payee

Any claim arising under this Policy shall be settled with and paid to the Loss Payee stated in the Schedule or as they may direct.

18. Currency

18.1 All monetary amounts expressed in this Policy are in Australian dollars. The Premium and losses shall be paid in Australian dollars or as otherwise agreed between the Insurers and the Insured.

18.2 For the purposes of this Policy, the Insurers agree to the Named Insured's normal practice of converting currency to Australian dollars in accordance with the Named Insured's accounting practices.

19. Difference In Conditions Cover (Underlying Insurance)

In circumstances where an Underlying Insurance has been arranged, this Policy shall be deemed to be the 'Master Policy'.

19.1 In the event of the Insured being indemnified by an Underlying Insurance in respect of a claim for which indemnity is available under this Master Policy, the insurance afforded by this Policy shall be excess insurance over the applicable limit of indemnity of the Underlying Insurance.

- 19.2 Coverage under this Master Policy shall not apply unless and until a claim for payment is made under the Underlying Insurance up to the amount of the Underlying Limit which, save for the limit of indemnity of the Underlying Insurance, would be covered by this Master Policy.
- 19.3 If such Underlying Insurance provides indemnity to the Insured by virtue of its scope of cover, definitions or conditions in respect of loss, damage, legal liability, costs and expenses which are not provided under the terms, Conditions and Exceptions of this Master Policy, then this Master Policy shall provide such indemnity to the same extent as provided by the Underlying Insurance.
- 19.4 Should any such Underlying Insurance, by virtue of its scope of cover, definitions, deductibles or excesses, conditions or limits of indemnity, not indemnify the Insured in whole or in part in respect of a loss, damage, liability, costs or expenses indemnifiable under this Master Policy, this Master Policy will provide indemnity to the extent that such indemnity is not provided by the terms and conditions of such Underlying Insurance. For the purpose of clarity, it is intended that indemnity by this Policy extends to cover losses not covered under the Underlying Insurance by virtue of the fact that such Underlying Insurance has a higher deductible or excess than the Excess under this Master Policy.
- 19.5 In the event that the Insured cannot obtain an admission of liability from the insurer of an Underlying Insurance and/or Underlying Insurance fails or is reasonably likely not to indemnify the Insured, then the Insurers of this Master Policy shall be obligated to indemnify the Insured.
- 19.6 The provisions of this clause are subject always to the terms, Conditions and Exclusions of this Master Policy, except as provided under (c) above.
- 19.7 In the event of cancellation of an Underlying Insurance or reduction or exhaustion of the limits of indemnity thereunder, this Master Policy shall:
- (a) in the event of reduction, pay in excess of the reduced Underlying Limit;
 - (b) in the event of cancellation or exhaustion, continue in force as Underlying Insurance.
- 19.8 **Appeals**
- In the event the Insured or the insurers of the Underlying Insurance electing not to appeal a judgement in excess of the Underlying Limits, the Insurers may elect to make such appeal at their own cost and expense and shall be liable for the taxable costs and disbursements and interest incidental thereto, but in no event shall the liability of the Insurers exceed the Limits of Liability excluding the costs and expenses of such appeal.

SCHEDULE 13

THIRD PARTY PUBLIC AND PRODUCTS LIABILITY INSURANCE SUMMARY

IMPORTANT NOTE:

This is a summary of Section 2 of the RTA Annual Contract Works/Third Party Liability Insurance Policy. Arrangements to inspect the full Policy Wording can be made by contacting RTA's Insurance Broker:

Corporate Risk Services
Aon Risk Services Australia Limited
ABN 17 000 434 720
Level 33, Aon Tower
201 Kent Street
SYDNEY NSW 2000

Telephone 61 2 9253 8407
Facsimile 61 2 9253 7106

Policy Number: **Section 2** **99-0000476-LGR**

Insured

The Roads and Traffic Authority of New South Wales (RTA), (**Principal**).

Any Person, Company, Corporation or Joint Venture which has entered or that it is intended will enter into a contract with the Principal to perform work (**Contractor**).

Any Person, Company, or group of Companies or Joint Venture which has entered or that it is intended to enter into a Contract with the Contractor to perform work or to supply goods or to provide services (Sub Contractors).

The policy also extends to include the interests of any principal (where RTA will be the Contractor) in respect of any contract and/or Alliance Works to which the insurances apply to the extent to which that interest is required to be insured jointly with RTA including any other party and/or Government body or Department where RTA or their related Government Department are in Joint Venture for their respective rights, interests and liabilities.

Business and Activities of the Insured

Civil contractors (mainly roads, bridges and pavement works and all other associated contracts), designers, consultants, suppliers, project and construction managers, plant and equipment owners, operators and hirers, lessees, lessors, and all incidental and associated operations trades and activities and further in respect of RTA only: property owners and occupiers, lessees and lessors.

Period of Insurance

From: **1 October 2006 at 4.00pm**

To: **1 October 2009 at 4.00pm**

Or any subsequent period for which the Insured has requested and the Insurer accepted renewal

Insured Contracts Sections 2

All contracts commenced by the Insured after 4.00p.m. on **1 October 2006**

Geographical Limits Sections 2 Third Party Liability

Worldwide but excluding liability arising from any Business and Activities of the Insured carried on, by, at or from any premises situated in U.S.A, or Canada, except in respect of overseas visits by the Insured's directors and/or employees to the U.S.A. or Canada.

Limits of Liability Section 2 Third Party Liability

A\$200,000,000 any one Occurrence unlimited to the number of Occurrences during the Period of Insurance but limited to **A\$200,000,000** in the annual aggregate during each 12 month period during the Period of Insurance arising from Products Liability.

Such Limits of Liability apply in excess of the Excesses.

Excesses

Section 2

- Worker to Worker claims, \$50,000 any one occurrence
- Products Liability, \$50,000 any one occurrence
- Underground Services, \$50,000 any one occurrence
- All other claims \$10,000 any one occurrence

Third Party Liability

Section 2 Insuring Clause

The Insurers will indemnify the Insured against the Insured's legal liability to pay damages or compensation in respect of:

- Personal Injury;
- Property Damage; or
- Advertising Injury,

happening:

- (i) during the Construction Period or the Defects Liability Period in respect of the Insured Operations; or
- (ii) during the Period of Insurance in respect of the Insured's Products;

within the Territorial Limits in connection with the Business and related activities as a result of an Occurrence.

In addition to any indemnity:

- (i) all legal costs and other expenses incurred with the written consent of the Insurer;
- (ii) all charges expenses and legal costs recoverable from the Insured by claimants;

- (iii) all costs and expenses incurred by the Insured for legal representation at any coroner's inquest, fatal accident inquiry or court of summary jurisdiction;
- (iv) expenses incurred by the Insured for first aid rendered for injury to others at the time of an Occurrence.

Exclusions Applicable to Section 2

1. Employer's Liability

Liability for which the Insured is entitled to indemnity under any policy of insurance required to be taken out pursuant to any legislation relating to workers and workmen's compensation, whether or not the Insured has effected such a policy.

This Exclusion does not apply with respect to liability of others assumed by the Insured under written contract.

2. Industrial Awards

Liability to or of any Employee of the Insured imposed by the provisions of any industrial award or agreement or determination where such liability would not otherwise have attached.

3. Aircraft and Watercraft

Liability arising from the ownership, possession or use by the Insured of any Aircraft or Watercraft, but this Exclusion shall not apply to:

- (a) Aircraft or Watercraft which are not owned by the Insured when such craft are hired, leased or chartered to or by the Insured with a pilot/master and crew supplied;
- (b) liability arising out of construction plant or equipment mounted upon or operating from any Watercraft, but this Exclusion subclause 3(b) shall not apply to liability arising out of the use or operation of the Watercraft itself;
- (c) the use or existence of explosives on or from any marine craft or vessels whether in, over or under water or otherwise;
- (d) liability in respect of work undertaken on marine craft or vessels.

4. Vehicles

Liability arising from the ownership, possession or use by the Insured of any Vehicle in respect of which there is required by law, at the time of the Occurrence, to be in force compulsory third party bodily injury liability insurance. In the absence of indemnity afforded by any other insurance, this Exclusion 4 shall not apply to:

- (a) liability arising out of the loading or unloading of or the delivery or collection of goods to or from any Vehicle;
- (b) liability caused by or arising out of or in connection with the Vehicle working as a tool of trade on any site or at the premises of the Insured.

5. Loss of Use

Loss of use of tangible property that forms part of a Contract which has not been physically damaged or destroyed resulting from a delay in or lack of performance by or on behalf of the Insured of any Contract.

6. Products and Work Performed

Liability for:

- (a) the cost of making good, replacing or reinstating workmanship performed by the Insured or of any Product which is or is alleged to be defective or deficient;
- (b) the cost of or damages claimed in relation to the withdrawal, recall, inspection, repair, replacement or loss of use of the Products or any property of which such Products form a part, if such Products or property are withdrawn from the market or from use solely because of any known or suspected defect or deficiency therein;

This Exclusion 6 shall apply only to the part which is defective or deficient and shall not apply to any other parts of the works, Products or any other property lost or damaged as a consequence.

7. Professional Liability

Liability arising out of the rendering of or failure to render professional advice or service given for a specific fee by the Insured or error or omission connected therewith, but this Exclusion 7 does not apply to:

- (a) Personal Injury or Property Damage arising there from; or
- (b) the rendering of or failure to render professional medical advice by medical persons employed by the Insured to provide first aid and other medical services on the Insured's premises.

8. Pollution and Contamination

- (a) Liability arising out of discharge, dispersal, seepage, release or escape of Pollutants into or upon land, the atmosphere, or water; but this Exclusion 8(a) does not apply if such discharge, dispersal, seepage, release or escape is sudden and accidental and neither expected nor intended from the standpoint of the Insured and occurs at a specific time and place.
- (b) Any costs and expenses incurred in the prevention, removing, nullifying or clean up of Pollutants, but this Exclusion 8(b) does not apply where clean up, removal or nullifying expenses are incurred consequent upon a sudden and accidental happening neither expected nor intended from the standpoint of the Insured, which results in Property Damage and/or Personal Injury.

9. Fines and Penalties

Liability arising from or attributable to:

- (a) an award of punitive, liquidated, aggravated or exemplary damages;

- (b) any fine or penalties, including but not limited to civil penalties;

but this Exclusion 9 does not apply to civil awards in the nature of compensatory damages.

10. Advertising Injury

Liability arising out of Advertising Injury for:

- (a) offences committed prior to the inception date of this Policy;
- (b) offences made at the direction of the Insured with knowledge of the illegality or falsity thereof;
- (c) breach of contract, other than misappropriation of advertising ideas under an implied contract;
- (d) incorrect description of the price of the products, goods or services;
- (e) infringement of trade mark, service mark or trade name by use thereof as the trade mark, service mark or trade name of the products, goods or services sold, offered for sale or advertised, but this Exclusion 10 does not apply to titles or slogans;
- (f) failure of the products, goods or services to conform with advertised performance, quality, fitness or durability;
- (g) any Insured whose business is advertising, broadcasting, publishing or telecasting.

11. Property owned by or in Care, Custody or Control of the Insured

Damage to property:

- (a) owned by the Insured;
- (b) held in trust or in the custody or control of the Insured, but only to the extent that such damage is payable under Section 1 of this Policy.

12. Asbestos

Claims directly or indirectly caused by, contributed to by or arising from exposure to asbestos or materials containing asbestos.

Conditions Applicable to Section 2

1. Limits of Liability

- (a) No liability shall attach to the Insurers until the Damage or loss in respect of each Event/ Occurrence exceeds the amount of any relevant Excess stated in the Schedule. The Limits of Liability and Sub-limits of Liability shall apply in excess of the amount of the relevant Excess.
- (b) The liability of the Insurers in respect of each Occurrence shall not exceed the Limit of Liability stated in the Schedule. All Personal Injury, Property Damage or Advertising Injury arising out of continuous or repeated exposure to substantially the same general conditions will be construed as arising out of one Occurrence.

The total aggregate liability of the Insurers for all claims arising out of Products shall not exceed the Limits of Liability stated in the Schedule for each 12 month period from the inception date of this Policy.

2. Application of Excess

- (a) The Insured shall be liable to pay the amount of the Excess in respect of each Event/Occurrence. If a series of claims are made under a Section of this Policy arising out of the one Event/Occurrence then only one Excess shall apply in respect of that Policy Section.

In respect to Section 2, the Excess is inclusive of Defence and Other Costs as described.

(b) **Non-aggregation of Excesses**

In respect of Section 1 only, should more than one Excess apply for any claim or series of claims arising from the one Event, such Excesses shall not be aggregated and only the highest single Excess shall apply.

(c) **72 Hour Clause**

For the purpose of the application of any Excess under Section 1 only, all Damage resulting from fire, earthquake, cyclone, flood, hail, storm and/or tempest, occurring during each period of 72 consecutive hours shall be considered as one Event where such peril is sporadic in its sweep and scope. The Insured shall select the time from which any such period shall commence but no two selected periods shall overlap.

(d) **Inland Transit**

In respect of the transit Excess under Section 1 (if any), such Excess shall apply to Insured Property in the course of loading of the Insured Property, whilst in transit, including incidental storage until unloading at the point of discharge at the final destination.

3. Insurers' Rights

The Insured shall, at the request and the expense of the Insurers, do and concur in doing all such acts and things as the Insurers may reasonably require with a view to recovery of Damaged Insured Property or to preserve and enforce any rights the Insured may have against anyone in respect of Damage to Insured Property or liability for Personal Injury, Property Damage or Advertising Injury.

4. Subrogation and Settlement of Claims

The Insured shall inform the Insurers as soon as reasonably practicable of the happening of any Damage which may give rise to a claim under this Policy.

Upon the payment of any claim under this Policy, subject to any restrictions imposed by the Commonwealth Insurance Contracts Act 1984, the Insurers shall be subrogated to all the rights and remedies of the Insured arising out of such claim against any person or corporation whatsoever.

In respect of Section 2 of this Policy, no admission, offer, promise, payment or indemnity shall be made or given by or on behalf of the Insured without the consent of the Insurers who shall be entitled, if the Insurers so desire, to take over and conduct in the name of the Insured the defence or settlement of any claim or to prosecute in the name of the Insured for the Insurer's own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings or in the settlement of any claim, however the Insurers shall discuss the conduct,

defence, prosecution or settlement of any claim or proceeding with the Insured prior to taking action or effecting settlement.

The Insurers may pay to the Insured, the amount of the applicable Limit of Liability of the Insurers or such lesser sum for which the claim can be settled subject in either case to deduction of any sum or sums already paid as compensation in respect of such claim and the Insurers shall thereafter be under no further liability in respect of such claim except for the payment of costs and expenses for which the Insurers are liable hereunder incurred prior to the date of such payment.

