

Western Sydney International Speedway Agreement for Lease

Contract Information

This document sets out the information required to be disclosed under Part 3 Division 5 of the Government Information (Public Access) Act 2009 (GIPA Act).

1. **Defined terms used in this document**

The following meanings are used in this document:

Agreement for Lease means the Agreement for Lease dated 17 June 2021 between the Authority and the Proponent. (Annexure A)

Authority means the Western Sydney Parklands Trust.

Proponent means Speedway Promotions Pty Ltd.

Premises means the land and improvements at Ferrers Road, Eastern Creek NSW, means the land depicted as Lot 3 on the Draft Subdivision Plan and contained in the following:

- a) Lot 1 DP69882;
- b) Lot 2 DP1062965;
- c) Lot 1 DP1077822;
- d) Lot 9 DP804051; and
- e) Lots A, B, C & D in DP408966.

as shown in the plan in Schedule 2 of the Agreement for Lease.

2. **Effective date and class of contract**

2.1 The Agreement for Lease became effective on 17 June 2021.

2.2 The Agreement for Lease is classified as a class 3 contract under the GIPA Act. This also means that it has met the relevant thresholds to be classified as a class 1 contract (because it has a value of \$150,000 or more) and class 2 contract (because the proposed contract (whether or not made publicly available) has been the subject of a tendering process and the terms and conditions of the contract have been substantially negotiated with the successful tenderer).

2.3 Section 27 of the GIPA Act requires that information about a class 1 contract be published within 45 working days after the contract becomes effective.

3. **Class 1 contract information**

(a) *The name and business address of the contractor*

Speedway Promotions Pty Ltd ACN 648 814 779 ABN 98 648 814 779,
2/37 Garema Circuit, Kingsgrove NSW 2208.

(b) *Particulars of any related body corporate (within the meaning of the Corporations Act 2001 of the Commonwealth) in respect of the contractor, or any other private sector entity in which the contractor has an interest, that will be involved in*

carrying out any of the contractor's obligations under the contract or will receive a benefit under the contract

Not Applicable.

- (c) *The date on which the contract became effective and the duration of the contract*

The Agreement for Lease became effective on 17 June 2021. The term of the Agreement for Lease is the earlier of on the earlier of:

(a) the date which is one year from the Effective Date;

(b) the Lease Commencement Date; or

(c) the earlier termination of this Agreement.

- (d) *Particulars of the project to be undertaken, the goods or services to be provided or the real property to be leased or transferred under the contract*

The Agreement for Lease grants the Proponent rights (and obligations) to operate and lease the Premises.

A Lease of the Premises will be granted to the Proponent following completion of Milestone 2 of the Speedway Works for a term of 8 years.

- (e) *The estimated amount payable to the contractor under the contract*

Amounts are not payable to the Proponent under the Agreement for Lease.

Under the Lease, the Tenant is to pay an Annual Rent to the Authority for the term of the Lease.

- (f) *A description of any provisions under which the amount payable to the contractor may be varied*

As described in paragraph (e) above, amounts are not payable to the Proponent.

- (g) *A description of any provisions with respect to the renegotiation of the contract*

Not Applicable.

- (h) *In the case of a contract arising from a tendering process, the method of tendering and a summary of the criteria against which the various tenders were assessed*

The Authority undertook a public tender process by issuing a Request for Proposals.

The Proponent was short-listed as a result of that process and subsequently became the Successful Proponent upon entering into the Agreement for Lease.

The assessment criteria were financial offer, financial capability, experience, operational plans and lease terms, with varying weightings given to each criteria.

- (i) *A description of any provisions under which it is agreed that the contractor is to receive payment for providing operational or maintenance services*

Not applicable.

4. **Class 2 contract information**

- (a) *Particulars of future transfers of significant assets to the State at zero, or nominal, cost to the State, including the date of their proposed transfer*

Not applicable.

- (b) *Particulars of future transfers of significant assets to the contractor, including the date of their proposed transfer*

The Tenant will occupy the Premises from Lease Commencement.

- (c) *The results of any cost-benefit analysis of the contract conducted by the agency*

A detailed evaluation of the commercial aspects of the financial offer was undertaken during the tender processes described in paragraph 3(h) above.

- (d) *The components and quantum of the public sector comparator if used*

The Authority compared the rental offer for the Premises to the commercial market rents received by the Authority as part of the tender assessment process referred to in paragraph 3(h) above.

The Authority determined that a tender by way of a Request for Proposals would deliver superior value for money over other delivery models.

- (e) *Where relevant, a summary of information used in the contractor's full base case financial model (for example, the pricing formula for tolls or usage charges)*

Commercial-in confidence information which is not required to be included in accordance with Section 32 of the GIPA Act.

- (f) *Where relevant, particulars of how risk, during the construction and operational phases of a contract to undertake a specific project (such as construction, infrastructure or property development), is to be apportioned between the parties, quantified (where practicable) in net present-value terms and specifying the major assumptions involved*

The Agreement for Lease allocates substantial risk during the operational phase of the project to the Proponent/Tenant. The Proponent has obligations to procure approvals and submit Operational Plans to the Planning Secretary in accordance with the conditions of approval. Once the Lease commences, the Tenant accepts the allocation to it of a range of operational risks.

- (g) *Particulars as to any significant guarantees or undertakings between the parties, including any guarantees or undertakings with respect to loan agreements entered into or proposed to be entered into*

As security under the lease, a bank guarantee equal to 6 months rent is payable, as a condition precedent to lease commencement. A guarantor will guarantee the obligations of the Tenant under the Lease.

- (h) *Particulars of any other key elements of the contract*

Refer to the published copy of the Agreement for Lease.

5. **Class 3 contract information**

- 5.1 The Authority has published a copy of the Agreement for Lease in its government contracts register, but has redacted the parts of the Agreement for Lease which are not required to be included in the copy under section 32.
- 5.2 Section 32 does not require the inclusion of:
- (a) the commercial-in-confidence provisions of a contract;
 - (b) details of any unsuccessful tender;
 - (c) any matter that could reasonably be expected to affect public safety or security; or
 - (d) a copy of a contract, a provision of a contract or any other information in relation to a contract that is of such a nature that its inclusion in a record would result in there being an overriding public interest against disclosure of the record.
- 5.3 The commercial-in-confidence provisions of a contract are:
- (a) the contractor's financing arrangements;
 - (b) the contractor's cost structure or profit margins;
 - (c) the contractor's full base case financial model;
 - (d) any intellectual property in which the contractor has an interest; or
 - (e) any matter the disclosure of which would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential contractors, whether at present or in the future (see clause 1, Schedule 4).
- 5.4 The table attached as Annexure B references those provisions of the Agreement for Lease which have not been included in the Authority's government contracts register, as section 32 applies to them.



ANNEXURE A

Agreement for Lease Western Sydney International Speedway Ferrers Road, Eastern Creek

Western Sydney Parklands Trust
ABN 85 202 544 800

Speedway Promotions Pty Ltd
ABN 98 648 814 779 ACN 648 814 779

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Date 17 June 2021

Parties

WSPT Western Sydney Parklands Trust ABN 85 202 544 800
Address Level 7, 10 Valentine Avenue, Parramatta NSW 2150

PROPONENT Speedway Promotions Pty Ltd ACN 648 814 779 ABN 98 648 814 779
Address 2/37 Garema Circuit, Kingsgrove NSW 2208

Background

- (A) The NSW Government is committed to relocating speedway racing from its current location at Clyde to the Eastern Creek Motor Sports Precinct (Precinct 5) within the Western Sydney Parklands.
- (B) WSPT has entered into a Speedway Delivery Agreement with Sydney Metro for the construction of a speedway facility on Land owned by WSPT at Ferrers Road, Eastern Creek.
- (C) In February 2021, WSPT invited prospective proponents to submit responses to the Request for Proposals (RFP).
- (D) The Proponent submitted a proposal and was short-listed for detailed negotiations.
- (E) WSPT has agreed to enter into an Agreement for Lease (AFL) with the Proponent for the consideration stated in and otherwise in accordance with the terms and conditions set out in this Agreement.
- (F) On Completion of Milestone 2 of the Speedway Works and otherwise in accordance with this Agreement, WSPT agrees to grant to the Proponent and the Proponent agrees to take the Lease.

Operative Provisions

1 Definitions and interpretation

1.1 Definitions

In this document, the following definitions will apply:

Actual Completion of the Speedway Works means the date WSPT provides the Proponent with a notice specifying that Sydney Metro has notified it that completion of the Milestone 2 of the Speedway Works have been achieved.

Approvals means all approvals, authorisations, permits, consents, licences, exemptions and the like which are required to be issued by or obtained from any Authority in connection with the Premises or Permitted Use or the performance by the Lessee of its obligations under the Lease or Occupation Licence.

Authority means any government department or agency, local government council, government or statutory authority, or any other body, which imposes a requirement or whose consent is required in connection with the performance by any person of any obligation under, or in connection with, the Lease, the Occupation Licence or the Premises.