5. Multiple Insureds Clause

- (a) If the Insured comprises more than one insured party each operating as a separate and distinct entity then (save as provided in this clause), cover hereunder shall apply in the same manner and to the same extent as if individual policies had been issued to each such insured party provided that the total liability of the Insurers to all of the insured parties collectively shall not exceed the Limits of Liability or Sub-limits in this Policy.
- (b) The insured parties will, to the extent allowed under contract, at all times preserve the various contractual rights and agreements entered into by the insured parties and contractual remedies of such parties in the event of loss or damage.
- (c) The Insurers shall be entitled to avoid liability to or (as may be appropriate) claim damages from an insured party in circumstances of such insured party committing fraud, misrepresentation, material non-disclosure or breach of any warranty or Condition of this Policy referred to in this General Condition as a "Vitiating Act".
- (d) However a Vitiating Act or any other act or neglect committed by one insured party, either at the time of entering this contract or during the Period of Insurance, shall not prejudice the right to indemnity of any other insured party who has an insurable interest and who has not committed a Vitiating Act.
- (e) The Insurers agree to waive all rights of subrogation that they may have or acquire against:
 - (i) any Insured or any individual or organisation affiliated or associated with, parent of or a subsidiary of any Insured other than those defined in the Insured iii.d. in circumstances where indemnity is not provided under this Policy;
 - (ii) at the option of the Named Insured, any other parties or persons, subject to the Insured, waiving rights of subrogation prior to the loss, but only when required to do so under contract;

except where the rights of subrogation or recourse are acquired in consequence or otherwise following a Vitiating Act, in which circumstances the Insurers may enforce such rights against the party committing the Vitiating Act.

6. Notices

- (a) Any notice(s) required by the Conditions of this Policy to be given to the Insurers shall be given by the Insured through any office of their insurance broker, Aon Risk Services Australia Limited (Aon) or direct to the Insurers. Any notice(s) given to any office of the appointed broker constitutes notice upon Insurers. Any such notice shall be deemed to be given on behalf of the Insured giving the notice and on behalf of all other Insureds.
- (b) Any notice(s) given by the Insurers to any party insured under this Policy shall also be given to all other named parties.

- (c) Any notice of claim given to the Insurers by any party insured under this Policy shall be accepted by the Insurers as a notice of claim given on behalf of all other parties insured under this Policy.
- (d) Subject to the Named Insured providing details to the Insurers of the name of the Nominee for Insurers' Notices and the relevant Contract provisions, the Insurers agree to provide 30 business days prior notice to that Nominee in the event of:
 - (i) the cancellation or expiry of this Policy before completion of the Construction Period and/or Defects Liability Period of the relevant Contract due to non payment of premium or any other cause;
 - (ii) the Insurers giving any notice under this Policy.

7. **Insolvency or Bankruptcy**

The insolvency or bankruptcy of any party comprising the Insured shall not release the Insurers from any of their obligations assumed hereunder.

8. **Hold Harmless Agreements**

Where, in connection with or in relation to a Contract, the Insured enters into an agreement with another party and where such agreement provides, inter alia, that the Insured shall indemnify and/or hold harmless and/or release from liability such other party in respect of any damage, defect or liability hereby insured against, it is understood and agreed that this Policy shall not be prejudiced or invalidated by the Insured agreeing to such provisions and that the indemnity and/or hold harmless and/or release from liability given by the Insured shall be equally binding upon the Insurers.

9. **Jurisdiction and Service of Proceedings**

The Insurers agree that:

- (a) this Policy is governed by the laws of Australia;
- (b) in the event of a dispute arising under this Policy, Insurers at the request of the Insured will submit to the jurisdiction of any competent Court in the Commonwealth of Australia. Such dispute shall be determined in accordance with the law and practice applicable in such Court;
- (c) any summons notice or process to be served upon the Insurers may be served upon the Nominee For Legal Service stated in the Schedule. Such Nominee has authority to accept service and to enter an appearance on the Insurers' behalf. If directed by the Insured the Nominee shall give a written undertaking that the Nominee will enter an appearance on the Insurers' behalf;
- (d) if proceedings are instituted against any one of the Insurers, all Insurers hereon will abide by the decision of such Court or any competent Appellate Court.

10. **Cancellation/Non-renewal**

(a) **By the Insurers**

The Insurers may cancel this Policy for any of the reasons set forth in Section 60 of the Commonwealth Insurance Contracts Act 1984 by serving on the Named Insured sixty (60) days notice in accordance with Section 59 of that Act, in which case the Insured will be entitled to a pro-rata refund of the Premium.

(b) **By the Named Insured**

The Named Insured (on behalf of itself and all other Insureds (unless otherwise specified) may cancel any Section of this Policy or cancel cover in respect of any Contract or Insured Property at any time by giving notice in writing to the Insurers.

(c) **Run-off Cover**

Notwithstanding the Period of Insurance, in the event of cancellation by either the Insurers or the Named Insured or non-renewal of this Policy, at the Named Insured's option, the insurance by this Policy shall continue for each Contract or Insured Property until:

- (i) expiration of the Construction Period and Defects Liability Period; or
- (ii) the Named Insured formally advises the Insurers that the Contracts have been insured elsewhere;
- (iii) whichever occurs first.

In the event of cancellation or non-renewal of this Policy, the Premium will be adjusted or pro-rata for the period on risk if the outcome does not represent an equitable refund for the cancelled period. The Named Insured will be obliged to supply to the Insurers such information as is necessary to adjust the Premium.

11. Alterations in Material Fact/Error or Omission

- (a) The Insured will not be prejudiced under this Policy in the event of any alteration in material fact or otherwise regarding construction methods or procedures, an unintentional or inadvertent error, omission or misdescription or any other information contained or omitted from any underwriting information supplied to the Insurers.
- (b) The Named Insured undertakes to immediately notify the Insurers as soon as the alteration or omission becomes known to them, and the Insurers shall be entitled to make reasonable variations to this Policy's terms and Conditions as may be mutually agreed between the Insurers and the Insured.

12. Engagement of Loss Adjusters

- (a) Aon is authorised to appoint a loss adjuster from the panel of Agreed Loss Adjusters to investigate and quantify losses that are potentially identifiable under this Policy. Loss adjuster fees and expenses shall be payable by the Insurers.
- (b) The Insurers and Insured agree that the Agreed Loss Adjusters shall be agents of the Insurers and the Insured and all documents, transcripts, reports (verbal and written) shall be made available to the Insurers and the Insured.
- (c) If at any time there shall be any dispute or difference between the Insurers and the Insured in respect of the adjustment of a loss, then the Insurers or the Named Insured shall be entitled to appoint an independent loss adjuster.

13. Currency .

- (a) All monetary amounts expressed in this Policy are in Australian dollars. The Premium and losses shall be paid in Australian dollars or as otherwise agreed between the Insurers and the Insured.
- (b) For the purposes of this Policy, the Insurers agree to the Named Insured's normal practice of converting currency to Australian dollars in accordance with the Insured's accounting practices.

14. Difference In Conditions Cover

In circumstances where an Underlying Insurance has been arranged, this Policy shall be deemed to be the 'Master Policy':

- (a) In the event of the Insured being indemnified by an Underlying Insurance in respect of a claim for which indemnity is available under this Master Policy, the insurance afforded by this Policy shall be excess insurance over the applicable limit of indemnity of the Underlying Insurance.
- (b) Coverage under this Master Policy shall not apply unless and until a claim for payment is made under the Underlying Insurance up to the amount of the Underlying Limit which, save for the limit of indemnity of the Underlying Insurance, would be covered by this Master Policy.
- (c) If such Underlying Insurance provides indemnity to the Insured by virtue of its scope of cover, definitions or conditions in respect of loss, damage, legal liability, costs and expenses which are not provided under the terms, Conditions and Exceptions of this Master Policy, then this Master Policy shall provide such indemnity to the same extent as provided by the Underlying Insurance.
- (d) Should any such Underlying Insurance, by virtue of its scope of cover, definitions, deductibles or excesses, conditions or limits of indemnity, not indemnify the Insured in whole or in part in respect of a loss, damage, liability, costs or expenses indemnifiable under this Master Policy, this Master Policy will provide indemnity to the extent that such indemnity is not provided by the terms and conditions of such Underlying Insurance. For the purpose of clarity, it is intended that indemnity by this Policy extends to cover losses not covered under the Underlying Insurance by virtue of the fact that such Underlying Insurance has a higher deductible or excess than the Excess under this Master Policy.
- (e) In the event that the Insured cannot obtain an admission of liability from the insurer of an Underlying Insurance and/or Underlying Insurance fails or is reasonably likely not to indemnify the Insured, then the Insurers of this Master Policy shall be obligated to indemnify the Insured.
- (f) The provisions of this clause are subject always to the terms, Conditions and Exclusions of this Master Policy, except as provided under (c) above.
- (g) In the event of cancellation of an Underlying Insurance or reduction or exhaustion of the limits of indemnity thereunder, this Master Policy shall:
 - (i) in the event of reduction, pay in excess of the reduced Underlying Limit;
 - (ii) in the event of cancellation or exhaustion, continue in force as Underlying Insurance.
- (h) Appeals

In the event the Insured or the insurers of the Underlying Insurance electing not to appeal a judgement in excess of the Underlying Limits, the Insurers may elect to make such appeal at their own cost and expense and shall be liable for the taxable costs and disbursements and interest incidental thereto, but in no event shall the liability of the Insurers exceed the Limits of Liability excluding the costs and expenses of such appeal.

15. **Leading Insurer**

The Leading Insurer is the company named first in the Schedule. Each other company named in the Schedule agrees to accept the same terms and Conditions as the Leading Insurer and authorises the Leading Insurer to act on behalf of all the named companies for all purposes connected with this Policy and, without limiting the generality of the foregoing:

- (a) to accept all notices required under this Policy;
- (b) to interpret the meaning or intention of any word, expression, Exclusion or Condition of this Policy;
- (c) to accept increases in any Limit of Liability or Sub-limit of this Policy up to 10% of the limit existing at the time of the increase;
- (d) to agree amendments to the wording of this Policy;
- (e) to re-negotiate terms commensurate with any change in the risk;
- (f) to negotiate and settle claims under this Policy.

Subject otherwise to the terms and conditions of this Policy and to notification of each alteration as soon as practicable thereafter, each other company named in the Schedule agrees to accept and be bound by the decisions of the Leading Insurer.

General Exclusions Applicable to All Sections

The following Exclusions apply to all Sections of this Policy:

20. **Nuclear Risks**

The Insurers shall not be liable in respect of loss, damage or liability directly or indirectly caused by or contributed to by or arising from:

- 20.1 ionising, radiations or contamination by radioactivity from any nuclear waste or from the combustion of nuclear fuel;

for the purpose of this Exclusion only, combustion shall include any self-sustaining process of nuclear fission;

- 20.2 nuclear weapons materials.

This General Exclusion shall not apply to liability resulting from the use of commercial radioactive isotopes.

21. **War and Terrorism**

Notwithstanding any provision to the contrary within this Policy or any endorsement thereto it is agreed that this Policy excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

21.1 war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; Notwithstanding this clause 21(a), this Policy shall cover loss, damage or liability caused by missiles and/or mines and/or bombs and/or other explosives not discovered at the moment of commencement of this Policy as long as no state of war exists in the country where the loss occurs; or

21.2 any act of terrorism.

For the purpose of this clause an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This clause also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to 21(a) and/or 21(b) above.

In the event any portion of this General Exclusion clause 21 is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

THE INSURERS AND PARTICIPATION

Section 2 (Third Party Liability)

Third Party Liability	99-0000476-LGR	Allianz Australian Insurance Ltd	A\$20,000,000	Injury to Contractors Products Liability Underground Services All other claims	A\$50,000 A\$50,000 A\$50,000 A\$10,000
Excess Third Party Liability *	TBA	Allianz Australian Insurance Ltd	A\$70,000,000	Primary A\$20,000,000	
Excess Third Party Liability *	TBA	American Home Insurance Ltd	A\$110,000,000	Excess of A\$70,000,000 Excess of A\$20,000,000	

SCHEDULE 14

ROLE OF THE NATIONAL CODE OF PRACTICE

The National Code of Practice for the Construction Industry applies to the Temporary Works, Construction Plant and Alliance Works?

Yes	
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SCHEDULE 15
FORM OF RAIL AGREEMENT

RAIL AGREEMENT

BETWEEN: AUSTRALIAN RAIL TRACK CORPORATION LTD (ABN 75 081 455 754) of ARTC House, off Sir Donald Bradman Drive, Rail Passenger Terminal Road, Mile End SA 5031 ("**Rail Party**");

AND: The other parties to this deed set out in item 1 of Schedule 1 (collectively "**Alliance**").

RECITALS:

- A. The Alliance proposes to carry out certain works under an alliance agreement for the project known as the H10 Pacific Highway Upgrade Coopernook to Herons Creek (combined Coopernook to Moorland and Moorland to Herons Creek Projects).
- B. The works will be carried out on or near land owned or operated by the Rail Party upon which there are situated Rail Infrastructure Facilities.
- C. The Rail Party has agreed to allow the Alliance to carry out the works in accordance with this deed in order to minimise any disruption to rail services along the rail corridor and to ensure the proper safety of workers operating within the rail corridor.

Operative provisions

1. Definitions and interpretation

1.1 Definitions

In this deed:

"**Act**" means the Transport Administration Act 1988 (NSW).

"**Alliance's Representative**" is the person the Alliance appoints to be its representative in accordance with clause 11.2 and includes any delegate. At the date of this deed, the Alliance's Representative is the person named in item 5A of Schedule 1.

"**Authority**" is any:

- (a) Minister of the Crown or government department;
- (b) government or statutory authority;
- (c) statutory State-owned corporation;
- (d) local government council; or
- (e) other body,

which has a right to impose a requirement or whose consent is required in respect of the Works or Rail Infrastructure Facilities.

"Contamination":

- (a) means any waste, pollution, hazardous substance, toxic substance, dangerous goods, hazardous waste or special waste, or any constituent of any such substance or waste in any water, soil or in the air including acid sulphate soils; and
- (b) without limiting paragraph (a), has the meaning given to "Contamination" in the Contaminated Land Management Act 1997.

"Contractor" means a contractor engaged by the Alliance to perform any part of the Works and, where the context allows, includes subcontractors.

"Cure Plan" means a proposal that the Alliance submits to the Rail Party pursuant to clause 12.1 which details the steps to be taken and the dates by which those steps must be satisfactorily performed in order to rectify a default within the period set out in clause 12.1(a).

"Damage" means any physical damage, dilapidation, destruction, impairment or other adverse change or effect, including but not limited to any vibration, vertical track displacement, cracking or other effect on the Rail Infrastructure Facilities.

"Defects Repair Period" is the period of 12 months commencing from the date of Practical Completion unless otherwise agreed in writing by the Alliance and the Rail Party.

"Emergency Event Plan" means a plan formulated by the Alliance in accordance with this deed and the Rail Party Requirements and approved by the Rail Party (in its absolute discretion) dealing with emergency incidents relating to the Rail Infrastructure Facilities, as updated with the written approval of the Rail Party from time to time and which must be initially agreed with the Rail Party prior to commencement of Works within the Protection Zone.

"GST" means any purported goods and services tax or other form of purported value added or purported consumption tax and includes GST as defined in section 195-1 of the A New Tax System (Goods and Services Tax) Act 1999.

"GST Law" means the purported laws in relation to GST and includes the term "GST Law" as defined in section 195-1 of the A New Tax System (Goods and Services Tax) Act 1999.

"Practical Completion" is that stage in the execution of the Works when the Alliance and the Rail Party agree that the Works are complete.

"Project" means the design and construction of the H10 Pacific Highway Upgrade Coopernook to Herons Creek (combined Coopernook to Moorland and Moorland to Herons Creek Projects) under the Project Alliance Agreement.

"Project Alliance Agreement" means the project alliance agreement called "H10 Pacific Highway Upgrade Coopernook to Herons Creek" made between the parties comprising the Alliance for the construction of the Project including the Works.

"Protection Zone" means the area within 50 metres of the outer surface of any Rail Infrastructure Facilities.

"Rail Infrastructure Facilities" means:

- (a) any facilities and infrastructure owned, controlled and/or operated from time to time by the Rail Party;

- (b) any facilities and infrastructure owned by other persons which are located on property owned, controlled and/or operated by the Rail Party, including but not limited to rolling stock;
- (c) any Rail Infrastructure Facilities under the Act;
- (d) any services and services conduits (including but not limited to electricity, communications, water, drainage and sewerage services) which service any facilities referred to in paragraphs (a) to (c) inclusive in this definition; and
- (e) any means of physical access (whether by pedestrians or vehicles) to any of the facilities referred to in paragraphs (a) to (d) inclusive in this definition.

"Rail Laws" means the Act, the Rail Safety Act 2002 (NSW) and any other legislation or regulation governing the Rail Party's operations, including but not limited to the operation of railway passenger or freight services.

"Rail Party's Costs" means the categories of costs referred to in item 4 of Schedule 1 as may be varied by the Rail Party from time to time, provided such variation is made and applied on a regional basis and/or is directly required for the purposes of the Works.

"Rail Party's Representative" is the person the Rail Party appoints to be its representative in accordance with clause 11.1 and includes any delegate. At the date of this deed, the Rail Party's Representative is the person named in item 5 of Schedule 1.

"Rail Party Material" is any information or data in respect of the Works or the Rail Infrastructure Facilities supplied or made available by the Rail Party to the Alliance in any form from time to time, including any reports relating to, or opinions in respect of, any such information or data.

"Rail Party Requirements" means the provisions set out in Schedule 4 of this deed.

"Rail Safety Plan" means the rail safety plan formulated by the Alliance which complies with the Rail Party Requirements and this deed and is agreed to in writing by the Rail Party.

"Railway" means the guided system for transportation of passengers or freight or both (whether or not passengers, freight or both are being transported) on a railway track within the Railway Corridor.

"Railway Corridor" means all land leased, owned, controlled or occupied by the Rail Party and includes any easements or licences or any other legal or beneficial interest in land used in relation to the operation of the Railway.

"Safety Protocol" means the procedures and protocols relating to the entry by persons upon the Rail Infrastructure Facilities for the purposes of the Works, as set out in Schedule 2 of this deed and as amended by the Rail Party from time to time.

"Service" is any service, including but not limited to water, electricity, gas, fuel, telephone, drainage, sewerage, industrial waste disposal and electronic communications service.

"Supply" has the meaning under GST Law.

"Works" are the works described in item 6 of Schedule 1.

1.2 Interpretation

In this deed (unless the context otherwise requires):

- (a) the singular includes the plural and vice versa;
- (b) a reference to including, includes or include must be read as if it is followed by (without limitation);
- (c) a reference to this deed includes the schedules and exhibit to this deed and any amendments to this deed;
- (d) a reference to a clause, schedule or exhibit is to a clause of, or schedule or exhibit to, this deed and any amendments to it;
- (e) a reference to a person includes a corporation, subsidiary and related body corporate (as defined in the Corporations Act 2001), partnership, joint venture, association, authority, trust, state or government; and
- (f) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision.

1.3 Law and jurisdiction

- (a) This deed is governed by the law in force in New South Wales.
- (b) The Rail Party and the Alliance submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts which may hear appeals from those courts in respect of any proceedings in connection with this deed.

1.4 Application of this deed

The rights and obligations created by this deed are to be treated for all purposes as if they commenced, and are enforceable from, the date of commencement of the Works, even if this deed is executed at a later date.

1.5 Condition precedent

The rights and obligations of the parties under this deed will only become effective upon the valid and binding execution of the Project Alliance Agreement by the parties comprising the Alliance.

2. Fundamental principles

2.1 General

- (a) The Alliance must carry out the Works in accordance with this deed. The parties hereby acknowledge that the Alliance may contract all or some of its obligations under this deed to a Contractor.
- (b) The Alliance's obligations under this deed are not lessened or otherwise affected by contracting the performance of those obligations.
- (c) The Alliance must ensure that any Contractor complies, where relevant, with the terms of this deed.

- (d) The Rail Party acknowledges and agrees that the proper performance or discharge of the Alliance's obligations under this deed by a Contractor, on behalf of the Alliance, will be a good and valid discharge of the Alliance's obligations under this deed.

2.2 Risk

- (a) The Alliance accepts all risks in the carrying out of the Works, including all costs it incurs during the carrying out of the Works and all responsibility for the conduct and performance of its Contractors in respect of the obligations under this deed.
- (b) The Rail Party makes no representation and gives no warranty to the Alliance as to the Rail Infrastructure Facilities, including as to or in respect of:
 - (i) the condition of the Rail Infrastructure Facilities; or
 - (ii) any Contamination of the Rail Infrastructure Facilities.
- (c) The Alliance must at all times ensure that the Works and any activity carried out by its Contractors in connection with the Project Alliance Agreement does not reduce the safety of the railway operations including that the employees of the Rail Party, railway passengers and railway patrons are not injured or killed and the property of the Rail Party (including the Rail Infrastructure Facilities) is not damaged.
- (d) The Alliance:
 - (i) is not entitled to any extension of time, variation or additional payment arising out of the exercise by the Rail Party of its rights under and in relation to this deed; and
 - (ii) despite any other clause in this deed, releases the Rail Party from all claims and losses under this deed arising out of the exercise by the Rail Party of its rights under and in accordance with this deed.

2.3 No reliance

The Alliance acknowledges and agrees that:

- (a) the Rail Party:
 - (i) is not responsible for the accuracy of the contents of; and
 - (ii) makes no representations nor assumes any duty of care in respect of, any of the Rail Party Material;
- (b) it has not relied upon any of the Rail Party Material or the non-production of any other document held by the Rail Party in entering into this deed or the Project Alliance Agreement;
- (c) it will not rely upon any of the Rail Party Material or the non-production of any other document held by the Rail Party in the carrying out of the Works or in respect of the carrying out of any activity under the Project Alliance Agreement; and
- (d) in all respects it has relied on the outcome of its own investigations relating to the entering into of this deed and the Project Alliance Agreement and the carrying out of the Works.

2.4 Services

- (a) The Alliance must obtain any Services it needs to perform its obligations under this deed.
- (b) The Alliance must pay for all Services in respect of the carrying out of the Works.

2.5 Compliance with law and Authority requirements

In respect of the carrying out of the Project (including the Works), the Alliance must comply, and must ensure that its Contractors comply, as relevant, with all legislation and all regulations, proclamations, ordinances and by-laws made or issued thereunder and with the lawful requirements of Authorities, including without limitation the Occupational Health and Safety Act 2000 (NSW) and the Occupational Health and Safety Regulation 2001 (NSW) and all laws relating to the environment.

2.6 The Rail Party's rights under schedule 6A to the Act

- (a) The parties acknowledge their respective rights and obligations (among others) under schedule 6A to the Act and that such rights may apply to the Project.
- (b) Nothing in this deed limits or otherwise affects the parties' rights and obligations under schedule 6A to the Act.

2.7 Non-fettering of discretion

Nothing in this deed in any way restricts or otherwise affects the unfettered discretion of the Rail Party, its officers and its boards as to the exercise of its statutory powers and in the event of any conflict between the Rail Party's statutory powers and this deed, the former prevail.

2.8 Rail safety requirements

- (a) While undertaking the Project within the Protection Zone the Alliance must (at its own cost) comply with all safety requirements of the Rail Safety Act 2002 and as set out in the Rail Safety Plan, the Safety Protocol, the Emergency Event Plan, this deed (including the Rail Party Requirements) or as notified in writing from time to time by the Rail Party so as to ensure the safety of the public and all personnel in relation to Rail Infrastructure Facilities at all times.
- (b) The Alliance must (at its own cost) prepare and implement an Emergency Event Plan which must be consistent with the Rail Party's emergency procedures and produce a copy of the Emergency Event Plan to the Rail Party prior to commencement of the Project in the Protection Zone.
- (c) The Alliance must (at its own cost) prepare and implement a Rail Safety Plan which must be consistent with the requirements set out in this deed (including the Rail Party Requirements).
- (d) In accordance with the Safety Protocol, before undertaking the Project in the Protection Zone the Alliance must ensure that its relevant employees, contractors and agents, and must procure that the relevant employees, contractors and agents of the Contractors, undergo safety training conducted by an accredited training provider in respect of track safety.
- (e) Nothing in this clause 2.8 will have the effect of reducing, waiving or altering the Alliance's obligations under this deed or the Project Alliance Agreement.

- (f) The Alliance must not agree to waive, suspend or alter any provision of the Safety Protocol, Emergency Event Plan or the Project Alliance Agreement which:
 - (i) requires the Alliance to comply with this deed; or
 - (ii) is necessary to give effect to the rights of the parties to this deed.
- (g) If there is a cessation of work under the Safety Protocol or Emergency Event Plan, the Alliance must notify the Rail Party of the cessation.

2.9 Step-in rights

- (a) The Rail Party may, at the cost of the Alliance, step in so as to:
- (b) rectify any damage to Rail Infrastructure Facilities caused by a Contractor or the Alliance or by reason of the Project; and/or
- (c) do any works necessary or desirable for the purposes of protecting the Rail Infrastructure Facilities, including without limitation conducting such works as are necessary to rectify or alleviate an emergency.

2.10 Conflict between documents

- (a) If there is a conflict between the provisions of this deed, the Safety Protocol, the Emergency Event Plan or the Project Alliance Agreement, the Alliance must:
 - (i) promptly inform the Rail Party in writing of the conflict; and
 - (ii) discuss the matter in good faith with the Rail Party in order to resolve the conflict.
- (b) Nothing in this clause will have the effect of reducing, waiving or altering:
 - (i) the requirements set out in the Safety Protocol or the Emergency Event Plan; or
 - (ii) the obligations of the Alliance under this deed.

3. Design

- (a) The Alliance must ensure that the design of the Works:
 - (i) is undertaken with the appropriate level of professional skill and care consistent with best industry practice;
 - (ii) does not interfere with, hinder or adversely affect the construction, operation, safety, integrity and maintenance of the Rail Infrastructure Facilities;
 - (iii) complies with any Authority requirements;
 - (iv) complies with the Rail Party's requirements as directed from time to time, provided that such requirements are limited to matters which may impact on or adversely affect the following:
 - (A) the Railway, the Railway Corridor or the Rail Infrastructure Facilities including but not limited to any increase or change in the

loading on the Railway Corridor and any excavation in or around the Railway, Railway Corridor or the Rail Infrastructure Facilities;

- (B) safety of Railway passengers and patrons or employees, lessees or representatives of the Rail Party;
 - (C) continued operation of the Railway; and
 - (D) exercise of the statutory powers and functions of the Rail Party as they relate to the operation of the Railway, the Railway Corridor and the Rail Infrastructure Facilities;
- (v) to be carried out in the Protection Zone complies with the safety related performance criteria and measures specified in this deed and the Safety Protocol;
 - (vi) complies with the relevant Australian Standards and industry codes, including any referred to in item 7 of Schedule 1;
 - (vii) satisfies the Rail Party's design related requirements in item 8 of Schedule 1; and
 - (viii) complies with the other requirements of this deed.
- (b) The Alliance will act reasonably and promptly in reviewing any requirements of the Rail Party which relate directly or indirectly to the interests of the Rail Party in relation to the Project.
 - (c) The Alliance warrants that the Works within the Protection Zone will be fit for the purposes for which they were intended under the Project Alliance Agreement (and will remain fit for purpose during the term of the Project Alliance Agreement) and that the Works will comply with the requirements of this deed.

4. Construction

4.1 Construction

- (a) The Alliance must ensure that the Works:
 - (i) are undertaken with professional workmanship and good quality, undamaged and (unless the Rail Party otherwise gives approval in writing) new materials;
 - (ii) are undertaken in a manner which ensures that the Project does not interfere with, hinder or adversely affect the construction, operation, safety, integrity and maintenance of the Rail Infrastructure Facilities;
 - (iii) comply with any Authority requirements;
 - (iv) comply with the Rail Party's requirements as directed from time to time, provided that such requirements are limited to matters which may impact on or adversely affect the following:
 - (A) the Railway, the Railway Corridor or the Rail Infrastructure Facilities including but not limited to any increase or change in the

loading on the Railway Corridor and any excavation in or around the Railway, Railway Corridor or the Rail Infrastructure Facilities;

- (B) safety of Railway passengers and patrons or employees, lessees or representatives of the Rail Party;
 - (C) continued operation of the Railway; and
 - (D) exercise of the statutory powers and functions of the Rail Party as they relate to the operation of the Railway, the Railway Corridor and the Rail Infrastructure Facilities;
- (v) comply with the relevant Australian Standards and industry codes, including any referred to in item 9 of Schedule 1;
 - (vi) satisfy the Rail Party's construction related requirements in item 10 of Schedule 1; and
 - (vii) comply with the other requirements of this deed.
- (b) In addition to any other obligation in this deed, the Rail Safety Plan and the Safety Protocol, the Alliance must provide written notice to the Rail Party 20 Business Days prior to the commencement of any Works within the Protection Zone or the commencement of any activity which requires notice under the Rail Safety Plan.

4.2 Rail Party's right to inspect

The Rail Party may at any time inspect the Works but must not, except in the case of an emergency, cause inconvenience to the Alliance or its Contractors when carrying out those inspections.

4.3 Application for further consents

If the Alliance wishes to make any changes to the design of the Works after the date of this deed, the Alliance must make an application to the Rail Party for the Rail Party's approval of such changes, and the Rail Party will:

- (a) promptly provide the Alliance upon request with an estimate of the time and the Rail Party's Costs which the Rail Party requires to determine any such application; and
- (b) following provision by the Alliance of all information required by the Rail Party and payment of the Rail Party's Costs as estimated by the Rail Party to the Alliance, use its reasonable endeavours to determine that application within the time estimated by the Rail Party to the Alliance.

5. Maintenance and repair

5.1 During Construction

- (a) The Alliance must comply with any maintenance and repair obligations set out in item 11 of Schedule 1.
- (b) Despite any other provision of this Deed (including the Rail Party Requirements), if any Damage to the Rail Infrastructure Facilities is caused by or contributed to by the

Alliance (or any person authorised by the Alliance), the Rail Party may either, at its election and at the cost of the Alliance:

- (i) give notice to the Alliance requiring the Alliance to immediately make good the Damage; or
- (ii) themselves make good the Damage.

5.2 After the completion of Works

- (a) The Alliance hereby acknowledges that upon the completion of the Works it will be solely responsible for the ongoing maintenance and repair of all structures it constructs over the Railway Corridor.
- (b) The Alliance further agrees that the indemnities granted by clause 7 hereof in favour of the Rail Party shall include all liability that may be incurred by the Rail Party in respect of any death, personal injury or damage to property that may arise as a result of any incident that may be caused or attributed to the poor condition or any other defect of any structure erected or constructed by the Alliance as part of the Works.