Building Contract means the building contract between Sydney Metro and its builder in respect of the Works.

Business Day means any day which is not a Saturday, Sunday or public holiday in New South Wales.

Change in Law means any of the following to take effect on or after the date of this Agreement:

- (a) the amendment, repeal or change of an existing Law;
- (b) a new Law; or
- (c) a judgement of a court of law which changes a binding precedent.

Claim means every claim, loss, suit, proceeding, action, cause of action, demand, notice, litigation, investigation, judgement, execution, liability or responsibility, including for any damage or for any injury or death, whether present, unascertained, immediate, future or contingent, whether based on contract, tort (including negligence), statute or otherwise and whether involving a third party or a party to this agreement.

Consequential Loss means any loss of opportunity, profit, anticipated profit, business, business opportunities or revenue or any failure to realise anticipated savings, whether present or future, fixed or unascertained, actual or contingent.

COVID-19 Event means any occurrence or non-occurrence in any way relating to the COVID-19 pandemic, including supply chain, delays, non-availability of work force or materials, any direction or recommendation of any Government Agency or any Change in Law in anyway relating to the COVID-19 pandemic, the direct or indirect result of which Sydney Metro is then prevented from or delayed in performing any of its obligations under this Agreement.

Deed Poll means the deed poll in **Schedule 5** as may be amended by Sydney Metro.

Draft Subdivision Plan means the draft Plan of Subdivision in **Schedule 2**.

Effective Date means the date of this Agreement.

Event Coordination Agreement has the same meaning as in the Lease.

Event of Default means:

- (a) an Event of Insolvency occurs in relation to the Proponent; and
- (b) the Proponent breaches any of its obligations under this Agreement.

Event of Insolvency means for a person, being in liquidation or provisional liquidation or under administration, having a controller (as defined in the *Corporations Act*) or analogous person appointed to it or any of its property, being taken under section 459F(1) of the *Corporations Act* to have failed to comply with a statutory demand, being unable to pay its debts or otherwise insolvent, dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason, taking any step that could result in the person becoming an insolvent under administration (as defined in section 9 of the *Corporations Act*), entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event.

Extension of Time Event means:

- (a) any delay;
- (b) any direction or recommendation from a Government Agency;
- (c) a Force Majeure Event;
- (d) a Change in Law;
- (e) any act or omission by WSPT to the extent it contributes to the delay of an anticipated Milestone Date;
- (f) any extensions of time granted under any Building Contract;
- (g) a COVID-19 Event;
- (h) any delay in the grant of the Planning Approval.

Force Majeure Event means any occurrence or non-occurrence as a direct or indirect result of which Sydney Metro is prevented from or delayed in performing any of its obligations under this Agreement and that is beyond the reasonable control of Sydney Metro, including forces of nature, a pandemic, industrial action and action or inaction by a Government Agency.

Government Agency means:

- (a) any governmental, semi-governmental, or local government authority, administrative, fiscal, judicial or quasi-judicial body, department, commission, authority, tribunal, agency or entity;
- (b) any other person having a right to impose a requirement, or whose consent is required, under Law with respect to any part of the Speedway Works, and includes WSPT or Sydney Metro to the extent that those entities are exercising their statutory functions and powers, but does not include those entities in their capacities as contracting parties to this Agreement.

Guarantor means the guarantors named in Item 14 of the Lease.

Improvements means any structure or work of a permanent nature attached to the Land.

Independent Reviewer means a consultant engaged by Sydney Metro to inspect the Speedway Works.

Land means the land depicted as Lot 3 on the Draft Subdivision Plan.

Law means any statute, regulation, rule, proclamation, ordinance, by-law or code principals of law established by decisions or courts.

Lease means the form of lease attached to this Agreement in **Schedule 1**.

Lease Commencement Conditions Precedent means

- (a) Actual Completion of the Milestone 2 of the Speedway Works;
- (b) the Subdivision Plan has been registered at NSW Land Registry Services;
- (c) the Proponent has provided to WSPT the bank guarantee required to be provided under the Lease;
- (d) the Proponent has provided to WSPT evidence satisfactory to WSPT that the Proponent has complied with all its obligations under the Lease in relation to insurance;
- (e) WSPT approving the Proponent's Operational Plan;
- (f) the Proponent entering into the Event Coordination Agreement;
- (g) the Proponent entering into the Major Event Operations Plan;
- (h) the Proponent entering into the Reciprocal Car Parking Agreement;
- (i) the Proponent submitting to the Planning Secretary, one (1) month before the commencement of operation, the Operational Environmental Management Plan in accordance with Development Consent conditions D1 – D8;
- (j) the Proponent submitting to the Planning Secretary, one (1) month before the commencement of operation, the Operational Monitoring Program in accordance with Development Consent conditions D9 – D15;
- (k) the Proponent has obtained all Approvals necessary to authorise the use of the Premises for the Permitted Use and has produced to WSPT evidence of these Approvals to operate;
- (l) there is no unremedied Event of Default.

Lease Commencement Date means the first day of the term of the Lease, being the date that is one Business Day after all of the Lease Commencement Conditions Precedent have been satisfied.

Liability includes all liabilities, losses, damages and costs, direct or indirect, however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort (including negligence), statute or otherwise including where arising under any Claim.

Major Event Operations Plan has the same meaning as in the Lease.

Milestone 2 of the Speedway Works means all essential works agreed between WSPT and Sydney Metro as being required to complete the Speedway Works.

Milestone Dates means each event described as a milestone in the Indicative Works Program set out in **Schedule 4**.

Occupation Licence means a licence to use part of the Premises for the purposes of the Permitted Use in a form reasonably required by WSPT.

Operational Plan has the same meaning as in the Lease.

Original Consortium Members means John Kelly, Scott Anderson, Kathlyn Kelly and Leonie Anderson.

Permitted Use means

- (a) primarily as a speedway, for the conduct of all levels of Speedway Racing for both cars and motorbikes, together with activities directly associated with speedway racing, including the training of drivers and riders and safety training for the purpose of speedway racing and the testing of speedway racing cars and motorbikes, and
- (b) as a secondary use, to conduct other motorsports activities and events; and complementary recreation and community uses including as set out in the Proponent's Operational Plan.
- (c) all uses are to be in conformance with the provisions of the Western Sydney Parklands Act (2006) and the State Environmental Planning Policy (Western Sydney Parklands) 2009 and any Plan of Management or Precinct Plan for the Premises under the Western Sydney Parklands Act (2006).

Premises means the Land and Improvements and the WSPT's Property.

Reciprocal Car Parking Agreement has the same meaning as in the Lease.

Request for Proposals means the Western Sydney International Speedway Requests for Proposals issued on 19 February 2021.

Speedway Delivery Agreement means the agreement between WSPT and Sydney Metro dated 19 August 2020.

Speedway Works the design and construction by Sydney Metro of a new speedway facility and any works ancillary to those works or otherwise necessary for the purposes of the construction of the new speedway facility, generally in accordance with the specifications and plans issued to prospective proponents to the Request for Proposals and as set out in **Schedule 3**.

Spectator Access Road has the same meaning as in the Lease.

Subdivision Plan means a plan of subdivision of Lot 1 DP69882, Lot 2 DP1062965, Lot 1 DP1077822, Lot 9 DP804051 and Lots A, B, C & D in DP408966, substantially in accordance with the Draft Subdivision Plan.

Sunset Date for Speedway Building Works means the date being three years after the date of contract (as that date is defined in the building contract), but this date may extended for a COVID-19 Event or by the period of 12 months if the Speedway Works are 75% completed.

Sydney Metro means Sydney Metro ABN 12 354 613 505, a NSW Government Agency constituted by Section 38 of the *Transport Administration Act 1988* (NSW).

Sydney Metro's Activities includes all things which Sydney Metro is or may be required to do in relation to the delivery of the Speedway, including the carrying out of the Speedway Works and any other thing that Sydney Metro is required or permitted to do pursuant to the Speedway Delivery Agreement.

WSPT's Property means all WSPT's plant, equipment, fixtures, fittings, furnishings and other property of the Lessor on or in the Land.

1.2 Interpretation

In this document, unless the context otherwise requires:

- (a) words denoting any gender include all genders;
- (b) headings are for convenience only and do not affect interpretation;
- (c) the singular includes the plural and vice versa;
- (d) any schedule or annexure attached to this document forms part of it;
- (e) a reference to a party includes its legal personal representatives, successors and permitted assigns;
- (f) a reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity;
- (g) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (h) an obligation or liability assumed by two or more persons binds them jointly and separately;
- (i) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this document or any part of it;
- (j) unless expressly stated to be otherwise, the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar inclusive expressions; and
- (k) a reference to this document means this document and includes any variation or replacement of this document.

2 Commencement and Term

2.1 Commencement of Agreement

This Agreement will commence on the Effective Date.