6. Co-ordination of works with other activities and access

6.1 General co-ordination of Works

The Alliance must comply with any co-ordination obligations set out in item 12 of Schedule 1.

6.2 Access to Rail Infrastructure Facilities

- (a) The Alliance acknowledges that:
 - (i) the Rail Party is contracted to rail operators to provide them with access to parts of Rail Infrastructure Facilities including trackwork;
 - (ii) accordingly, access for the Alliance to Rail Infrastructure Facilities (including trackwork) is subject to the Rail Party's obligations to rail operators and may even be unavailable during certain periods of time or may at any time be changed, delayed, cancelled or an alternative form of access granted;
 - (iii) any access to the Rail Infrastructure Facilities is at the sole risk of the Alliance; and
 - (iv) in any event, any such access granted to the Alliance would be subject to the payment to the Rail Party of a fee for any track possession required and of costs associated with setting up access, any bussing operation that is required due to access and any site protection required during access.
- (b) If access to parts of Rail Infrastructure Facilities is sought by the Alliance, then it must comply with the requirements in item 13 of Schedule 1.
- (c) The Alliance acknowledges and agrees that the Rail Party has full and unfettered access to Rail Infrastructure Facilities at all times and may not be excluded from entry to Rail Infrastructure Facilities by any action of the Alliance or its employees, representatives, agents, contractors or invitees.

7. Release and indemnity

7.1 Acknowledgment

The Alliance acknowledges and accepts the existence and potential effect of stray electrical direct currents, noise and vibration within and emanating from the Rail Infrastructure Facilities and agrees that it must take adequate precautions to protect the Works (and all utilities and other facilities associated with the Works), its employees, contractors, agents and invitees from the effects of such stray electrical direct currents, noise and vibration within and emanating from the Rail Infrastructure Facilities.

7.2 Release

(a) Subject to clause 7.2(b), to the full extent permitted by law, the Alliance releases the Rail Party and its officers, employees, contractors and agents from any liability or obligation to the Alliance (or any person claiming through or on behalf of the Alliance) in respect of:

- (i) loss of or damage to any real or personal property;
- (ii) loss or damage suffered as a result of any stray electrical direct currents emitted in or arising out of the operation of the Railway;
- (iii) personal injury, disease or illness to, or death of, persons;
- (iv) financial loss or expense; or
- (v) any delay in the carrying out of the Works,
- (vi) arising directly or indirectly out of or in connection to the Works; and
- (vii) all responsibility and liability in relation to variations, extensions of time and delay costs; and
- (viii) damage or loss suffered by the Alliance as a result of or arising out of the involvement of the Rail Party in the Works.

(b) The Alliance's release in clause 7.2(a) does not apply to the extent only that:

- (i) a negligent act or omission of the Rail Party or its officers, employees, contractors or agents; or
- (ii) a breach of or default under this deed by the Rail Party,

has contributed to the loss, damage, injury, disease, illness, death, financial loss or expense or delay, provided always that the exercise by the Rail Party of any rights or discretions under this deed in accordance with this deed will not constitute any default or a negligent act or omission.

7.3 Indemnity by the Alliance

(a) The Alliance must indemnify the Rail Party and its officers, employees, contractors and agents against all damage, expense (including lawyers' fees and expenses on a full indemnity basis), loss (including financial or economic loss), claims, demands, actions, proceedings, penalties or liability of any nature suffered or incurred by or made, claimed, issued or assessed against the Rail Party or its officers, employees, contractors or agents arising out of the Works, including:

- (i) loss of or damage to property of the Rail Party;
 - (ii) damage, expense, loss or liability in respect of loss of or damage to any other property;
 - (iii) loss or damage arising as a result of any stray electrical direct currents emitted in the operation of the railway or any increase in the levels of noise or vibration within or emanating from the Rail Infrastructure Facilities caused indirectly or directly as a result of the Works; and
 - (iv) damage, expense, loss or liability in respect of personal injury, disease, illness or death.
- (b) The Alliance's liability to indemnify the Rail Party, and its officers, employees, contractors and agents under clause 7.3(a) will be reduced proportionally to the extent only that:
- (i) a negligent act or omission of the Rail Party or its officers, employees, contractors or agents; or
 - (ii) a breach of or default under this deed by the Rail Party,
- has contributed to the loss, damage, injury, disease, illness, death or other liability.

7.4 Survival of release and indemnity

The release and indemnity in this clause 7 survive termination of this deed.

8. Insurance

8.1 Insurance policies

The Alliance must effect or cause to be effected:

- (a) a Contract Works insurance policy, in the joint names of itself, the Rail Party and all contractors and subcontractors, providing material damage coverage applicable to the actual Project with the sum insured being not less than the total value of the Works plus allowances for demolition, removal of debris, expediting costs, professional fees and for all buildings, structures, plant and equipment on site;
- (b) a Public and Products Liability insurance policy, in the joint names of itself, the Rail Party and all contractors and subcontractors, providing for an amount of not less than **TWO HUNDRED MILLION DOLLARS** (\$200m);
- (c) insurances required by legislation (including by virtue of any statute relating to workers' or accident compensation or employers' liability and compulsory third party motor vehicle insurance); and
- (d) any other insurances described in item 14(b) of Schedule 1.

8.2 Periods of insurance

The Alliance must maintain or cause to be maintained the insurances referred to in clause 8.1 during the periods stated in item 15 of Schedule 1.

8.3 Premiums

The Alliance must punctually pay or cause to be paid all premiums in respect of all insurance policies referred to in clause 8.1.

8.4 Insurance generally

- (a) The Alliance must ensure that each insurance referred to in clause 8.1 must be effected with reputable and solvent insurers;
- (b) The Alliance must inform the Rail Party immediately if:
 - (i) the Alliance becomes aware of any actual, threatened or likely claims under any of the insurances referred to in clause 8.1 which could materially reduce the available limit of indemnity; and
 - (ii) an insurer gives notice of cancellation or other notice in respect of any insurance referred to in clause 8.1.
- (c) The Alliance must give the Rail Party's Representative all documentation which confirms the establishment of all insurances referred to in clause 8.1 within 30 days of the date of this deed.
- (d) The Alliance must comply with any other obligations relating to insurances as are contained in item 16 of Schedule 1.
- (e) Whenever reasonably requested in writing by the Rail Party, the Alliance must immediately produce evidence to the satisfaction of the Rail Party that the insurance required by this clause 8 is being maintained.

8.5 Cross liability

The Alliance must use its best endeavours to ensure that any insurance required to be effected or caused to be effected by the Alliance naming the Rail Party in accordance with this deed includes a cross liability clause in which the insurer agrees to waive all rights of subrogation or action against any of the persons comprising the insured and for the purposes of which the insurer accepts the term "insured" as applying to each of the persons comprising the insured as if a separate policy of insurance had been issued to each of them (subject always to the overall sum insured not being increased as a result), and contains provisions to the effect that:

- (a) the policy (including any amendment, renewal or variation of endorsement of it) shall be construed as if each person entitled to claim on it, whether a party to the contract of insurance or not, had made a proposal, application or request for the policy, amendment, renewal, variation or endorsement in respect of its interests only;
- (b) any information or knowledge possessed by a person entitled to claim on the policy, whether possessed before or after the contract was entered into, shall not be imputed to any other person;
- (c) the insurer will not seek any relief whatsoever (including cancellation of the policy) for non-disclosure and/or misrepresentation against a person entitled to claim under the policy unless the insurer would have been entitled to that relief had the person claiming been the only person covered by the policy; and

- (d) neither the inclusion of more than one insured under the policy nor any act, omission, breach or default by an insured shall in any way affect the rights of any other insured, it being intended that the policy should be construed as if a separate contract of insurance had been entered into by each insured, but not so as to increase the insurer's limit of liability.

9. Payment of the Rail Party's Costs

9.1 Payment claim

On a monthly basis or at such other times as may be agreed between the Rail Party and the Alliance, the Rail Party must provide to the Alliance a statement showing the Rail Party's Costs (if any) for the period to which the statement relates.

9.2 Payment

Subject to clause 4.3, the Alliance must pay the amount in the statement referred to in clause 9.1 within 7 days of the date of receipt by it of the statement. The statement provided by the Rail Party will be conclusive as to the costs under clause 9.1, in the absence only of manifest error.

9.3 Alliance's costs

Except where this deed otherwise provides, where the Alliance is obliged to do anything under this deed (including the Rail Party Requirements), the Safety Protocol or the Emergency Event Plan, it must do so at its own cost and is not entitled to claim any such cost from the Rail Party.

9.4 GST

- (a) Unless otherwise specified, all amounts set out in this deed are expressed on a GST-exclusive basis.
- (b) Despite any other provision of this deed, if a Supply under this deed by a party is subject to GST then the receiving party must, in addition to all other amounts payable by it to the supplying party, pay to the supplying party a further amount equal to the GST payable on that Supply. The further amount is payable not later than 21 days before the day on which a party making a Supply is required to lodge its GST Return for the period to which the Supply is attributable. The supplying party must issue to the receiving party a tax invoice in respect of the Supply it makes to the receiving party as a precondition to the payment of the further amount under this clause.

10. Meetings, reporting and information

10.1 Meetings

When requested to do so by the Rail Party's Representative, the Alliance's Representative must meet with the Rail Party's Representative to discuss aspects relating to the Works.

10.2 Information

When requested to do so by the Rail Party's Representative, the Alliance must promptly give the Rail Party's Representative any information in respect of the Works which it reasonably requires.

10.3 Regular updates

Without limiting the generality of clause 10.1 and clause 10.2, the Alliance must keep the Rail Party's Representative regularly informed of the progress of the Works and notify the Rail Party's Representative immediately of any matter that may threaten or is likely to threaten the safety or operational capacity or efficiency of the Rail Infrastructure Facilities due to the carrying out of the Works.

10.4 Surveys, certificate and as-constructed drawings

The Alliance must give the Rail Party the surveys, certificates and as-constructed drawings relating to the Works at the times and in the manner stated in item 17 of Schedule 1.

11. Representatives

11.1 The Rail Party's Representative

- (a) The Rail Party and the Alliance acknowledge and agree that:
 - (i) the role of the Rail Party's Representative is to:
 - (A) monitor (for the Rail Party's sole benefit) the carrying out of the Works by the Alliance for compliance with the terms of this deed; and
 - (B) carry out such other functions associated with the Works as contemplated in this deed or as the Rail Party may require from time to time; and
 - (ii) the Rail Party's Representative will incur costs associated with this role, which the Alliance must pay in accordance with clause 9.
- (b) The Rail Party's Representative may delegate any of its functions under this deed to a nominee.
- (c) The Rail Party must promptly inform the Alliance of any:
 - (i) change in the identity of the Rail Party's Representative; and
 - (ii) any delegation under clause 11.1(b) and the extent and the scope of that delegation.

11.2 Alliance's Representative

- (a) The Alliance must appoint a representative who must at all times have authority to act on behalf of the Alliance in respect of this deed.
- (b) The Alliance's Representative may delegate any of its functions under this deed to a nominee.
- (c) The Alliance must promptly inform the Rail Party in writing of any:
 - (i) change in the identity of the Alliance's Representative; and
 - (ii) delegation under clause 11.2(b) and the extent and the scope of that delegation.

12. Remedy notice and termination

12.1 Remedy notice by the Rail Party

- (a) If the Alliance is in default under this deed and that default is capable of remedy, the Rail Party may give the Alliance a notice requiring it to rectify that default (or overcome its effects) within a reasonable period specified in that notice. If requested by the Rail Party from time to time, the Alliance must provide to the Rail Party any information in respect of an alleged breach.
- (b) Within 72 hours of receipt of a notice under clause 12.1(a), the Alliance must submit to Rail Party a Cure Plan in relation to the default for approval by the Rail Party. the Alliance may, as part of its Cure Plan, request that the period for rectification specified in the Rail Party's notice be extended (but the Rail Party is not required to approve any such extension).
- (c) The Rail Party must review the Cure Plan within a reasonable period having regard to the nature of the default to which the Cure Plan relates. In considering the Cure Plan, the Rail Party must not unreasonably withhold its approval to the Cure Plan, unless the default may impact on or adversely affect the following:
- (i) the Railway, the Railway Corridor or the Rail Infrastructure Facilities;
 - (ii) safety of Railway passengers and patrons or the employees, lessees and representatives of the Rail Party;
 - (iii) continued operation of the Railway; and
 - (iv) exercise of the statutory powers and functions of the Rail Party as they relate to the operation of the Railway, the Railway Corridor and the Rail Infrastructure Facilities.
- (d) The Rail Party may:
- (i) approve the Cure Plan, and notify the Alliance in writing of the approval; or
 - (ii) require modifications to the Cure Plan, and notify the Alliance in writing of such modifications as Rail Party considers reasonably necessary,
 - (iii) and the Alliance must immediately comply with the terms and conditions set out in the Cure Plan or the modified Cure Plan (as the case may be).
- (e) If the Alliance fails to rectify a default in accordance with a Cure Plan or if urgent action (including where there is a threat to members of the public) is necessary:
- (i) the Rail Party may take any action (including engaging persons) it considers appropriate to:
 - (A) rectify that default; or
 - (B) take that urgent action; and
 - (ii) the Alliance acknowledges and agrees that it indemnifies the Rail Party under clause 7.3 in respect of any damage, expense, loss or liability the Rail Party suffers or incurs arising out of such action.

12.2 Events of default

Without limiting the rights of the Rail Party at common law, the Rail Party may terminate this deed by giving the Alliance written notice, if:

- (a) the Alliance has not submitted a Cure Plan within 72 hours of receipt by the Alliance of a notice under clause 12.1 or such longer period of time nominated by the Rail Party, acting reasonably;
- (b) the Alliance fails to comply with any of the terms of a Cure Plan as approved or modified by Rail Party under clause 12.1(d); or
- (c) the Alliance is in default under this deed and that default is not capable of remedy.

12.3 Termination of Project Alliance Agreement

If the Project Alliance Agreement is terminated for any reason the Alliance must carry out such works as are necessary or required by the Rail Party to ensure that the Rail Infrastructure Facilities are not left unsecured, unsupported or unsafe as a result of the Works.

13. General

13.1 Notices

- (a) Any notice in respect of this deed must be:
 - (i) in writing; and
 - (ii) delivered to the address, or sent to the facsimile number shown below:
 - (A) to the Rail Party:
to the address or facsimile number stated in item 18 of Schedule 1;
 - (B) to the Alliance:
to the address or the facsimile number stated in item 19 of Schedule 1.
- (b) A notice is given on the day that:
 - (i) it is delivered to the addressee; or
 - (ii) it is received by the addressee's facsimile.
- (c) The Rail Party or the Alliance may, from time to time, notify the other party of any change to its details referred to in clause 13.1(a)(ii).

13.2 Costs

Without limiting the generality of clause 7.3, the Alliance must pay:

- (a) the Rail Party's legal costs in respect of the Rail Party negotiating, preparing and executing this deed; and
- (b) any stamp duty or other imposts payable on or in respect of this deed and any instrument contemplated by this deed.

13.3 Assignment

The Alliance must not, except as contemplated by this deed, assign, novate or otherwise deal with its interests in, or obligations under, this deed without the prior written consent of the Rail Party.

14. Rail Laws and related matters

14.1 Acknowledgment

The Alliance acknowledges the effect of the Rail Laws in relation to this deed, including but not limited to any obligations imposed under that legislation on the Alliance.

14.2 Statutory succession

- (a) In this clause, the following definitions have the following meaning:

Alternate Rail Party means any Authority the subject of a Vesting.

Statutory Instrument means any act, ordinance, regulation, by-law, declaration, order, award or proclamation of the State of New South Wales.

Vesting means a vesting or transfer described in this clause.

- (b) If, at any time:

- (i) this deed is vested in or transferred to (pursuant to any Statutory Instrument or otherwise) an Alternate Rail Party; or
- (ii) the Minister of Transport or other relevant Minister directs or otherwise orders (pursuant to any Statutory Instrument or otherwise) that the assets, rights and liabilities of the Rail Party or a Rail Party are vested in or transferred to an Alternate Rail Party,

then:

- (iii) the Alliance consents unconditionally to the Vesting; and
- (iv) the person who is the Rail Party or Rail Party immediately before the Vesting is released from its obligations under this deed from the date of the Vesting.

14.3 Importation of statutory provisions

If any law, including but not limited to the Rail Laws, requires that this deed includes any provision or any provision is deemed to be included in this deed, then this deed contains that provision in the form prescribed by the law.

15. Environmental matters

- (a) The Alliance must at all times carry out the Works in an environmentally responsible manner so as to protect the environment.
- (b) The Alliance bears the risk of all Contamination in any Protection Zone which forms part of any site on which the Alliance will be carrying out the Works or any

Signed Sealed and Delivered by

for and on behalf of [Other] (ABN []) in the presence of:

Signature of Witness

Name of Witness in full

Signed Sealed and Delivered by

for and on behalf of [Other] (ABN []) in the presence of:

Signature of Witness

Name of Witness in full

Signature

Signature

Schedule 1
Schedule of Contract Information

Item	Description	Reference	Details
1.	Parties comprising the Alliance	Clause 1.1	<p>1. Roads and Traffic Authority of New South Wales (ABN 64 480 155 255) of Level 10, 260 Elizabeth Street, Surry Hills, NSW 2010</p> <p>2. [Other]</p> <p>3. [Other]</p>
2.	Not Used		
3.	Not Used		
4.	Rail Party's Costs	Clause 1.1	<p>(a) Rates</p> <p>Skilled/unskilled labour \$56/hr, normal time</p> <p>Skilled/unskilled labour \$80/hr, emergency / overtime</p> <p>Supervisor \$71/hr, normal time</p> <p>Supervisor \$104/hr, emergency / overtime</p> <p>Team Mgrs/Project Engineers \$85/hr, normal time</p> <p>Team Mgrs/Project Engineers \$124/hr, emergency/overtime</p> <p>Consultants/Project Mgrs \$104/hr, normal time</p> <p>Consultants/Project Mgrs \$154/hr, emergency / overtime</p> <p>Please note the above rates <u>do not</u> include GST.</p> <p>(b) All amounts payable under clause 6.2(a)(iv) of this deed, including fees for track possessions, power outages, bussing, PW31 worksite protection, supervision, administration, hire of equipment etc.</p> <p>(c) All amounts payable under clause 7.3(a) of this deed including items of all material and labour to repair and/or replace damaged items and any amounts arising under clause 12.1(e)(ii).</p>

			<p>(d) Rates for consultants and/or advisers are to be at market rates or rates in accordance with those recommended by professional bodies such as the Law Society of New South Wales, NSW Bar Association, Institution of Engineers of Australia and Association of Consulting Engineers plus a 10% administration charge in addition to those rates for the Rail Party.</p> <p>(e) The Rail Party's legal costs referred to in clause 13.2(a).</p> <p>(f) Without limiting any of the matters referred to in this item 4, the Rail Party's Costs include but are not limited to the costs of providing personnel for safe working purposes, reviewing, materials and other information provided by the Alliance, providing dilapidation surveys, administrative costs (including the costs associated with design input, submission and review, direct costs and indirect costs), the cost of retaining consultants, including engineering and surveying consultants (where required in the absolute discretion of the Rail Party) and costs arising out of the enforcement of the Safety Protocol and Emergency Event Plan.</p>
5.	Details of Rail Party's Representative	Clause 1.1	
5A.	Details of the Alliance's Representative	Clause 1.1	
6.	Works	Clause 1.1	The works described in Schedule 3.
7.	Australian Standards and industry codes - design.	Clause 3(a)(vi)	None
8.	Rail Party's design related requirements	Clause 3(a)(vii)	As described in Schedules 3 and 4.
9.	Further Australian Standards and industry codes - construction.	Clause 4.1(a)(v)	None
10.	Rail Party's construction related	Clause 4.1(a)(vi)	As described in Schedules 3 and 4.

	requirements		
11.	Maintenance and repair	Clause 5	As described in Schedule 4.
12.	General co-ordination of Works	Clause 6.1	As described in Schedule 4.
13.	Access to the Rail Party's Rail Infrastructure Facilities	Clause 6.2(b)	As described in Schedule 4.
14.	Further Insurance policies to be effected	Clause 8.1	None
15.	Periods of insurance	Clause 8.2	From the commencement of the Works until the end of all defect correction periods under the Project Alliance Agreement.
16.	Other insurance related obligations	Clause 8.4(d)	None
17.	Surveys, certificates and as-constructed drawings	Clause 10.4	<p>The Alliance must provide prior to the end of the Defects Repair Period "As Constructed Drawings" of the Works. Drawings are to provide structural and architectural detail of the development in relation to the Rail Infrastructure Facilities.</p> <p>Drawings are to be presented as a set of paper prints and a CAD computer disk in DXF format for Microstation.</p>
18.	Notice details for Rail Party	Clause 13.1(a)(ii)(A)	
19.	Notice details for the Alliance	Clause 13.1(a)(ii)(B)	<p>Director, Major Infrastructure Level 6, Centennial Plaza 260 Elizabeth Street Surry Hills NSW 2010 Ph: (02) 9218 3553 Fax: (02) 9218 6404 email: senior_executive@rta.nsw.gov.au</p>

Schedule 2

Safety Protocol (Clause 2.8)

1. Application of this Safety Protocol

- (a) This Safety Protocol applies to all Work carried out by the Alliance.
- (b) The Alliance must comply with, and procure that all Works Personnel comply with, all Rail Laws, Rail Rules and Directions as if those laws, rules and directions were set out in this Safety Protocol.
- (c) Nothing in this Safety Protocol detracts from the Alliance's obligations under OH&S Laws or any other law.
- (d) The purpose of this Safety Protocol is to ensure at all times:
 - (i) safety within the Railway Corridor; and
 - (ii) Work is performed in such a manner so as to not endanger, impede, obstruct or interfere in any manner whatsoever with the safe operation of the railway or the safety of Railway passengers, station patrons or representatives of the Rail Party, except as is provided elsewhere in the Deed.

2. Personnel

2.1 Safety Liaison Representative

- (a) The Alliance must appoint a Safety Liaison Representative for each Work Site.
- (b) The Safety Liaison Representative must comply with, and procure that all Works Personnel comply with, all:
 - (i) OH&S Laws;
 - (ii) Rail Laws;
 - (iii) Rail Rules; and
 - (iv) Directions.
- (c) The Safety Liaison Representative must, whenever Works are carried out at a Work Site:
 - (i) subject to sub-paragraph (viii), be present and on-duty at the Work Site and at such other times as may be required by the Rail Party or a Protection Officer or a Possession Protection Officer;
 - (ii) be responsible for the safety of all Works Personnel, plant and equipment;
 - (iii) receive Directions from the Rail Party, Possession Protection Officers or Protection Officers on matters relating to Rail Laws or Rail Rules;
 - (iv) fully comply with, and procure that all Works Personnel fully comply with, such Directions;

- (v) quickly and effectively report to a Protection Officer any illness or injury at the Work Site;
- (vi) provide, or procure the provision of, first aid staff and facilities which comply with all laws;
- (vii) provide, or procure the provision of, immediate transport for any injured person to hospital or medical centre or such other facility which provides medical services; and
- (viii) ensure that, if the Safety Liaison Representative leaves the Work Site at any time while any Works are being undertaken:
 - (A) a replacement Safety Liaison Representative is appointed; and
 - (B) such appointment is notified to the Protection Officer or the Possession Protection Officer (if the Possession Protection Officer is located at the Work Site) prior to the Safety Liaison Representative leaving the Work Site.
- (d) The Alliance must procure that all Safety Liaison Representatives appointed by it under this paragraph 2.1 obey all Directions.

2.2 Possession Protection Officers and Protection Officers

- (a) The Alliance will:
 - (i) appoint an appropriately qualified and certified Protection Officer for each Work Site; and
 - (ii) if the Rail Party in its absolute discretion believes such appointment to be necessary, appoint a Possession Protection Officer for one or more Work Sites,

and such Protection Officers and Possession Protection Officers must at all times perform their duties in accordance with the Rail Safety Plan. The Alliance must not give any instruction to a Protection Officer or Possession Protection Officer which it knows to be in conflict with any element of the Rail Safety Plan or any valid instruction or Direction made by the Rail Party's Representative.

- (b) The Alliance will advise Rail Party's Representative in writing of the identity and contact details of the persons appointed under paragraph 2.2(a).
- (c) The Possession Protection Officer will, if appointed, supervise the activities of all Protection Officers for each Work Site for which the Possession Protection Officer has been appointed.
- (d) Possession Protection Officers and Protection Officers are entitled to:
 - (i) Direct the Safety Liaison Representative in relation to:
 - (A) compliance with Rail Laws, Rail Rules and OH&S Laws;
 - (B) any hazards arising out of or relating to the operation of a railway including without limitation with respect to:
 - 1) safety of any person within or passing through a Work

Site; and

2) protection of any property or rolling stock
within or

passing through a Work Site;

- (ii) if the Possession Protection Officer or Protection Officer believes there is a possibility of loss of life, personal injury or damage to property, give Directions under sub-paragraph 2.2(d)(i) directly to any Works Personnel;
- (iii) stop or Direct the movement of Works Personnel, plant and equipment; and
- (iv) Direct that any Works Personnel be temporarily or permanently removed or excluded from one or more Work Sites if, in the opinion of the Possession Protection Officer or Protection Officer, the person:
 - (A) has engaged in any misconduct, or is incompetent, negligent or reckless in the performance of their duties; or
 - (B) for some other reason does not meet the requirements of the Deed.

2.3 Safety Personnel

The Alliance will appoint an appropriate number of qualified and certified safety personnel, commensurate with the Works proposed in relation to managing risks and hazards arising out of or relating to the operation of a railway and maintaining safety within the Railway Corridor, including but not limited to Signallers, Lookouts and Hand Signallers.

3. Planning Work

3.1 Planning and safety

- (a) Without limiting any obligation under the deed, the Alliance must develop a Rail Safety Plan approved by the Rail Party and perform all safety and protection requirements for the Work Site and Works in accordance with that Rail Safety Plan and otherwise in accordance with all:
 - (i) Rail Laws;
 - (ii) Rail Rules;
 - (iii) OH&S Laws;
 - (iv) Directions; and
 - (v) generally accepted industry standards relating to the safe operation of a railway.
- (b) The Alliance must provide to the Rail Party a copy of its Rail Safety Plan with any application to access the Railway Corridor or at such other time specified by the Rail Party.

3.2 Directions and communication

The Safety Liaison Representative must meet with the Possession Protection Officer and/or the Protection Officer at any time requested by the Possession Protection Officer or the Protection Officer in relation to any matter arising under or in relation to this Safety Protocol.

4. Obligations in respect of all Work

The Alliance must comply, and procure that all Works Personnel comply, with the obligations set out in this paragraph 4, where applicable, in respect of all Work.

4.1 Personnel

- (a) The Alliance must not perform any Works at a Work Site unless the following persons are present and on-duty:
 - (i) a Safety Liaison Representative assigned under paragraph 2.1; and
 - (ii) a Possession Protection Officer and/or a Protection Officer assigned under paragraph 2.2.
- (b) The Alliance acknowledges that the number and positioning of Possession Protection Officers, Protection Officers and other rail safety personnel shall be in accordance with the Rail Safety Plan.

4.2 Works Personnel

- (a) The Alliance must ensure that all Works Personnel, comply with all valid Directions.
- (b) The Alliance must ensure that:
 - (i) only such persons as are reasonably necessary to carry out the Works are present at a Work Site;
 - (ii) all Works Personnel are fully informed of all:
 - (A) hazards arising out of or relating to the operation of a railway; and
 - (B) procedures to be adopted while performing the Works.
- (c) The Alliance must ensure that, at all times, all Works Personnel undertake or have undertaken all Rail Safety Training in accordance with the Rail Safety Plan.
- (d) The Alliance acknowledges that the Rail Party may at its discretion conduct drug and alcohol testing on any person working within the Work Site with or without notice.
- (e) The Alliance acknowledges that the Rail Party is entitled to exclude from a Work Site any person who cannot produce such evidence as the Rail Party may require from time to time concerning the suitability, qualifications and certifications for access to or Work at the Work Site.

4.3 Safety clothing and other personal protective equipment

- (a) The Alliance must ensure that all Works Personnel at all times wear highly visible safety clothing that complies with the requirements of the Rail Safety Plan.

- (b) The Alliance must ensure that no red or green clothing, including hats and safety helmets, are worn by any Works Personnel as it could be mistaken by a driver for a stop signal or a clear signal.

4.4 Work Near Electrical Infrastructure

The Safety Liaison Representative must procure that all Works Personnel:

- (a) understand the dangers of Work Near Electrical Infrastructure and hazards associated with Electrical Infrastructure;
- (b) are competent and safe to work on or near to any Electrical Infrastructure;
- (c) possess all qualifications and undertake all Rail Safety Training the Rail Party may require in its absolute discretion from time to time in respect of Work Near Electrical Infrastructure; and
- (d) maintain a minimum safe distance from Electrical Infrastructure as Directed by the Rail Party, a Possession Protection Officer, Protection Officer or other rail safety representative.

5. Costs of Rail Party associated with work

For the avoidance of doubt, the Alliance must pay all costs incurred by or on behalf of the Rail Party in connection with this Safety Protocol and the obligations in it, including but without limitation:

- (a) all costs incurred by the Rail Party in administering this Safety Protocol; and
- (b) the provision of appropriate personnel as set out in the Safety Protocol.

5.2 Definitions

For the purposes of this Safety Protocol, in addition to the definitions given in the Deed, the following definitions apply:

Contractors means all contractors appointed by the Alliance, and each of such contractors' sub-contractors, persons appointed through contractors and suppliers and invitees of such persons.

Deed means the deed to which this Safety Protocol is attached.

Direction means any direction or instruction given by the Rail Party, a Possession Protection Officer, Protection Officer or any other relevant safety personnel of the Rail Party including without limitation a rail representative responsible for Work on Electrical Infrastructure (and Direct and Directed have a corresponding meaning).