2.2 Termination of Agreement

This Agreement will terminate on the earlier of:

- (a) the date which is one year from the Effective Date;
- (b) the Lease Commencement Date; or
- (c) the earlier termination of this Agreement.

2.3 Extension of date

The date in clause 2.2(a) may be extended by mutual agreement by the parties in writing.

3 Speedway Works

3.1 Delivery of Speedway

- (a) WSPT discloses and the Proponent acknowledges and agrees that in accordance with the Speedway Delivery Agreement:
 - (i) Sydney Metro agreed to engage qualified builders and consultants capable of carrying out the Speedway Works;
 - (ii) it is anticipated that the Speedway Works will be completed by the Milestone Dates;
 - (iii) the Milestone Dates are indicative only and the Speedway Delivery Agreement allows for the extension of the Milestone Dates, including:
 - (A) amending the Milestone Dates for consistency with the equivalent dates in the Building Contract; and
 - (B) extending the Milestone Dates for an Extension of Time Event.

3.2 Termination of Speedway Delivery Agreement

- (a) WSPT has the right to terminate the Speedway Delivery Agreement if the Speedway Works are not completed by the Sunset Date for Speedway Building Works.
- (b) If this Agreement has not terminated in accordance with clause 2.2 and WSPT terminates the Speedway Delivery Agreement, WSPT may terminate this Agreement by notice in writing to the Proponent.

4 No Liability and Release

4.1 No Liability and Release

The Proponent acknowledges and agrees that:

- (a) WSPT and Sydney Metro will have no Liability (including in relation to Consequential Loss) to the Proponent;
- (b) the Proponent must not bring or make any Claim (including in relation to Consequential Loss) against WSPT or Sydney Metro; and
- (c) to the full extent permitted by Law the Proponent releases WSPT and Sydney Metro from any Liability which the Proponent or any party claiming through the Proponent incurs or is liable for,

arising from or in relation to:

- (d) this Agreement;
- (e) the exercise of WSPT or Sydney Metro of its rights under the Speedway Delivery Agreement, including the right to extend the Milestone Dates, terminate or partially terminate the Speedway Delivery Agreement or with respect to any delay to or failure to complete the Speedway Works;
- (f) the Speedway Works or Sydney Metro's Activities including the failure of Sydney Metro to carry out or complete any of the Speedway Works or Sydney Metro's Activities.

4.2 **Deed Poll**

On the Effective Date, the Proponent must deliver to WSPT the properly signed Deed Poll and this Agreement is subject to and conditional upon Sydney Metro accepting the signed Deed Poll.

4.3 **WSPT to hold benefit of Release**

The Proponent acknowledges and agrees that if required by Sydney Metro, WSPT must hold the benefit of the release set out in clause 4.1 as trustee for the benefit of Sydney Metro and the Proponent will enter into such deed and do all things as may be reasonably required by WSPT to give effect to this.

4.4 **Obligations Continue After Expiration of Agreement**

The obligations of the Proponent under this clause continue after the expiration or other determination of this Agreement.

5 Occupation Licence

5.1 **Grant of Occupation Licence**

Prior to the Lease Commencement Date and provided the conditions precedent set out in clause 5.2 are met, WSPT agrees to act reasonably in granting a non-exclusive occupation licence to the Proponent for the purpose of the Permitted Use.

5.2 **Conditions Precedent to Grant of Licence**

The granting of an occupation licence will be subject to:

- (a) the Milestone 2 of the Speedway Works being completed to a stage where the Proponent may carry out the Permitted Use;
- (b) Sydney Metro and its builder agreeing to the Proponent occupying and using the Premises and for WSPT to grant the Occupation Licence; and
- (c) Lease Commencement Conditions Precedent numbered (c) – (l) have been satisfied.

5.3 Term of Licence

The term of the Occupation Licence will:

- (a) commence on the Business Day immediately following the day on which WSPT notifies the Proponent that the last of the Conditions Precedent to Grant of Licence set out in clause 5.2 have been satisfied; and
- (b) terminate on the Business Day immediately preceding the Lease Commencement Date.

6 Lease

6.1 Conditions precedent to the granting of the Lease

The Lease will commence on the Business Day immediately following the day on which the last of the Lease Commencement Conditions Precedent to be satisfied is satisfied and the parties agree to be bound immediately by the terms of the Lease from such commencing date whether or not the Lease has been executed by the parties.

6.2 Granting of Lease

- (a) Within 10 Business Days after satisfaction of the Lease Commencement Conditions Precedent WSPT must deliver to the Proponent or the Proponent's solicitors, two counterparts of the Lease, with all blanks completed in accordance with paragraph (b).
- (b) The Lease must be completed by WSPT's solicitors inserting:
 - (i) the description of the Land on the front cover of the and in Item 1 of Schedule 1 to the Lease;
 - (ii) the Term of the Lease so that the Proponent's total occupation of the Premises (whether by Occupation Licence and/or Lease) will not exceed 8 years;
 - (iii) the Commencement Date and Termination Date on the front cover and in Items 4 and 5 of Schedule 1 to the Lease;
 - (iv) all other details reasonably required to complete the Lease for registration purposes;

- (c) Within 10 Business Days after WSPT has delivered the Lease to the Proponent or the Proponent's solicitors, the Proponent must deliver to WSPT:
- (i) the Lease in duplicate duly executed by the Proponent and the Guarantor;
 - (ii) a cheque for all moneys then due and payable by the Proponent to WSPT for registration fees associated with the Lease;
 - (iii) after the Proponent has delivered the Lease documents to WSPT, WSPT must:
 - (A) within 20 Business Days, execute the Lease; and
 - (B) arrange for the Lease to be registered at NSW Land Registry Services and for the original registered counterpart to be returned to the Proponent or the Proponent's solicitors promptly after registration; and
 - (C) from the Lease Commencement Date, WSPT and the Proponent are bound by the Lease as if the Lease had completed and executed by the parties, whether or not the Lease has been completed and executed.

7 Access for Sydney Metro and its Agents

7.1 Access

- (a) The Proponent acknowledges and agrees that from the date that the Proponent first takes occupation of the Premises (whether occupation is non-exclusive or exclusive and whether occupation is under the Occupation Licence, the Lease or any other agreement), WSPT will grant Sydney Metro, its builder and its Agents a non-exclusive licence to enter, use and access the Premises and the Land for the purpose of:
- (i) completing and inspecting the Speedway Works (whether those works are being carried out to the Land or any surrounding land); and
 - (ii) rectifying any defects during a defect liability period or otherwise.
- (b) The Proponent must allow Sydney Metro, its builder, its Agents and an Independent Reviewer to enter, use and access the Premises and the Land for the purposes referred to in clause (a) without undue interference by the Proponent, its agents, employees, licensees, contractors and invitees.

7.2 Obligations Continue After Expiration of Agreement

The obligations of the Proponent under this clause continue after the expiration or other determination of this Agreement

8 Sydney Metro Activities

8.1 Disruption and Inconvenience

The Proponent acknowledges and agrees that:

- (a) the Sydney Metro Activities and the Speedway Works are being carried out by Sydney Metro and its builder on various parts of the Land and there may be disruption and inconvenience to the Proponent's use of and access to the Premises and the Land and the Spectator Access Road;
- (b) WSPT has no responsibility or control over Sydney Metro delivering the Speedway Works or carrying out the Sydney Metro Activities or for any other work being carried out by Sydney Metro on or around the Land, including without limitation the construction, progress and delivery of those works;
- (c) Sydney Metro its builder and its Agents have a non-exclusive licence to enter, use and access the Premises and the Land for the purpose set out in clause 7;
- (d) the matters referred to in clauses (a), (b) and (c) will not result in WSPT being in breach of the Occupation Licence or the Lease, as the case may be, including not being in breach of any quiet enjoyment clause.

9 No Interest in Land

9.1 Despite any other provision of this Agreement, the parties acknowledge and agree that nothing in this Agreement:

- (a) gives the Proponent any right as a tenant of the Premises nor creates a relationship of landlord and tenant between WSPT and the Proponent in relation to the Premises; nor
- (b) gives the Proponent any interest in land in respect of the Premises prior to the Lease Commencement Date and the grant of the Lease in accordance with clause 6;

10 Easements

- 10.1 WSPT may grant easements in or over the Land to any party or any authority, to provide services for or access to the Land or such other land or for any other purpose provided that in granting such easements, the Permitted Use of the Premises under the Lease are not materially adversely affected.
- 10.2 The Proponent must at WSPT's request promptly execute any consents or other documents to enable WSPT to exercise its rights under this clause 10.

11 Assignment

11.1 No assignment etc

The Proponent must not assign, transfer, licence or otherwise deal with its interest under this Agreement, including any occupation licence.