Electrical Infrastructure includes:

- (a) high and low voltage conductors, and electrical equipment, on poles;
- (b) electrical conductors buried in the ground, or carried in above-ground troughs;
- (c) low voltage electrical switch rooms; and
- (d) substations containing high voltage electrical equipment.

Hand Signaller means an appropriately qualified worker who gives hand signals to train drivers and track vehicle operators.

Lookout means an appropriately qualified worker responsible for keeping watch for approaching rail traffic, and for warning other workers to stand clear of the line before the arrival of rail traffic.

Network Rules means the network rules or any updated versions, or succeeding or replacement rules as issued by the Rail Party and as current from time to time.

Network Procedures means the network procedures or any updated versions, or succeeding or replacement procedures as issued by the Rail Party and as current from time to time.

OH&S Laws means all laws and regulations relating to occupational health and safety from time to time, including without limitation:

- (a) the Occupational Health & Safety Act 2000; and
- (b) the Occupational Health & Safety Regulations 2001.

Possession Protection Officer means an appropriately qualified worker responsible for coordinating safe working protection at one or more Work Sites.

Proceed Authority means a formal authority for a train to enter a length of track within defined limits in which only one train is allowed at any time.

Protection Officer means the qualified worker having appropriate Rail Party qualifications responsible for safe working protection at a Work Site.

Railway Corridor means has the same meaning as it is given in the Deed.

Rail Laws means all laws and regulations relating to rail safety from time to time including without limitation:

- (a) the Transport Administration Act 1988 (NSW); and
- (b) the Rail Safety Act 2002 (NSW).

Rail Rules means all rules, procedures, standards, protocols and manuals relating to rail safety from time to time including without limitation:

- (a) this Safety Protocol;
- (b) the prevailing ARTC Network Rules;
- (c) the prevailing ARTC Network Procedures;
- (d) the prevailing ARTC engineering standards; and
- (e) any rules in respect of Rail Safety Training or certification.

Rail Safety Plan means a plan developed by the Alliance in accordance with paragraph 3.1(a) of this Schedule and clause 2.8(c) of the Deed.

Rail Safety Training means training in respect of rail safety conducted:

- (a) by a training organisation registered with the Rail Party; and
- (b) in accordance with the safeworking training standards developed in accordance with the Network Rules and Network Procedures.

Safety Liaison Representative means, in respect of a person appointed under paragraph 2.1(a) or 2.1(c)(viii), a person who, in the opinion of the Rail Party:

- (a) has a high level of understanding of OH&S Laws;
- (b) holds current track awareness certification from a Registered Training Organisation; and
- (c) has an appropriate understanding of Rail Laws and Rail Rules.

Safety Protocol means the provisions of this Schedule, as updated and amended by the Rail Party from time to time.

Signaller means a qualified worker having appropriate Rail Party qualifications who issues Proceed Authorities and works points, signals and other signalling equipment to manage routes for safe and efficient transit of rail traffic in the rail network.

Work means any work carried out by the Alliance within the Railway Corridor.

Work Near Electrical Infrastructure means any Work carried out within 1.0 metre of Electrical Infrastructure or as otherwise directed by the Rail Party, Possession Protection Officer, Protection Officer or a rail representative responsible for safety in respect of work on Electrical Infrastructure.

Work Site means a site where Work is carried out by the Alliance.

Works Personnel means in respect of the Works:

- (a) all employees and consultants of the Alliance;
- (b) all Contractors and their employees and consultants;
- (c) all invitees and persons for whom the Alliance is responsible at a Work Site; and
- (d) all Safety Liaison Representatives (including any replacement Safety Liaison Representatives appointed under paragraph 2.1(c)(viii)).

6. Interpretation

In this Safety Protocol:

- (a) the obligations of the following persons shall be interpreted as applying directly to the Alliance, and the Alliance is at all times liable for the obligations of all such persons under the Deed:
 - (i) Safety Liaison Representatives (including any replacement Safety Liaison Representatives appointed under paragraph 2.1(c)(viii));
 - (ii) Works Personnel; and

- (b) the obligations and rights of the Rail Party safety personnel shall be interpreted as applying directly to the Rail Party, and the Rail Party are at all times liable for the obligations of all such persons under the Deed;
- (c) terms which are not defined but which are defined in the Deed have the meaning provided in the Deed; and
- (d) references to paragraphs are to paragraphs of this Safety Protocol, unless otherwise stated.

Schedule 3

Rail Party Works Specification

1. PROJECT SCOPE REQUIREMENTS

1.1 Interpretation

In this schedule, the following terms have the same meaning as in the Rail Agreement, the form of which appears in Schedule [] to the Project Alliance Agreement:

- "Rail Infrastructure Facilities";
- "Railway";
- "Railway Corridor";
- "Safety Protocol"; and
- "Works".

1.2 Temporary Alterations to the Rail Infrastructure Facilities

Where the Works (and in particular, road overbridges involving excavation for foundations) may impact on underground Railway Infrastructure Facilities, the following services will require relocation and alteration:

- Signalling
- Communications
- Electrical

Other Railway Infrastructure Facilities, such as trackwork, formations, drainage systems and the like, which may not be impacted on as a result of the Works, are not listed in this section in detail. It is however the Alliance's responsibility to assess and make, as required by the Rail Party, any alterations to Railway Infrastructure Facilities to the satisfaction of the Rail Party, irrespective of the type of asset.

In addition to the matters set out in the Rail Agreement, the Alliance may be required to carry out the following works in respect of Signalling, Communication and Electrical assets:

1. Relative designs to be provided by the Alliance to the Rail Party's Representative before the Works are commenced.
2. The Alliance must not commence the Works until written approval of the Alliance's designs is received from the Rail Party's Representative.
3. Service searches to be carried out by the Alliance before the Works are commenced.
4. Temporary removal and relocation of the services, as required by the Rail Party.

5. Above ground (including aerial and galvanised steel troughing), underground and associated under rail boring to be provided for the various systems of wiring.
6. Relocation of circuits from overhead to underground as appropriate and within the capacity of the system to operate in the manner required by the Rail Party.
7. Alternative means of train control during commissioning (eg flagging) being provided as required by the Rail Party.
8. Carry out modification to the remote control for the signalling control system situated at []. Pre-commissioning testing, commissioning and certification of new works or modifications to the signalling infrastructure or the signalling control system, will be performed in accordance with RailCorp Standards and to the satisfaction of the Rail Party's Representative. As-installed documentation to be provided by the Alliance at the completion of each commissioned section of the Works, including the provision of updated circuit books and as-built maintenance books.
9. Provision of road/rail Traffic Management Plans for construction phase works and conformance to the Plans while undertaking the Works.

It will be the Alliance's responsibility to make any alterations to the Rail Infrastructure Facilities should any part of the Works or any Temporary Works reduce or otherwise compromise the current functionality, timeliness or safety of the Railway or the Rail Infrastructure Facilities. For example, this may occur should signal sighting distances be altered due to obstructions or where work on or about (including above) the track has the potential to delay the Railway or put at risk the safety of the Railway, rail workers, passengers and patrons of the Railway and members of the public.

Where Rail Infrastructure Facilities become redundant as a result of the Works, those Facilities must be altered or removed by the Alliance as directed by the Rail Party's Representative.

The parts of the Temporary Works which relate to the Railway or Rail Infrastructure Facilities must be carried out to the same standard and quality as the Works.

1.3 Access to Railway corridor by maintenance crews

Where an existing access point is removed, provision must be made by the Alliance to ensure that maintenance crews and their plant and equipment can access the Railway Corridor without crossing the tracks. This obligation shall include installing a 2 x 3m wide chain mesh gates at appropriate locations. Railway padlocks will be provided free to the Alliance by the Rail Party.

Where existing rail access tracks are affected by the Alliance's works to such an extent that a rail access track can no longer be provided at that location, the Alliance shall decommission and close the affected rail access tracks. The Rail Party shall be responsible for construction of alternative rail access tracks as required by the Rail Party for access to the rail line. Where alternative rail access tracks are constructed by the Rail Party to replace rail access tracks closed due to impact of the Alliance's works, the Alliance shall be responsible for the costs associated with construction of the relevant replacement rail access tracks.

2. PERFORMANCE/TECHNICAL AND STRATEGIC REQUIREMENTS

EFFECTS OF THE WORKS

2.1 Collision Loads

Any support or other element of a structure which risks loss of support capacity or destruction when struck by a rail vehicle or road vehicles must be designed by the Alliance for collision loads in accordance with Standard TS 30 000 3 01 SP.

2.2 Impact on Rail Party Property

In addition to any requirement set out in the Rail Agreement, the Alliance must ensure that the Works have minimal impact on the condition and performance of Rail Infrastructure Facilities or the Railway Corridor, including any impact on:

- Amenity
- Aesthetics
- Durability
- Function
- User benefits
- Safety during construction and operation
- Environmental performance

2.3 Detailed Engineering Analysis

The Alliance must undertake a detailed and rigorous engineering analysis to predict the effects of the Works on existing ground conditions and the Railway Corridor. The analysis must include, but may not necessarily be limited to, the influence of the following:

- Excavations on stability of Rail Infrastructure Facilities
- Excavation method for works
- The impact on drainage
- The effects over time

2.4 Drainage

Drainage systems for surface trackwork and formation must comply with Rail Party standards. All surface track drainage must be compatible with the existing surface drainage systems.

Water cannot be concentrated and the rate of run-off must not be increased on to the Railway Corridor as a result of the Works. Hydrological data must be provided to the Rail Party in the manner required by the Rail Party to demonstrate that there will be no impact on Rail Infrastructure Facilities due to the Works.

The Alliance shall not be responsible for costs associated with the upgrading of elements of the existing railway transverse drainage system. To assist the Rail Party in upgrading elements of the existing railway transverse drainage system, the Alliance shall, upon request from the Rail Party, provide the Rail Party with copies of studies and analysis undertaken by the Alliance to determine the required size of transverse drainage structures under the upgrade of the highway. Completion of a Deed of Disclaimer by the Rail

Party in a form approved by the Alliance shall be required prior to issue of copies of studies and analysis undertaken by the Alliance.

2.5 Clearances

Clearances must comply with Rail Party standards, including but not limited to C 2104 "Structure Gauge", and must allow for vehicular access, where required by the Rail Party.

The vertical and horizontal clearances required for all bridges over the Railway must comply with the requirements of drawing APP-18.3 Rev 02 in this Schedule 3, except where written correspondence from the Rail Party regarding the Project gives alternative project specifications for clearances, in which case the written correspondence from the Rail Party shall take precedence.

All structures must accommodate the Non Electric Vehicle Profile as defined in Rail Party Standard C2103, Transit Space Standards.

Except where C 2104 and C2103 have greater dimensions or where application of the formula below results in a greater required vertical clearance, the "Code Of Practice For The Defined Interstate Rail Network Volume 4 Track, Civil And Electrical Infrastructure Part 3: Infrastructure Guidelines January 2003" must be complied with by the Alliance, including Figure 7.17 which requires a vertical clearance of 7.1m from design rail level, except where written correspondence from the Rail Party regarding the Project gives alternative project specifications for clearances, in which case the written correspondence from the Rail Party shall take precedence. This is to be regarded as the minimum with a vertical clearance of 7.3m or greater from the design rail level to be considered desirable

It should be noted that as no current relevant design rail level information exists, the Alliance must seek the consent in writing of the Rail Party's Representative at each specific location where structures will be built over the Railway Corridor to allow a determination of the final design rail level.

For vertical clearance at the road bridge over rail at Ross Glen the following formula shall be used:

$$\text{Vertical Clearance} = \text{Current rail level} + \text{rail adjustment} + 100\text{mm design allowance} + 5100\text{mm}$$

For vertical clearance at the road bridge over rail at Moorland the following formula shall be used:

$$\text{Vertical Clearance} = \text{Current rail level} + \text{rail adjustment} + 100\text{mm design allowance} + [\text{TO BE ADVISED}] \text{mm}$$

The rail adjustment for the bridge sites shall be as follows:

Ross Glen [] mm

Moorland [] mm

For the purposes of measuring the Vertical Clearance required by this clause, the Current Rail Level shall be the highest point on any existing track that will be spanned by any proposed bridge structure.

In ascertaining the highest point, the full width of the proposed structure over any track shall be taken into account.

2.6 Bridges

Safety barrier screens must be installed on all overbridges (including footbridges that are overbridges and the existing Rossglen railway overbridge) as a safety requirement as per the Australian design standards and set out in section 3.0.

2.7 Corridor

Any Works undertaken within the Railway Corridor must at all times be in an equivalent or better condition at completion of the Works.

3. BARRIER SCREENS

3.1 Background

The purpose of barrier screens is to restrict large objects from being thrown from an overbridge onto traffic (including road or rail traffic) passing beneath. The Alliance will be required to design and install barrier screens to the satisfaction of the Rail Party.

3.2 Design Parameters

General

- The design of the screens must ensure that gaps are no greater than 50 x 50mm square or 50mm diameter. This will assist in preventing any large (greater than 50mm²) and potentially more damaging objects from being thrown onto the through carriageways.
- Screen wires should at least be 4mm thick (excluding any protective coatings).
- The barriers on the overbridge should extend to a point as determined by the Rail Party's Representative, which may include the requirement to enclose the full length of the overbridge.
- Design loadings must be in accordance with AS 1170.1 (L.S. Dead and Live Loading Code) and AS 1170.2 (L.S. Wind Loading Code).
- The Design Wind must be 500 years ARI for anchorages to the main bridge structure and 50 years ARI for anchorage of panels to the support system.
- The structure must also be designed to resist a 2kN lateral load at any point on the screen, not concurrent with wind loads.
- It can be assumed that Ultimate Wind Load is not applied simultaneously with Ultimate Live Load.
- Steel mesh must be securely fastened to reduce the risk of it being stolen.
- The design must ensure there are no exposed sharp edges on the pedestrian side.
- The designs should provide a balance between functionality, aesthetics, effectiveness and value for money.

3.3 Design Considerations

The factors that will be considered by the Rail Party in its review of the Alliance's design include as follows:

Safety for Motorists

This is the most important factor and evaluates the ability of the screen to prevent objects from being thrown onto the roadway or railway tracks beneath the overbridge.

Safety for Users

The level of safety that the screen would give to the pedestrian and road users of the overbridge, including:

- the perception by the overbridge users of their safety while walking or driving across the screened bridge,
- the physical design aspects of the screen in relation to the safety of the users (i.e. a smooth screen with no protruding hazards is best).

Pedestrian Amenity

The value of the features of the screened overbridge that make it suitable as a pedestrian amenity, including:

- the ability of the screen material and design to provide adequate ventilation to the users of the bridge,
- the ability of the screen material and design to provide suitable acoustics inside the screen,
- the ability of the screen to provide light to the inside of the bridge and views through the screen to the surrounding environment.

Aesthetics (visual)

The likely visual impact of the screened overbridge as viewed by people in the surrounding area and on the through carriageways.

Costs

The likely construction and maintenance costs, including:

- the initial cost of the construction of the screen,
- the likely ongoing maintenance expenses,
- the likely life span of the screen,
- the possible costs that may be incurred due to graffiti on the screen,
- the possible costs that may occur by vandal damage to the screen.