11.2 No Change in Control

The Proponent must ensure that there is no Change in Control of the Proponent. For the purposes of this clause, any of the following is a Change in Control:

- (a) The Proponent must ensure that there is no Change of Control of the Proponent. For the purposes of this clause 11, any of the following transactions is a Change of Control:
 - (i) where the Proponent is a body corporate, a transfer of shares with the result that:
 - (A) any one person (whether legally or beneficially including, without limitation, through related companies or by agreement or understanding) holds more than the effective voting control percentage then held by the Original Consortium Members; or
 - (B) the Original Consortium Members together hold less than 51% voting control shareholding of the Proponent;
 - (ii) where the Proponent is the trustee of a unit trust, a transfer of the units in that trust with the result that:
 - (A) the percentage of units in the trust or the business conducted by the trust on or in respect of the Premises then held by any one person (whether legally or beneficially, including without limitation, through related companies or by agreement or understanding) exceeds the percentage held by the Original Consortium Members; or
 - (B) the Original Consortium Members together hold less than a 51% share of units in the trust and 51% voting rights in the trust;
 - (iii) any declaration by the Proponent that it holds its interest in this Agreement on trust for any person or persons, with the effect that:
 - (A) the interest of any one person (whether legally or beneficially, including without limitation, through related companies or by agreement or understanding) exceeds the interest then held by the Original Consortium Members; or
 - (B) the Original Consortium Members together hold less than 51% beneficial ownership and voting rights.
- (b) Any transfers of shares in the Proponent, any transfer of units in any unit trust of which the Proponent is trustee and any declaration of trust by the Proponent, will also be regarded as a Change of Control, and prohibited by clause 11.2.

12 Rights upon Event of Default

- 12.1 WSPT may at any time after the occurrence of any one or more of Events of Default and without prejudice to any other actions or remedies which WSPT has or may have or otherwise could have had for any such event, failure to perform or non-observance of any provision of this Agreement terminate this Agreement by notice in writing to the Proponent and from the date of giving such notice this Agreement will be terminated.

13 Dispute Resolution

13.1 Prerequisites to litigation

If a dispute arises out of or relates to this agreement (including any dispute as to the meaning, performance, validity, subject matter, breach or termination of the agreement or as to any claim in tort, in equity or pursuant to any statute) (called "Dispute") a party may not commence any court or arbitration proceedings relating to the Dispute unless it has complied with the following subclauses of this clause except where the party seeks urgent interlocutory relief.

13.2 Notice of dispute

The party claiming that a Dispute has arisen under or in relation to this agreement must give written notice to the other parties to this agreement specifying the nature of the Dispute.

13.3 Endeavour to resolve dispute

On receipt of that notice by that other parties, the parties to this agreement must endeavour in good faith to resolve the Dispute expeditiously using informal dispute resolution techniques such as mediation, expert evaluation or determination or similar techniques agreed by them.

13.4 Mediation

If the parties do not agree within 7 days of receipt of the notice (or such further period as agreed in writing by them) as to:

- (a) the dispute resolution technique and procedures to be adopted;
- (b) the timetable for all steps in those procedures; and
- (c) the selection and compensation of the independent person required for such technique,

the parties must mediate the Dispute in accordance with the Mediation Rules of the Law Society of New South Wales and the President of the Law Society of New South Wales or the President's nominee will select the mediator and determine the mediator's remuneration.

13.5 Arbitration

In the event that the Dispute is not resolved by mediation within 21 days of written notice by one party to the others of the dispute (or such further period agreed in writing between the parties), a party may refer the Dispute to arbitration. The

arbitrator shall be agreed between the parties within ten days of written notice of the referral by the referring party to the other, or failing agreement appointed by the President of the Real Estate Institute of NSW. In either case the arbitrator shall not be a person who has participated in an informal resolution procedure in respect of the Dispute.

13.6 Conduct of arbitration

The arbitration shall be conducted in accordance with the Rules for the Conduct of Commercial Arbitrations of the Institute of Arbitrators Australia and, subject to those Rules, in accordance with the provisions of the Commercial Arbitration Act.

14 Capacity of WSPT as Government Agency

The Proponent acknowledges that the WSPT is a Government Agency vested with statutory powers and responsibilities. Nothing in this agreement abrogates or fetters, or is intended to abrogate or fetter, the lawful and proper discharge by the WSPT of any of its statutory powers and responsibilities as a Government Agency under any relevant laws, whether in relation to the subject matter of this agreement or otherwise. In the event of any conflict between the unfettered discretion of the WSPT in the exercise of its statutory powers or responsibilities as a Government Agency and the performance of its or obligations under this agreement, the former prevails.

15 No Representation, Warranty or Undertaking

- 15.1 The Proponent acknowledges and agrees that no representation, warranty or undertaking has been given by WSPT or Sydney Metro relating to:
- (a) the suitability of the Premises for the Permitted Use, or any other uses;
 - (b) the condition or state of repair of the Premises;
 - (c) the Premises and amenities found in the Premises;
 - (d) the suitability of the services available at the Premises;
 - (e) or whether the Permitted Use may lawfully be made of the Premises.
- 15.2 The Proponent must make its own enquiries in relation to the matters referred to in this clause 16 and all other matters relating to the Premises generally.

16 Notices

- 16.1 Notices given under this document:
- (a) must be in writing and clearly readable in the English language;
 - (b) must be signed by the party giving or making it (or signed on behalf of that party by its authorised representative); and

- (c) may be delivered to a party by hand or by prepaid post or by email to that party's address or email address shown in page 1 of this document or to such other address or person as a party may specify by notice given in accordance with this clause.

16.2 A notice is taken to be duly given and received:

- (a) if delivered by hand, when delivered; or
- (b) if delivered by prepaid post, three Business Days after being deposited in the mail with postage prepaid; or
- (c) if delivered by email, at the time that the recipient party confirms, by non-automated email, receipt of the notice.

16.3 Despite clause 16.2, notices received after 5 pm in the place of receipt or on a non-Business Day are taken to be received at 9 am on the next Business Day.

17 No Caveat

The Proponent must not lodge any caveat or other instrument at NSW Land Registry Services in respect of the Land or the Premises.

18 GST

- 18.1 For the purposes of this Agreement, "GST", "taxable supply", "consideration" and "tax invoice" have the meanings given to those terms in *A New Tax System (Goods and Services Tax) Act 1999*.
- 18.2 Subject to paragraph 18.4, all payments to be made or other consideration to be provided under this Agreement are GST exclusive unless otherwise expressly stated. If any payment or consideration to be made or provided by either party is for a taxable supply under this Agreement that payment or consideration must be increased by the amount equal to GST imposed on that taxable supply and GST will be payable at the same time and in the same manner as the consideration for that taxable supply.
- 18.3 Subject to paragraph 18.4, if a clause of this Agreement requires a party to reimburse, indemnify or otherwise pay another party for any expense, loss or outgoing (reimbursable expense), the amount required to be paid by the first party will be the amount of the reimbursable expense inclusive of any GST paid when the expense, loss or outgoing was incurred less the amount of any input tax credits (if any) to which the other party is entitled in respect of a reimbursable expense.
- 18.4 A party is not obliged to pay any amount under paragraphs 18.2 or 18.2 unless a tax invoice is first provided.
- 18.5 The parties agree that they are respectively liable to meet their own obligations under the GST Law. The GST Amount must not include any amount incurred in respect of penalty or interest or any other amounts payable by a party as a result of default by that party in complying with the GST Law.

- 18.6 Each separate or periodic component of a taxable supply as referred to in section 156-5 of the GST Law is taken to be a separate taxable supply.
- 18.7 This clause 18 will continue to apply after expiration or termination of this Agreement.

19 General

19.1 Relationship between the parties

Nothing contained or implied in this Agreement will be deemed or construed to create the relationship of partnership or of principal and agent or of joint venture between WSPT and the Proponent. Specifically, the parties understand and agree that neither the method of computation of Rent, nor any other provision, nor any acts of the Proponent and WSPT or either of them will be deemed to create any relationship between them other than the relationship of WSPT and Proponent upon the terms and conditions only as provided in this Agreement.

19.2 Entire agreement

This document records the entire agreement between the parties in relation to its subject matter. It supersedes all prior contracts, arrangements, understandings or negotiations by, or between, the parties in relation to the subject matter of this document.

19.3 Further assurance

Each party must (at its own expense) do all things that any other party reasonably requires of it to give the other party the full benefit of any obligations owed to the other party and expressed in this document.

19.4 Counterparts

This document and any variation of this document may be executed and take effect in two or more counterparts, each of which when taken together, will constitute one and the same instrument.

19.5 Survival

All warranties, releases, exclusions and limitations of liability, indemnities, terms with respect to intellectual property and confidential information in this document will remain valid and binding following expiry or termination of this document. Any other provision by its nature intended to survive expiry or termination of this document survives expiry or termination of this document.

19.6 No waiver

The failure, delay or omission by a party to exercise, or to partially exercise, a right, power or remedy under this document does not operate as a waiver of that right, power or remedy. A party which exercises, or partially exercises, a right, power or remedy maintains its right to further exercise the same right, power or remedy or to exercise another right, power or remedy. A party waives a right, power or remedy only by explicitly doing so in a written notice to the other party and the waiver is strictly limited to the matters specified in the notice.