4. RAILWAY INFRASTRUCTURE SUPPORT FUNCTIONS

Throughout all phases of the Project, various qualified Rail Party personnel will be involved in the Project, at the cost of the Alliance, to:

1. Ensure the Alliance's compliance with the requirements set out in this appendix and the Rail Agreement
2. Manage the day to day duties of the Alliance relating to meeting attendance and correspondence
3. Ensure the Alliance's compliance with systems of safe working
4. Liaise with Alliance re-planning for track inspections and Track Possessions
5. Manage the effects of any planned or unplanned events that might impact on train on time running, safety or reliability

4.1 TRACK POSSESSION ISSUES

Schedule 4 to the Rail Agreement contains requirements in relation to Track Possessions. This section sets out additional information in relation to Track Possessions.

Work on or about the rail line may be conducted under a number of scenarios:

As Traffic Permits (ATP): Where the Alliance's work is carried out between trains without causing a delay to train services. Based on current mandatory train operations there are reasonable windows ~~insert days and times here during negotiations with Rail party~~. From ~~insert scheduled services here~~ there are a number of trains scheduled through the project site. All work must cease before and during the passage of trains with the line clear approximately 10 minutes before scheduled arrival.

Full Track Possession: Must be booked a minimum of six months in advance. These types of possessions are inflexible as Countrylink in particular cancel trains and replace these with buses and advise passengers of same. The Rail Party will negotiate the required possessions on behalf of the Alliance at the Alliance's cost.

Emergency Track Possession: Under extreme and unforeseen circumstances, it may be possible to set up Emergency Track Possessions at short notice, although there is no guarantee that such possessions will be possible.

4.2 ACCESS FOR RAILWAY STAFF

Clause 4.2 of the Rail Agreement entitles the Rail Party to inspect the Works.

The Rail Party will require access to the Works for all its relevant personnel at any time during construction, for the purposes of compliance auditing of Rail Party Rail Safety, Environmental and Occupational Health & Safety Standards. The Rail Party has an obligation under Section 10 (Item 1) of the *Occupational Health and Safety Act 2000* to ensure that persons using its premises do so in a manner that is safe and without risks to health and safety. This does not preclude the Alliance's obligations as an employer under the OH&S Act 2000. It is also noted that the Safety Protocol contains obligations in relation to occupational health and safety.

Access to the Works by Civil/Signal Maintenance staff will also be required to carry out routine activities. Prior notice will be given by the Rail Party in relation to such access. The Alliance must comply with notifications by the Rail Party's Representative to attend emergency activities, the nature of which would be subject to the situation at the time. All other visits by Rail Party personnel will be made after giving prior notice to the Alliance's Representative.

5. DESIGN STANDARDS

In addition to any requirement under the Rail Agreement, the Alliance must ensure its designs and the Works comply with the technical requirements set out in Rail Party Standards, Australian Standards (AS) and other specific standards or codes. The Rail Party standards take precedence over all others unless otherwise agreed by the Rail Party. The Alliance must ensure that the latest standards are applied (including any new standards, such as a National Code of Practice, that may be introduced). The Rail Party Standards applicable at the date of this appendix include, but are not limited to, the following:

RAIL PARTY TO REVIEW LIST BELOW DURING RAIL AGREEMENT NEGOTIATIONS & ADVISE ADDITIONS/DELETIONS/CHANGES

Title	ARTC Ref No.	RailCorp Ref No.
RailCorp Signalling Standards - Circuit Design	SDS25	SC00140000SP
RailCorp Signalling Standards - Construction Specification	SCP01-23	Various
RailCorp Signalling Standards - Equipment Specification	SRS01-51	Various
RailCorp Signalling Standards - Set to Work	SES01	SC07410001WA
RailCorp Signalling Standards - Signalling Design Principles	SDS00-25	Various
Structures - Design Standards	BDS06	IS30.0003.01SP
Care and protection of underground pipes and cables	EMP01	APS181
Boundary Fences - Maintenance Policy	RMP05	AP.6841
Placement of redundant material on railway property	RMP03	AP.6882
Land maintenance policy	RMP05	BJ1151
Design Requirements for Underbridges, Overbridges and Footbridges	BDS06	C4000
Design Requirements for Pier or Column Protection	BDS06	C4002
Management system for pipe, electrical telephone crossings under and over railway property	EGS00	G5000
Technical requirements for installation of other parties services and pipelines within railway boundaries (R.O.A. code)	EGS01	G5001
Pipeline agreement for service crossings on railway land	EGS02	G5002
Electrical service crossings on railway land	EGS03	G5003

Title	ARTC Ref No.	RailCorp Ref No.
Telstra and Optus cable crossing on railway property	EGS04	G5004
Water board crossing on railway property	EGS05	G5005
Standard for installation of domestic water pipelines within railway boundaries	EGS06	G5006
The Australian Gas Light Company (subsidiaries: Natural Gas Company and Newcastle Gas Company) crossing on railway property	EGS07	G5007
General Standards for Formations and Earthworks	JDS08	TS3421
Standard for formation capping material	JDS12	TS3422
Standard Procedure for Embankment Widening	RVP07	TS3424
Technical requirements for lease on commission land and erection of buildings on leases	EGS08	TS3481
Standard fencing	RDS01	TS3921
General requirements for airspace developments	EGS09	TS4451
Worksite safety boundary markers	ESS01	G8001
Use of survey control marks by external bodies	EYP04	G8530
Engineering works in the vicinity of platforms and structure footings	BMS01	CS1031
Transit space handbook - system overview	BDSQ8	C2100
Transit space policy	BDSQ9	C2101
Transit space handbook corridor strategies	BDSQ10	C2102
Transit space standards	BDSQ11	C2103
Structure gauge 1994	BDSQ12	C2104
Application of kinematic envelope	BDSQ13	C2105
Infringement of transit space standards	BDSQ14	C2106
Base operating standards for clearances	BDSQ15	C2107
Clearances at platforms	BDSQ16	C2108
Earthworks construction procedures	ROP01	CI100
Standard for formation capping material	JDS12	TS3422
Standard procedure for embankment widening	RVP07	TS3424

Title	ARTC Ref No.	RailCorp Ref No.
Code Of Practice For The Defined Interstate Rail Network Volume 4 Track Civil And Electrical Infrastructure Part 3 Infrastructure Guidelines January 2003	No.ref	No.ref
Track Drainage Design and Construction	TDS0115 TCS0111	RIS 3433

6. REFERENCE SPECIFICATION FOR THE WORKS

6.1 CLEARING AND GRUBBING

Trees, shrubs, and other landscape features that are designated for preservation by the Rail Party or otherwise must not be removed by the Alliance and the Alliance must take measures to protect these items during the performance of the Alliance's work, as required by the Rail Party.

Except for those features identified in the previous paragraph, the whole area to be occupied by the Works must be cleared and grubbed in accordance with Rail Party Standard C.1100. Natural vegetation and fauna habitat outside the areas defined for clearing and grubbing must be maintained without damage. Disposal of timber and other combustible materials by burning is not permitted.

6.2 SURVEY MARKS

During the operations of clearing by the Alliance, benchmarks or any permanent survey or level peg, plug, pipe or marking must not be disturbed.

6.3 BACKFILL TO FOUNDATIONS AND STRUCTURES

Backfilling to foundations and structures must be carried out in accordance with Standard C. 1100.

6.4 CUTTINGS AND EMBANKMENTS

Cutting slopes and embankment filling must be in accordance with Standard C.1100.

6.5 RETAINING WALLS

Retaining walls must be designed to the standard TS 30 000 3 01 SP.

6.6 DRAINAGE AND DEWATERING

The drainage and de-watering measures to be undertaken by the Alliance must:

- provide such Temporary Works as may be necessary in order to prevent the passage of drainage water emanating from the Works into the Rail Party's track formation; and
- provide alternative temporary waterways for all watercourses, drains, gutters, channels and the like, intercepted during the progress of the Alliance's work, and replace, or if so directed by the

Rail Party, permanently divert them, leaving them in as good a condition as they were found.

6.7 EXCAVATION AND GROUND SUPPORT

Excavation Sequences and Operations

Excavation by the Alliance must be carried out to prevent ground movement or subsidence and damage to the Rail Party's track formation and to ensure that the surfaces exposed are as stable as possible. All excavated surfaces must be regularly examined by the Alliance and loose material removed or otherwise made safe. The excavations must, at all times, be properly supported.

Where excavation is discontinued or during an extended stoppage to the normal excavation cycle, any exposed soft ground or weathered rock must be protected by close timbering, waling and strutting.

Under Track Crossings

All under track crossings for signalling, electrical, drainage or other services must be carried out as sleeved, dry underbores. Such bores must commence and finish at least 3.0m clear of the outermost rails.

6.8 RECORDS OF SERVICES

Records of the location of underground services must be maintained by the Alliance throughout the duration of the Alliance's work. Permanent location markers must be provided as required by the relevant Authorities.

7. DRAWINGS

The following drawings are included:

Description	Drawing Number
[]	[]

Schedule 4

Rail Safety Requirements

1. General

- 1.1 This Schedule forms part of and is to operate in conjunction with the Rail Agreement.
- 1.2 The Alliance acknowledges that a Rail Safety Plan must be prepared and agreed as required under the Rail Agreement and this Schedule.
- 1.3 The definitions contained in the Rail Agreement and the Project Alliance Agreement apply to this Schedule.

2. Definitions

Action Schedule means section 14 of this Schedule.

Alert Event means an actual or likely event or circumstance which arises because of the Works and/or the Project and which may interfere with or threaten:

- (a) the use or operation of the Rail Infrastructure Facilities for Railway purposes;
- (b) the safe operation and support of the Rail Infrastructure Facilities;
- (c) the operational capacity or efficiency of the Rail Infrastructure Facilities and the continued conduct of the transport functions and powers of the Rail Party; or
- (d) the future safe operation of the Railway or the future operational capacity or efficiency of the Railway,

including (without limitation) any event or circumstance which has or is likely to have a material detrimental effect on:

- (e) the Rail Infrastructure Facilities;
- (f) the safety of Railway passengers, station patrons or representatives of the Rail Party; or
- (g) the operation of the Railway.

Construction Completion has the meaning given to that term in the Project Alliance Agreement.

Local Possession Authority means authority to close a portion of railway track issued by the Rail Party.

Maintenance Period has the meaning given to that term in the Project Alliance Agreement.

Maintenance Work has the meaning given to that term in the Project Alliance Agreement.

Nominated Representative(s) means:

- (a) such representative or representatives as the Rail Party may from time to time appoint and notify the Alliance or as may be otherwise identified in the Rail Safety Plan; or
- (b) if no representative is nominated under paragraph (a), the Rail Party's Representative.

Rail Agreement means the agreement between the Rail Party and the Alliance dealing with, amongst other things, the matters contained in this Schedule.

Rail Requirement Documents means the documents set out in paragraph 5.3(a)(ii) of this Schedule.

Requirement means each requirement listed in column 2 of the Action Schedule.

Safety Protocol has the same meaning as in the Rail Agreement.

Track Possession means any temporary possession of the Railway Corridor, and for the avoidance of doubt includes a Local Possession Authority or a Track Occupancy Authority, or any other authority granted by the Rail Party to the Alliance which closes, or alters the operation of the Railway, upon a defined portion of the Railway for a specified period of time and / or gives the Alliance an authority to occupy a part of the Railway Corridor within specified limits for an agreed period of time.

Track Occupancy Authority means authority to occupy a portion of railway track issued by the Rail Party.

Works Construction in this Schedule means the construction of Works (including but not limited to any preliminary works, services works and Temporary Works) within 50 metres (measured horizontally) of any Rail Infrastructure Facilities.

Worksite Protection means a standard of safety surveillance and communication required by the Rail Party when work is being carried out in the Railway Corridor.

3. Rail safety requirements

3.1 The Alliance must ensure that there is no reduction to the safety of Railway passengers, the employees of the Rail Party and the Rail Infrastructure Facilities and no loss of integrity or performance in the Rail Infrastructure Facilities as a consequence of the Project.

3.2 The Alliance must not at any time interrupt:

3.2.1.1 the operation or maintenance of Railway services or the Rail Infrastructure Facilities; or

3.2.1.2 access by the Rail Party to the Rail Infrastructure Facilities.

3.3 The Alliance acknowledges that a Rail Safety Plan must be prepared in accordance with the requirements of the Rail Agreement and this Schedule.

- 3.4 The Alliance must comply with the Safety Protocol, the Rail Safety Plan and the Emergency Event Plan at all times.
- 3.5 The Alliance acknowledges that all access for any purpose to Rail Party track facilities requires a Track Possession and/or Worksite Protection, in respect of which the Rail Party will in its absolute discretion determine the appropriate type of access required.
- 3.6 The requirements for Track Possessions are as follows:
- (a) weekend possessions require a bid to be submitted to the Rail Party 15 months in advance or at such other periods as determined by the Rail Party;
 - (b) if a third party ("Third Party") has booked a Track Possession with the Rail Party in relation to a period of time and location ("Third Party Possession") required by the Alliance, then:
 - (i) the Alliance may, with the prior consent of the Rail Party and the Third Party, share that Third Party Possession with the Third Party and conduct the Alliance's activities and works together with those being conducted by the Third Party;
 - (ii) the prior consent referred to in paragraph 3.6(b)(i) must be obtained by the Alliance at least 3 months in advance; and
 - (iii) the Alliance must comply with any conditions imposed as part of the consent, including but not limited to co ordination and co operation provisions in relation to the Third Party's activities;
 - (c) The Alliance acknowledges that any Track Possession booked may be cancelled at any time by the Rail Party irrespective of whether confirmation of the Track Possession has been provided to the Alliance. The Alliance is not entitled to any compensation, variation, claim for extension of time or other damages if any Track Possession is cancelled;
 - (d) meeting the above Track Possession lead times does not guarantee that the bid will be successful;
 - (e) The Alliance acknowledges that in any Track Possession, other groups will be working and all work will need to be coordinated between the Alliance and the other groups to minimise interference with each other;
 - (f) The Alliance is to pay all costs associated with cancellation of a Track Possession if the confirmed Track Possession is cancelled by the Alliance within 12 weeks of the Track Possession; and
 - (g) The Alliance acknowledges that access to all other Rail Party property is subject to restrictions which may also include the need for Track Possessions.
- 3.7 Worksite Protection must be undertaken in accordance with the requirements of the Nominated Representative. The Nominated Representative will determine the Worksite Protection that is necessary, based on information provided by the Alliance including any design documentation and work method statements.

- 3.8 All access to Rail Party property by the Alliance is to be conducted in accordance with the Network Rules and Procedures.
- 3.9 The Alliance must provide, install, operate and subsequently remove all monitoring equipment required under this Schedule or the Rail Safety Plan and, following removal, must reinstate the Rail Infrastructure Facilities affected by the installation of monitoring equipment to an equivalent condition to that which existed prior to the installation of the monitoring equipment. This includes all monitoring equipment provided for use by the Alliance, by the Rail Party.
- 3.10 The Alliance acknowledges that railway operations result in particular impacts, including noise, vibration, stray electrical currents, electromagnetic effects and the like. the Alliance must design and construct the Works to provide for such impacts.
- 3.11 If the Alliance becomes aware of an Alert Event occurring, the Alliance must, at its cost, immediately inform the Rail Party's Representative of the Alert Event and keep the Rail Party's Representative informed about the Alert Event and provide the Rail Party's Representative with sufficient information to enable the Rail Party to assess the nature of the Alert Event and the likely effect of the Alert Event on:
- (a) the Rail Infrastructure Facilities;
 - (b) the safety of Railway passengers, station patrons or representatives of the Rail Party; and
 - (c) the operation of the Railway and the continued operation of the transport functions of the Rail Party.

The Alliance agrees to (and must) immediately cooperate with the Rail Party (including, if necessary, by ceasing to carry out that part of the Works in respect of which the Alert Event applies) and to assist the Rail Party to take such action as the Rail Party directs is necessary to avert any danger and ameliorate the risk or otherwise to deal with the Alert Event.

- 3.12 Without limiting the obligations of the Alliance under this clause, the Rail Party may, in its absolute discretion, require the Alliance to suspend the Works or activities forming part of the Project within any part of the Protection Zone where:
- (a) a threat exists to public safety in respect of the Rail Infrastructure Facilities;
 - (b) an Alert Event occurs; or
 - (c) the Alliance breaches a requirement under the Rail Safety Plan.

Any suspension referred to in this clause must be notified to the Alliance in writing and must continue for only so long as is required to remedy the matter giving rise to the suspension.

- 3.13 For the avoidance of doubt, nothing in this Schedule reduces or limits the obligations of the Alliance under the Rail Agreement or the Project Alliance Agreement.

4. Independent verification of noise surveys

- (a) The Alliance must conduct pre- and post-construction noise surveys (Noise Surveys) at times required by the Rail Party.

- (b) The Alliance must, upon request by the Rail Party, provide the Rail Party with copies of the results of all Noise Surveys.
- (c) Should the Rail Party require, the Rail Party may appoint an independent expert to verify the results of the Noise Surveys, and in the event of any discrepancy, the results of the independent expert shall prevail.
- (d) The Alliance is liable for all costs under this paragraph 4.

5. Verification and co-ordination of design and construction of works

5.1 Verification mechanism

The Alliance must certify, as a pre-requisite to the achievement of Construction Completion, that the Works comply with the requirements in the Rail Agreement, including but not limited to the Safety Protocol and this Schedule.

5.2 Collaborative Process

- (a) The Alliance must allow the Rail Party, throughout the preparation of the design and the construction of the Works, the opportunity to comment on and monitor the development of the Rail Requirement Documents in accordance with this paragraph 5.
- (b) The Alliance must develop and complete the Rail Requirement Documents in accordance with the Rail Agreement including this Schedule.
- (c) Prior to commencing the Works, the Rail Requirement Documents must be certified by The Alliance as:
 - (i) being appropriate for construction; and
 - (ii) complying with the Rail Agreement including this Schedule.
- (d) Unless otherwise agreed in writing by the Rail Party, the Alliance must not use for construction purposes any Rail Requirement Documents or commence any Works within the Protection Zone unless:
 - (i) it has been certified by the Alliance; and
 - (ii) it has been submitted to the Rail Party for the opportunity to make comment within a reasonable period of time.
- (e) Without limiting paragraph 5.1(b), the Rail Party and the Alliance acknowledges and agrees that:
 - (i) the receipt or review of, or any consultation or comments regarding, any Rail Requirement Documents by the Rail Party is solely for the purpose of monitoring the performance of the Alliance of its obligations under the Rail Agreement and the obligations of the Alliance under the Project Alliance Agreement and ensuring that the Alliance complies with its obligations under those documents, as relevant;
 - (ii) the Rail Party owes no duty to the Alliance to review the Rail Requirement Documents for errors, omissions or compliance with the requirements of this

deed or to consult with the Alliance or make any comments regarding any Rail Requirement Documents; and

- (iii) neither any review, consultation or comments by the Rail Party, nor any failure to review, consult or comment by the Rail Party, regarding any Rail Requirement Documents or any other act or omission by the Rail Party in respect of any Rail Requirement Documents will lessen or otherwise affect:
 - (A) any of the Alliance's liabilities or responsibilities under this deed or otherwise according to law; or
 - (B) the Rail Party's rights against the Alliance whether under this deed or otherwise according to law.

5.3 Provision of documents

- (a) Without limiting the obligations of the Alliance under this Schedule, the Alliance must provide to the Rail Party:
 - (i) within 90 days of execution of this deed:
 - (A) the preliminary design for the Works;
 - (B) a draft construction methodology; and
 - (C) a draft construction program; and
 - (ii) at least 4 months prior to commencing the Works:
 - (A) the design for the Works (including all technical specifications, technical drawings and other information required by the Rail Party);
 - (B) a Safe Work Method Statement which addresses:
 - 1) the location of the proposed work;
 - 2) the date and time of the proposed work;
 - 3) a description of major items of plant to be used;
 - 4) the clearance distances from tracks and structures; and
 - 5) safety procedures to be adopted;
 - (C) a Risk Management Plan which identifies risks to Rail Infrastructure Facilities and to Railway operations and outlines measures to manage these risks;
 - (D) an Environmental Management Plan which assesses effects (if any) of the proposed Works on the environment and outlines measures to minimise these effects;
 - (E) a Rail Safety Plan;
 - (F) the construction methodology;
 - (G) the construction program; and

- (H) the Emergency Event Plan required under the Rail Agreement.
- (b) For the avoidance of doubt, any obligation on the Alliance under this paragraph 5.3 is in addition to its other obligations under the Rail Agreement and the Project Alliance Agreement.

6. Specific design requirements

Without limiting any requirements in the Project Alliance Agreement or the Rail Agreement (including this Schedule), the design of the Works must take adequate precautions to protect the Works from stray electrical direct currents, noise and vibration emitted in the operation (or future operation) of the Railway.

7. Specific construction requirements

Without limiting any requirements in the Project Alliance Agreement or this deed (including this Schedule) the Alliance must:

- (a) construct the Works in accordance with the Rail Requirement Documents;
- (b) notify the Rail Party in advance of any subcontractors proposed to be used in constructing the Works, and the Alliance must ensure that a subcontractor is not used if the Rail Party has given a direction that the subcontractor must not be used;
- (c) not interfere with the operation (including the safe operation) of the Railway; and
- (d) comply with any reasonable construction related request of the Rail Party.

8. Safe work method statement

- 8.1 Without limiting its occupational health and safety obligations under this deed, the Alliance must include in the Safe Work Method Statement required under this Schedule a section which identifies the risks to the Rail Party and the Rail Infrastructure Facilities which will arise by reason of the Works, and outlines the measures to be taken by the Alliance to manage such risks.
- 8.2 If the Safe Work Method Statement is not satisfactory in the opinion of the Rail Party, the Rail Party may notify the Alliance who must then promptly make appropriate modifications to the Safe Work Method Statement.
- 8.3 The Alliance must not commence the Works, and must not direct or allow another person to carry out the Works, until the Rail Party has acknowledged in writing to the Alliance that the Safe Work Method Statement is acceptable.

9. Rail Safety Plan

- (a) The Alliance must not commence any part of the Works within any Protection Zone prior to the Rail Party reviewing and providing comments on the Rail Safety Plan in relation to that part of the Works.

- (b) The Rail Safety Plan must deal with all Rail Infrastructure Facilities which are affected or likely to be affected by the Work and must:
 - (i) nominate the processes which the Alliance is required to carry out in order to complete the Works within the Protection Zone so as to maintain a safe rail system;
 - (ii) identify any risks associated with the processes arising from the Works within the Protection Zone, the manner in which risks are to be managed and the steps proposed to mitigate those risks;
 - (iii) nominate the means by which the processes and associated risks will be monitored and the measures to be taken by the Alliance to ensure the defined performance objectives are achieved;
 - (iv) include such other requirements as the Rail Party may reasonably require for reasons of safety or operations.
- (c) If the Rail Party requests amendments to the Rail Safety Plan, the Alliance must make those amendments at the cost of the Alliance and re-submit the amended Rail Safety Plan to the Rail Party for review and further comment.
- (d) The re-submission process will be repeated until the Rail Party is satisfied with the Rail Safety Plan.
- (e) Nothing in this Schedule shall be taken to be the conferring of any right of approval upon ARTC of any aspect of the Rail Safety Plan nor the endorsement of the fitness or otherwise of the Rail Safety plan by ARTC that is finalised after ARTC provides comments.

10. Defects

- (a) The Alliance must, in consultation with the Rail Party, prepare a dilapidation report in respect of that part of the Railway Corridor at which the Works are to be conducted, at the Alliance's cost, prior to the commencement of the Works.
- (b) The Alliance must pay the Rail Party's costs of repairing any Defect which arises during the Defects Repair Period.
- (c) In this paragraph 10, Defect means any defect (including any latent defect) arising as a result of or in connection with the Works after the commencement of the Works in any Rail Infrastructure Facilities or land owned by the Rail Party which is not identified in the dilapidation report referred to in paragraph 10(a).
- (d) Without limiting the obligations of the Alliance under this paragraph 10, following completion of the Works the Alliance must reinstate any land owned by the Rail Party and the Rail Infrastructure Facilities as near as possible to the condition they were in prior to the Works (save for the construction of the Works) to the satisfaction of the Rail Party.

11. Maintenance

- 11.1 Subject to paragraph 11.2, the Alliance must during the Maintenance Period maintain the Works in a safe and operable condition at its own cost, including but not limited to undertaking all maintenance, replacement, renovation and repairs with respect to the Works, and keeping the Works clean, tidy and free of any graffiti.
- 11.2 After completion of the Works, the Alliance must not enter into the Protection Zone for any reason, including to carry out any maintenance of the Works, unless it has received the Rail Party's consent to such entry.
- 11.3 The Rail Party may give or withhold consent to entry into the Protection Zone in its discretion and impose any conditions upon such entry, including but not limited to the manner in which entry is made, and the time at which entry is permitted.
- 11.4 Where at any time consent is granted to access to the Protection Zone for maintenance purposes, the Alliance must comply with the Safety Protocol.
- 11.5 All maintenance of the Works is to be undertaken at the Alliance's cost.

12. Costs

For the avoidance of doubt and in accordance with clause 9 of the Rail Agreement, the Alliance is responsible for all costs incurred by the Alliance and the Rail Party in complying with the Rail Agreement and this Schedule. Indicative rates may be found at item 4 of Schedule 1 to the Rail Agreement.

13. Bridge Safety Screens

- (a) In relation to any part of the Works which involve a bridge over the Railway Corridor, bridge safety screens are required to reduce the risks of a projectile from a bridge causing an incident on the road or railway below.
- (b) Bridge safety screens must extend to minimum height of 3.0 metres above the roadway and have a mesh opening of 50mm by 50mm.

14. Action Schedule

Issue (column 1)	Requirements (column 2)	Monitoring Regimes (column 3)	Emergency Responses (column 4)
Vibration	Vibration (IEC Pub 68-2-6) in all Rail Infrastructure Facilities not to exceed 20 millimetres per second (mm/s) Peak Particle Velocity (PPV).	<ol style="list-style-type: none"> 1. The Alliance must develop a monitoring regime in respect of the effect of the Works Construction on the Rail Infrastructure Facilities. 2. The proposed regime must be developed as part of the Rail Safety Plan. 3. All results of monitoring are to be submitted weekly, or as required by the Rail Party, to the Nominated Representative(s). 4. Monitoring must continue for so long as Works Construction is occurring. 	<ol style="list-style-type: none"> 1. If the Requirement is exceeded, the Alliance must immediately stop the relevant part of the Works Construction. 2. The Alliance must then act in accordance with the Rail Safety Plan that must include, among other things, obligations to contact the Nominated Representative(s) who will determine and implement a rail operational response. 3. The Alliance must provide alternative construction methods that ensure that the Requirement will not be exceeded in the future, prior to recommencement of Works Construction.
Track	<ol style="list-style-type: none"> 1. Changes in track and 	<ol style="list-style-type: none"> 1. The Alliance must carry out a survey of the existing 	<ol style="list-style-type: none"> 1. If any of the Requirements

Issue (column 1)	Requirements (column 2)	Monitoring Regimes (column 3)	Emergency Responses (column 4)
displacement and geometry and Railway embankment stability	<p>embankment geometry are not to result in track geometry falling outside the requirements of Attachment 1 to this Schedule.</p> <p>2. Where existing track alignment is on or outside the limits of the above requirements. Additional allowances may be negotiated with Rail Party standards engineers.</p> <p>3. Railway embankments, including batters, must not move or change in slope.</p>	<p>track alignment and embankments for all tracks and embankments within 50 metres horizontally of the Works. The survey must be submitted to the Rail Party and the Alliance must receive the Rail Party's acceptance to the survey prior to commencement of the Works Construction</p> <p>2. The Alliance must implement a monitoring regime for the track and embankment geometry that has been developed by an expert railway engineering consultant engaged by the Alliance. The monitoring regime must be submitted in conjunction with the Rail Safety Plan for review by the Rail Party. The Alliance must receive the Rail Party's approval of the monitoring regime prior to undertaking any Works Construction.</p> <p>3. The monitoring regime may require:</p> <p>a) real time monitoring, 24 hours per day, of tracks and embankments within 50 horizontal metres of the Works; and</p> <p>b) provision of an effective and practical communications system between the monitoring stations, Works Construction machinery operators and the Nominated Representative(s).</p> <p>4. Results of all monitoring must be submitted to the Nominated Representative(s) the following Business</p>	<p>are exceeded, the relevant part of the Works Construction must stop immediately.</p> <p>2. The Alliance must then act in accordance with the Rail Safety Plan that must include, among other things, obligations to contact the Nominated Representative(s) who will determine and implement a rail operational response.</p> <p>3. The Alliance must not recommence Works Construction until the rail operational response is complete.</p> <p>4. The Alliance must provide alternative construction methods that ensure that the Requirements will not be exceeded in the future, prior to recommencement of Works Construction.</p>

Issue (column 1)	Requirements (column 2)	Monitoring Regimes (column 3)	Emergency Responses (column 4)
		Day or as required by the Rail Party. 5. Monitoring must commence from the start of Works Construction, must continue throughout Works Construction and for a period of eight weeks after Works Construction is completed or until the Rail Party are satisfied that deflection has ceased.	



ATTACHMENT 1 TO SCHEDULE 4

BASE OPERATING CONDITION STANDARDS

TRACK GEOMETRY

Exceedent Category			
Parameter			
Gauge	Maximum variation (mm) from nominal	Wide	24-25 (3)
		Tight	10 (3)
Alignment	Maximum mid-ordinate deviation (mm) from design in chord length (m)	10 (RVX)	31-40 (5)
Top Surface	Maximum deviation (mm) of profile at mid-ordinate in chord length (m)	10	32-37 (5)
	Maximum Deviation (mm) of offset co-ordinate in chord length (m)	1.8/10 (RVX)	19-21 (5)
Twist	Rate of cross level change (mm) on base length (m)	2 (short)	15-16 (5)
		14 (long)	38-42 (5) (1 in 333)

Super Elevation	Maximum Difference to design (mm)		36-40 (5)
Default Max Speed (Km/hr)	Standard freight		60
	Pass & high speed freight		60

Note: Figures shown in brackets are the maximum allowable variations from the current actual. Un-bracketed figures are the maximum allowable values for the measured parameter.