19.7 **Cumulative rights**

The rights, powers, authorities, discretions and remedies of a party under this document do not exclude any other right, power, authority, discretion or remedy.

19.8 **Severability**

If any provision of this document is determined by a court or other competent tribunal or authority to be illegal, invalid or unenforceable then:

- (a) where the offending provision can be read down so as to give it a legal, valid and enforceable operation of a partial nature it must be read down to the extent necessary to achieve that result;
- (b) where the offending provision cannot be read down then that provision must be severed from the document in which event, the remaining provisions of this document operate as if the severed provision had not been included; and
- (c) the legality, validity or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction is not affected,

but only to the extent that is consistent with giving substantial effect to the intentions of the parties under this document.

19.9 **Variation**

This document can only be amended, supplemented or replaced by another document signed by the parties.

19.10 **Governing law and jurisdiction**

This document is governed by the law of New South Wales. Each party submits to the jurisdiction of the courts in New South Wales in connection with matters concerning this document.

19.11 **Contact Person**

WSPT and the Proponent each must nominate in writing a person to contact about matters arising under this Agreement.

19.12 **No Holding Out**

The Proponent will not in connection with the Premises or otherwise directly or indirectly hold out or permit to be held out to any member of the public by any statement, act, deed, matter or thing that the Premises or the business conducted or operated thereon or any parts or parts thereof are or is being carried on or managed or supervised by WSPT nor shall the Proponent act as or represent itself to be the servant or agent of WSPT.

19.13 **Confidentiality**

- (a) Both parties must keep confidential and not allow, make or cause any public announcement or other disclosure of or in relation to the terms of this

Agreement (including any written or oral agreements, negotiations or information in relation to this Agreement) without the prior written consent (which cannot be unreasonably withheld or delayed) of the other party. The obligation not to make any disclosure or announcement without the other party's consent does not apply to disclosures or announcements to the extent that the disclosure or announcement is required:

- (i) by Law;
 - (ii) by the listing rules of the Australian Stock Exchange or any other recognised stock exchange; or
 - (iii) for either party to perform its obligations under this Agreement.
- (b) Given the duties of disclosure imposed on WSPT it is agreed that the Proponent and WSPT shall consult in relation to the disclosures to be made ensuring as best as able restriction of access to the commercial terms of this Agreement.

19.14 **WSPT's Consent**

Where this Agreement contemplates that WSPT may agree or consent to something, WSPT may agree or consent, or not agree or consent, in its absolute discretion, and may agree or consent subject to conditions, unless this Agreement expressly provides to the contrary.

Schedule 1 – Lease

Schedule 3 – Speedway Works

The Speedway Works comprise:

1. Internal site works

The scope of the internal site works includes the following works to be constructed within the Speedway Construction Site on the Speedway land:

- (a) earthworks;
- (b) retaining walls;
- (c) underground utilities reticulation including water, sewer, electrical and communications;
- (d) fire services;
- (e) drainage;
- (f) internal site access roads and egress;
- (g) lighting;
- (h) car parking;
- (i) landscaping including a playground; and
- (j) internal wayfinding and signage.

2. Building works

The scope of Speedway building works includes:

- (a) track works including safety walls and fences;
- (b) car parking;
- (c) fencing, ticketing, security;
- (d) grandstand and roofing; and
- (e) buildings which may include office, storage and maintenance, amenities (competitor and spectator), medical, garages, commentator, corporate boxes, merchandise, catering, and ticketing and access control facilities, plant and control room and a fire services pump house.

Schedule 4 – Milestone Dates

MILESTONE	Indicative Milestone Date
Indicative Completion Date for Milestone 2 Works	22 September 2021
Indicative Completion Date for the Speedway Works	17 December 2021

Schedule 5 – Deed Poll

THIS DEED POLL is made on 2021

BY: Speedway Promotions Pty Ltd ABN 98 648 814 779 (**Lessee**)

FOR THE BENEFIT OF:

Sydney Metro ABN 12 354 613 505, a NSW Government Agency constituted by section 38 of the *Transport Administration Act 1988* (NSW) and located at Level 43, 680 George Street, Sydney, NSW 2000 (**Sydney Metro**)

1. DEFINITIONS

The meanings of the terms used in this deed are set out below.

Consequential Loss means any loss of opportunity, profit, anticipated profit, business, business opportunities or revenue or any failure to realise anticipated savings, whether present or future, fixed or unascertained, actual or contingent.

Land means the land depicted as Lot 3 on the draft subdivision plan attached to this deed poll.

Speedway Delivery Agreement means the agreement between Western Sydney Parklands Trust and Sydney Metro dated 19 August 2020.

Sydney Metro Activities means all things which Sydney Metro is or may be required to do in relation to the delivery of the speedway, including the carrying out of the Sydney Metro Works and any other thing that Sydney Metro is required or permitted to do pursuant to the Speedway Delivery Agreement.

Sydney Metro Works includes the design and construction by Sydney Metro of a new speedway facility and any works ancillary to those works or otherwise necessary for the purposes of the construction of the new speedway facility.

Western Sydney Parklands Trust ABN 85 202 544 800, a NSW Government Agency located at Level 7, 10 Valentine Avenue, Parramatta NSW 2150.

2. release

2.1 Release by the Lessee

- (a) To the full extent permitted by law, the Lessee releases Sydney Metro from any liability which the Lessee or any party claiming through the Lessee incurs or is liable for, in relation to, in connection with or arising from either the Sydney Metro Works or the Sydney Metro Activities, including the failure of Sydney Metro to carry out or complete any of the Sydney Metro Activities or the Sydney Metro Works, and the occupation by Sydney Metro of the Land.
- (b) The Lessee must not bring or make any Claim against Sydney Metro in relation to, in connection with or arising from either the Sydney Metro Works or the Sydney Metro Activities, including the failure of Sydney Metro to carry out or complete any of the Sydney Metro Activities or the Sydney Metro Works, and the occupation by Sydney Metro of the Land.

- (c) Sydney Metro's negligence and breach of the planning approval in respect of the Sydney Metro Works during the construction of the Sydney Metro Works are excluded from clause 2.1(b).
- (d) Notwithstanding any other clause of this deed, the Lessee acknowledges and agrees that Sydney Metro will have no liability to the Lessee in respect of any Consequential Loss which arises out of or in any way in connection with the Sydney Metro Works or the Sydney Metro Activities, including the failure of Sydney Metro to carry out or complete any of the Sydney Metro Activities or the Sydney Metro Works, and the occupation by Sydney Metro of the Land.

2.2 **Sydney Metro may enforce this deed**

This deed is a deed poll intended to operate for the benefit of Sydney Metro and is enforceable by Sydney Metro.

3. **general**

3.1 **Governing law**

- (a) This deed is governed by the laws of the State of New South Wales.
- (b) The Lessee submits to the jurisdiction of the courts of that State, and of any court that may hear appeals from any of those courts, for any proceedings in connection with this deed.

EXECUTED as a deed poll.

signed, sealed and delivered by
Speedway Promotions Pty Ltd
(ABN 98 648 814 779).

Signature of Secretary/ Director

Name

Signature of Director

Name

DRAFT SUBDIVISION PLAN



Form: 07L
Licence: 05-11-667
Licensee: Sofidocs
Barrier Perry

LEASE
New South Wales
Real Property Act 1900

Leave this space clear. Affix additional pages to the left-hand corner.

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

STAMP DUTY	Insert Duties Assessment No. as issued by Revenue NSW Office. Duties Assessment No.								
(A) TORRENS TITLE	Property leased								
(B) LODGED BY	<table border="1"><tr><td>Document Collection Box</td><td>Name, Address or DX, Telephone and Customer Account Number if any</td><td rowspan="3">CODE L</td></tr><tr><td></td><td>Email:</td></tr><tr><td></td><td>Reference:</td></tr></table>	Document Collection Box	Name, Address or DX, Telephone and Customer Account Number if any	CODE L		Email:		Reference:	
Document Collection Box	Name, Address or DX, Telephone and Customer Account Number if any	CODE L							
	Email:								
	Reference:								
(C) LESSOR	WESTERN SYDNEY PARKLANDS TRUST ABN 85 202 544 800								
	The lessor leases to the lessee the property referred to above.								
(D)	Encumbrances (if applicable):								
(E) LESSEE	SPEEDWAY PROMOTIONS PTY LTD ABN 98 648 814 779								
(F)	TENANCY:								

- (G) 1. TERM**
- 2. COMMENCING DATE**
 - 3. TERMINATING DATE**
 4. With an **OPTION TO RENEW** for a period of **N/A** set out in clause **N/A** of **N/A**
 5. With an **OPTION TO PURCHASE** set out in clause **N/A** of **N/A**
 6. Together with and reserving the **RIGHTS** set out in clause **N/A** of **N/A**
 7. Incorporates the provisions or additional material set out in **ANNEXURE(S)** **"A"** hereto.
 8. Incorporates the provisions set out in **N.A.**
No. **N/A**
 9. The **RENT** is set out in clause **4.1** of of Annexure **"A"**

DATE / /

(H)

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Company: WESTERN SYDNEY PARKLANDS TRUST ABN 85 202 544 800

Authority: Section 127(1) of the Corporations Act 2001

Signature of authorised person:

Name of authorised person:

Office held:

Signature of authorised person:

Name of authorised person:

Office held:

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Company: Speedway Promotions Pty Ltd ACN 98 648 814 779

Authority: Section 127(1) of the Corporations Act 2001

Signature of authorised person:

Name of authorised person:

Office held:

Signature of authorised person:

Name of authorised person:

Office held:

(I) **STATUTORY DECLARATION #**

I,
solemnly and sincerely declare that -

1. The time for the exercise of option to in expired lease No. has ended; and
2. The lessee under that lease has not exercised the option.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1900.

Made and subscribed at in the State of New South Wales on.....

in the presence of of

Justice of the Peace (J.P. Number) Practising Solicitor

Other qualified witness [specify]

** who certifies the following matters concerning the making of this statutory declaration by the person who made it:

1. I saw the face of the person OR I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person has a special justification for not removing the covering; and
2. I have known the person for at least 12 months OR I have confirmed the person's identity using an identification document and the document I relied on was [Omit ID No.]

Signature of witness: Signature of applicant:

As the services of a qualified witness cannot be provided at lodgment, the statutory declaration should be signed and witnessed prior to lodgment. ** If made outside NSW, cross out witness certification. If made in NSW, cross out the text which does not apply.

* s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.

This is the Annexure “A” referred to in the Lease between Western Sydney Parklands Trust ABN 85 202 544 800 as Lessor and Speedway Promotions Pty Ltd ABN 98 648 814 779 as Lessee

Dated:

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OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 Definitions

In this Lease unless the contrary intention appears:

Approvals means all approvals, authorisations, permits, consents, licences, exemptions and the like which are required to be issued by or obtained from any Authority in connection with the Premises or Permitted Use or the performance by the Lessee of its obligations under this Lease.

Asbestos Management Plan means the report by Hibbs & Associates Pty Limited titled Asbestos Management Plan dated 15 January 2021 a copy of which has been signed by the Parties as Exhibit 1 to this Lease.

Assignment Tests means that a person:

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

Associate has the same meaning given in the term of the Corporations Act 2001.

Attorney means an attorney appointed under this Lease and any attorney's substitute or delegate.

Authorisation means:

- (a) an authorisation, consent, approval declaration, licence, permit, exemption, notarisation or waiver, however it is described; and
- (b) in relation to anything that could be prohibited or restricted by law if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken, including any renewal or amendment.

Authority means any government department or agency, local government council, government or statutory authority, or any other body, which imposes a requirement or whose consent is required in connection with the performance by any person of any obligation under, or in connection with, this Lease or the Premises.

Base Rent means the annual base rent specified in Item 6 as adjusted under this Lease.

Business Day means a day that is not a Saturday, Sunday or public holiday in Sydney.

Claim means any claim, notice, demand, action, proceeding, litigation, investigation or judgement, requisitions, damage, loss, cost, expense or liability whether immediate, future or contingent and whether based in contract, tort, statute or otherwise and whether involving a third party or a Party to this Lease.

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

Commencement Date means the date specified in Item 4.

Complementary Recreation and Community Use Activity Plan means the complementary recreation and community use plan which the Lessee is obliged to maintain as part of the Operational Plan and as described in clause 7.6.

Contamination means, in respect of land the presence of any substance, including any waste, Pollution, Hazardous Substance, toxic substance, dangerous goods, hazardous waste, special waste or any constituent of any such substance or waste such that:

- (a) the substance is above the concentration or level at which the substance is normally present in land in the same general locality; and
- (b) having regard to the use to which the land is put or is likely to be put, the presence of that substance presents a risk of harm to human health or any other aspect of the Environment or results in non-compliance with any Environmental Law,

and includes the act or omission giving rise to the contaminated state. For the purposes of this definition "land" shall include any air or water in, on, above or beneath the ground.

Control means a power or control that is direct or indirect or is, or can be, exercised as a result of, by means of, in breach of, or by revocation of, trusts, relevant agreements and practices, or any of them, whether or not they are enforceable. It does not matter whether the power or control is express or implied, formal or informal, exercisable alone or jointly with someone else.

CPI means the Consumer Price Index (All Groups) for Sydney published from time to time by the Australian Bureau of Statistics, or if there is any suspension or discontinuance of the publication of such consumer price index then until publication of the CPI is resumed, CPI will mean such other index reflecting fluctuations in the cost of living in Sydney, as determined by the Lessor (acting reasonably).

CPI Rent Review means the CPI rent review set out in clause 4.3.

Corporations Act means the Corporations Act 2001 (Cth).

Dangerous Good has the same meaning as in the latest edition of the Australian Code for the Transport of Dangerous Goods by Road and Rail.

Default Notice means a notice given by the Lessor setting out an Event of Default clause 14.1.

Development Consent means development consent in relation to the Premises or the Land granted by the Minister for Planning and Public Spaces pursuant to section 5.19 of the Environmental Planning and Assessment Act 1979 and includes the development consent dated 23 December 2020.

Dragway Lessee means the lessee from time to time of the adjacent dragway facility.

Dust Mitigation and Control Measures Operations means the operation dust mitigation and control measures set out in Schedule 4 as may be amended from time to time.

Eastern Creek Motorsport Precinct means the Eastern Creek Motorsport Precinct of which the Land forms part.

Environment means all components of the earth, including:

- (a) land, air and water;
- (b) any layer of the atmosphere;
- (c) flora and fauna;
- (d) any organic or inorganic matter and any living organism including humans;
- (e) human made or modified structures and areas;
- (f) the aesthetic characteristics of the components of the earth, including appearance, sound, odour, taste and texture; and
- (g) ecosystems with any combination of the above.

Environmental Aspect means in respect of any land (including the Premises and includes any air or water in, above, or under any land)

- (a) each of the following aspects of that land:
 - (i) heritage items on the land or heritage values or significance of the land or anything on it;
 - (i) Contamination of or from the land or from activities on the land;
 - (ii) pollution of or from the land or from activities on it;
 - (iii) the flora and fauna on or in the vicinity of the land including threatened species, populations or ecological communities or their habitats on or in the vicinity of the land;
 - (iv) critical habitat on or in the vicinity of the land;
 - (v) the propensity of the land to be affected by natural disasters such as bushfires, flooding or geotechnical instability or earthquakes; and
 - (vi) the physical, chemical or geotechnical characteristics of the land or any structures on it; and
- (b) the zoning or permissible uses of the Premises Environment.

Environmental Assessment Reports means all environmental assessment reports disclosed to the Lessee by the Lessor prior to the Occupation Date.

Environmental Consultant means an Expert Contamination Consultant listed on the Lessor's panel of environmental experts from time to time.

Environmental Law means any Law or policy incorporated by reference to or being part of any Law relating to:

- (a) the storage, handling or transportation of Waste, Dangerous Goods or Hazardous Substance;
- (b) occupational health and safety; or
- (c) the protection of the Environment.

Essential Term means the terms referred to in Item 15.

Estimated Turnover Rent is the amount set out in Item 17.

Event Co-ordination Agreement means an event coordination agreement with the other motorsport operators with the Eastern Creek Motorsport Precinct from time to time for the purpose of and including the items set out in Schedule 3.

Event of Default has the meaning given to that term in clause 14.1.

Event of Insolvency means for a person, being in liquidation or provisional liquidation or under administration, having a New Controller (as defined in the *Corporations Act*) or analogous person appointed to it or any of its property, being taken under section 459F(1) of the *Corporations Act* to have failed to comply with a statutory demand, being unable to pay its debts or otherwise insolvent, dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason, taking any step that could result in the person becoming an insolvent under administration (as defined in section 9 of the *Corporations Act*), entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event.

Expert Contamination Consultant means a person who is an expert in, and who has at least 5 years practical experience in, the assessment, management and remediation of Contamination of land.

Government Agency means:

- (a) a government or government department or other body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law.

GST means the same as in the GST Law and any applicable additional tax, penalty tax, fine, interest or other charge.

GST Law means the same as "GST law" means in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Guarantor means the party named in Item 14.

Guidelines means:

- (a) the guidelines published or used by any relevant Government Agency administering Environmental Laws; and
- (b) those guidelines normally used by Expert Contamination Consultants, in the jurisdiction in which the property is located, in respect of the investigation, management or remediation of Contamination.

Hazardous Substance means a substance that because of its quantity, concentration, acute or chronic toxic effects, carcinogenicity, teratogenicity, mutagenicity, corrosiveness, flammability, or physical, chemical or infectious characteristics, poses a hazard to property, human health or the Environment when improperly treated, stored, disposed of or otherwise managed.

Improvements means any structure or work of a permanent nature attached to the Premises.

Insurances means the policies of insurance referred to in clause 10.

Interest Rate means the annual percentage rate of interest charged by the Commonwealth Bank of Australia or its successor on overdraft accounts exceeding \$100,000 plus 2% per annum, or if such an annual percentage rate is not published by the Commonwealth Bank of Australia or its successor, such rate as is in the opinion of any officer for the time being of the Commonwealth Bank of Australia or its successor an equivalent replacement rate, or if the Commonwealth Bank of Australia has ceased to exist, and there is no successor, such rate as is in the opinion of any officer for the time being of an Australian trading bank nominated by the Lessor, an equivalent replacement rate.

Item means an item in the Reference Schedule.

Land means the land described in Item 1.

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

Lease means this lease including the Schedules, and all Annexures hereto.

Lessee's Agents means every agent, employee, licensee, contractor and invitee of the Lessee.

Lessee's Fixtures and Fittings means all fixtures, fittings, plant, equipment, services and other articles on or at the Premises, which have been or are installed or attached by the Lessee and at any time are in or form part of the Premises or service the Premises.

Lessor's Property means all the Lessor's plant, equipment, fixtures, fittings, furnishings and other property of the Lessor on or in the Land or the Premises.

Major Event Operations Plan means the plan, set out in Schedule 2 as a draft, applying to the Eastern Creek Motorsport Precinct from time to time for the purpose of:

- (a) providing a framework and operational procedures for the management of major events within the Eastern Creek Motorsport Precinct to avoid major event conflicts;
- (b) managing operations on days when any of the operators in the Eastern Creek Motorsport Precinct hold major events; and
- (c) monitoring and managing dust mitigation and control.

Maximum Trading Hours means the hours in Item 9.

New Controller means any person who will become an officer of or hold an interest in the Lessee or any Related Body Corporate in connection with a Change of Control.

Occupation Date means the date specified in Item 16.

Operating Year means:

- (a) the period from and including the Commencement Date of the Lease to and including the next 30 June;
- (b) each period of 12 months thereafter;
- (c) the period from and including the day following the last day of the last such 12 month period during the Term to and including the Termination Date;

provided that:

- (d) if this Lease is terminated or otherwise comes to an end prior to the Termination Date, the then current Operating Year will end on the date of such termination; and

if this Lease is renewed pursuant to the exercise of an option to renew contained in this Lease, or the Lessee holds over after the Termination Date in accordance with this Lease, the above provisions will be applied as if the Term of this Lease, and the term of the renewed lease, or the period of holding over, as the case may be, together constituted the term of one continuous lease.

Operational Environmental Management Plan means the operational environmental management plan (OEMP) prepared and approved in accordance with condition D1-8 of the Development Consent for the Premises granted by the Minister for Planning and Public Spaces dated 23 December 2020.

Operational Monitoring Program means the operational monitoring program prepared and approved in accordance with condition D9-15 of the Development Consent for the Premises granted by the Minister for Planning and Public Spaces dated 23 December 2020.

Operational Plan means a written plan containing details of how the Lessee proposes to manage and operate the Premises and the activities to be conducted on the Premises, dealing (as a minimum) with the following matters:

- (a) annual speedway car and motorbike event program schedules;
- (b) Complementary Recreation and Community Use Activity Plan
- (c) occupational health and safety;
- (d) Operational Environmental Management Plan;
- (e) Operational Monitoring Program
- (f) emergency response;
- (g) dust control and mitigation measures;
- (h) event management;
- (i) fire management;
- (j) traffic management;
- (k) spectator supervision and control;
- (l) roles and responsibilities for key staff;
- (m) staffing requirements;
- (n) financial control and budgeting;
- (o) marketing and promotion;
- (p) security and safety;
- (q) storage of dangerous and inflammable substances;
- (r) noise management; and

- (s) landscaping and ground maintenance.

Outgoings means all amounts assessable, chargeable, payable or incurred by the Lessor or the Lessee in respect of the Premises or the control, management or maintenance of the Premises, plus GST on those amounts including, but not limited to, the following:

- (a) **(rates and levies)** all rates, rents, levies and other charges payable to any Government Agency, including all council rates;
- (b) **(taxes)** all imposts, duties, fees, deductions, compulsory loans or withholdings and other taxes (excluding income tax and capital gains tax) payable to any Government Agency, including land tax on the basis assessed to the Lessor;
- (c) **(insurance)** any insurance premium and other expense relating to any insurance policy in respect of the Premises or their use including, but not limited to, insurance in respect of industrial special risks, workers compensation, public liability, consequential loss and loss of rent insurance;
- (d) **(management)** all costs in respect of the management and administration of the Premises, including fees payable to any managing agent, irrespective of where the management or administration is carried out and all salaries, wages, superannuation, leave entitlements and other employment costs;
- (e) **(Services)** the cost of all services supplied to the Premises including, but not limited to gas, electricity, water (including excess water), telephone, garbage and sanitary services, air-conditioning and emergency services, and all associated maintenance, repair, replacement and servicing costs;
- (f) **(repair and maintenance)** – the cost of repairs, renovations, replacements and maintenance of the Improvements;
- (g) **(signs)** – the cost of supplying, operating and maintaining any signs; and
- (h) **(basins and batters)** the costs associated with the ongoing maintenance and capital repairs of the basins and batters.

Parklands has the same meaning as in the WSPT Act and includes the Premises.

Party means a party to this Lease.

Percentage Rent Review means the percentage rent review set out in clause 4.4.

Permitted Sanctioning Body mean such Speedway sanctioning bodies as are from time to time officially recognised by the New South Wales state government as a sanctioning body for Speedway Racing in New South Wales, or is there is no such sanctioning body officially recognised by the New South Wales state government, such sanctioning body as may be approved in writing to the Lessor from time to time as being a Permitted Sanctioning Body for the purposes of this Lease.

Permitted Use means the use specified in Item 8.

PPSA means *the Personal Property Securities Act 2009 (Cth)*.

Pollution means and includes the release, emission or discharge into the Environment of a substance which causes damage or harm to any aspect of the Environment, and the degradation of, or adverse affectation of, the Environment including air pollution, pollution of surface or sub-surface waters, emission of offensive noise and dust and other temporary effects on the Environment.

Premises means the premises specified in Item 2, including the Land, and Improvements, and the Lessor's Property.

Reciprocal Car Parking Agreement means the reciprocal car parking agreement with the Dragway Lessee referred to in Clause 7.8 and set out in Schedule 5.

Recreation and Community Activity Schedule means the recreation and community schedule a copy of which has been signed by the Parties as Exhibit 3 to this Lease.

Reference Schedule means 29.1.

Related Body Corporate means a related body corporate as defined in section 50 of the *Corporations Act 2001* (Cth).

Remedial Work means any work to:

- (a) remove or reduce;
- (b) dispose of;
- (c) contain or encapsulate;
- (d) treat;
- (e) manage; or
- (f) abate or control,

any Contamination or Pollution or any risk from Contamination or Pollution.

Rent means the Base Rent and the Turnover Rent.

Rent Day means the Commencement Date and the first day of every month.

Repairs and Maintenance Plan means a maintenance plan for the Premises containing:

- (a) the repairs and maintenance works program (including standards of maintenance) to be undertaken to the Premises by the Lessee for the following Operating Year of the Term;
- (b) the safety standards required to be met in the carrying out of such repairs and maintenance works program at the Premises;
- (c) the proposed budget for and expected cost of the anticipated repairs and maintenance works program required to be undertaken at the Premises during the following Operating Year of the Term;
- (d) repairs and maintenance of a major, structural or capital nature and the replacement at the end of their life cycle;
- (e) details and descriptions of the current condition of each part of the Premises; and
- (f) the expected repairs and maintenance works program scheduled to be undertaken over the next five years of the Term and the anticipated cost and expenditure over that period.

Review Date means each date the rent is reviewed, as specified in Item 7(a).

Safety in Design Statement means the statement prepared by CWG Project Services & Turnbull Engineering (August 2020) a copy of which has been signed by the Parties as Exhibit 2 to this Lease.

Security Deposit has the same meaning given in clause 18.1.

Services means the services (such as water, drainage, gas, electricity, communications) running through or servicing the Premises and includes all plant, equipment, pipes, wires, cables, ducts and other conduits in connection with them.

Signage Policy means any Lessor's policy from time to time in relation to the advertising and signage within the Parklands.

Site Audit Statement means a site audit statement from the Site Auditor in accordance with the CLM and any relevant Guidelines.

Site Auditor means a person who is accredited as a site auditor under the CLM.

Spectator Access Road means the road leading from Ferrers Road for the purpose of access to the Land.

Speedway Racing means a competition either between a number of speedway cars or speedway motorbikes on the respective speedway car or speedway motorbike circuits.

Term means the term of this Lease as specified in Item 3.

Termination Date means the date specified in Item 5.

Turnover means all money, and the value of any thing other than money, received or receivable by, obtained or recovered by or credited to the Lessee or any Associate or Related Body Corporate of the Lessee in relation to the Land or the Premises, including, but not limited to:

- (a) all gross revenue, including gate takings and the value of all complimentary entry to events [REDACTED];
- (b) licence fees received or receivable in relation to any food, beverage or other concessions;
- (c) any rent and outgoings received or receivable in relation to any sublease;
- (d) any revenue received or receivable in relation to any signs, advertising, naming rights, broadcasting rights or any intellectual property or similar rights;
- (e) any revenue received or receivable for the hiring of any part of the Premises or the sale or provision of any service from the Premises;
- (f) all revenue received or receivable in the ordinary course of the Lessee's operations at the Premises; and
- (g) any other revenue received or receivable or value derived which may be carried out in a manner intended to deprive the Lessor of any Turnover Rent,

but does not include GST or any government funding. For the purposes of this definition, "value" means the value as reasonably determined by the Lessor and in the event of dispute, as determined in accordance with clause 5.8.

Turnover Rent means the amount by which [REDACTED] multiplied by the Turnover for an Operating Year exceeds the Rent payable in that Operating Year.

Waste means a substance that is discarded, rejected, unwanted, surplus or abandoned:

- (a) whether or not intentionally;

- (b) whether or not it has a value or use; and
- (c) whether or not it is intended for sale or recycling, reprocessing, recovery or purification.

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

1.2 Interpretation

- (a) Words importing the singular shall include the plural and vice versa.
- (b) Gender words importing any particular gender include all genders. The word "person" includes a company and vice versa.
- (c) Subject to section 109 of the Commonwealth Constitution this Lease shall be subject to and construed in accordance with the laws of the State of New South Wales and the parties agree that the courts of that State shall have jurisdiction to entertain any action in respect of or arising out of this Lease.
- (d) All headings contained in this Lease are for convenient reference only and are not intended to, and do not, form part of the substance of this Lease.
- (e) Where the context permits, references in this Lease to the Lessor include the Western Sydney Parklands Trust ABN 85 202 544 800.
- (f) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (g) Provisions requiring the Lessee to comply with a particular Law or Laws do not limit the Lessee's obligation to comply with all applicable Laws.
- (h) A reference to any party to this Lease or any other agreement or document includes the party's successors and substitutes or assigns.
- (i) A reference to any agreement or document is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by this Lease.
- (j) A reference to legislation or to a provision of legislation includes a modification, re-enactment of or substitution for it and a regulation or statutory instrument issued under it.
- (k) A reference to conduct includes any omission, statement or undertaking, whether or not in writing.
- (l) Unless stated otherwise, one provision does not limit the effect of another.

1.3 Business Days

If the day on or by which a person must do something under this Lease is not a Business Day:

- (a) if the act involves a payment that is due on demand, the person must do it on or by the next Business Day; and
- (b) in any other case, the person must do it on or by the previous Business Day.

1.4 Multiple Parties

If a party to this Lease is made up of more than one person, or a term is used in this Lease to refer to more than one party:

- (a) an obligation of those persons is joint and several;
- (b) a right of those persons is held by each of them severally; and
- (c) any other reference to that party or that term is a reference to each of those persons separately, so that (for example):
 - (i) a representation, warranty or undertaking is given by each of them separately; and
 - (ii) a reference to that party or that term is a reference to each of those persons separately.

2. GRANT & HOLDING OVER

2.1 Grant of Lease

The Lessor leases the Premises to the Lessee for the Term.

2.2 Lessee May Hold Over

- (a) If the Lessee continues to occupy the Premises after the Termination Date with the consent of the Lessor, clause 2.2(b) will apply.
- (b) The Lessee holding over under this clause is a monthly tenant of the Lessor:
 - (i) determinable by either party on one month's written notice given at any time; and
 - (ii) on the same terms as this Lease (with any changes appropriate to a monthly lease) with a monthly Base Rent and Turnover Rent that is one twelfth of the annual Base Rent and Turnover Rent on the Termination Date.

3. PERMITTED USE

3.1 Lessee's Permitted Use

The Lessee will not use the Premises or allow the Premises to be used for any purpose other than the Permitted Use.

3.2 No residence

Unless expressly permitted under a provision of this Lease, the Lessee will not reside on the Premises or permit any other person to reside on the Premises.

4. BASE RENT

4.1 Payment of Base Rent

- (a) The Lessee must pay the Base Rent to the Lessor without demand and without set-off, deduction or counterclaim.
- (b) The Lessee must pay the Base Rent by equal monthly instalments in advance.
- (c) The first Base Rent payment is due on the Commencement Date and subsequent payments are due on or before the 1st day of each month during the Term.

4.2 Base Rent Increases

The Base Rent payable from each Review Date will be reviewed as set out in Item 7(b) of the Reference Schedule.

4.3 CPI Rent Review

If the letters "CPI" or their equivalent appear in Item 7(b) below the Type of Review, the Base Rent payable from each Review Date (relevant Review Date) until the next Review Date is determined as follows:

$$RR = R \times CPI / CCPI$$

where:

RR = the Base Rent applicable from the relevant Review Date until the next Review Date;

R = the Base Rent payable immediately before the relevant Review Date;

CPI = the CPI last published before the relevant Review Date;

CCPI = the CPI last published before:

- (a) in the case of the first Review Date, the Commencement Date; or
- (b) in every other case, the Review Date immediately preceding the relevant Review Date.

4.4 Percentage Rent Review

If a percentage appears in Item 7(b) next to Percentage Rent Review, the Base Rent payable from the Review Date (relevant Review Date) until the next Review Date is the Base Rent payable immediately before that Review Date, plus an amount equal to the Base Rent multiplied by the percentage appearing in Item 7(b).

5. TURNOVER RENT

5.1 Payment of Turnover Rent

Subject to this clause 5, the Lessee must pay Turnover Rent to the Lessor for each Operating Year in accordance with this Lease.

5.2 Calculation of Turnover Rent

- (a) Within 20 Business Days of the end of each Operating Year, the Lessee must give the Lessor, in a form required by the Lessor:

- (i) a statement (prepared by the Lessee) of the Turnover for the last Operating Year; and
 - (ii) a certificate by a registered company auditor (as defined in the Corporations Act) certifying the Turnover for the Operating Year just ended.
- (b) Turnover Rent is calculated by reference to the amount shown in the auditor's certificate under paragraph 5.2(a)(ii), unless there is manifest error.
- (c) If the Lessee does not give the Lessor the auditor's certificate on time, the Lessor may calculate the Turnover for the relevant Operating Year acting reasonably and having regard to any information it has received under paragraph 5.2(a)(i) and any inspection or audit it has carried out under clause 5.7.

5.3 Notice of Turnover Rent

- (a) Within one month after the Lessor receives an auditor's certificate for an Operating Year under clause 5.2(a)(ii) (or calculates the Turnover under clause 5.2(c)), the Lessor must give the Lessee a notice stating:
- i. the Turnover Rent for the Operating Year just ended;
 - ii. what the Lessee has paid on account of Turnover Rent during the Operating Year just ended;
 - iii. what adjustment is required between paragraphs (a)i and (a)ii;
 - iv. the instalments for the Operating Year which commences on 1 July of the then current Operating Year; and
 - v. the adjustment required for the months of July and August of the then current Operating Year and which is payable on the next date the Turnover Rent instalment is due.
- (b) The notice provided by the Lessor under clause 5.3 is binding and conclusive and the Lessee is required to make payments in accordance with that notice.

5.4 Payment of Estimated Turnover Rent

- (a) The Lessee must pay on each Rent Day an equal monthly instalment on account of Turnover Rent for each Operating Year, calculated as follows:
- (i) For the first Operating Year, the Estimated Turnover Rent; and
 - (ii) After the first Operating Year, each monthly instalment on account of Turnover Rent will be calculated by dividing the Turnover Rent for the preceding Operating Year by the number of months in the preceding Operating Year.

5.5 Adjustment of Turnover Rent

- (a) The Lessor and Lessee must make any adjustment required between Turnover Rent due and the instalments of Turnover Rent paid under clause 5.4 for each Turnover Period on the first Rent Day after the Lessor gives the Lessee a notice under clause 5.3.
- (b) Subject to paragraph (c), the Lessee may request the Lessor in writing for additional adjustments to the Turnover Rent payable by the Lessee, if the Lessee

gives the Lessor any information the Lessor reasonably requires to make the adjustment.

- (c) The Lessee may only request an adjustment:
 - (i) if the amount of Turnover Rent payable for an Operating Year is likely to be at least 20% variance from the amount of Turnover Rent payable for the previous Operating Year and the Lessee provides evidence of such likely variance to the Lessor's reasonable satisfaction; and
 - (ii) once only during any Operating Year.
- (d) The Lessor may in its discretion (acting reasonably) agree to a request from the Lessee to adjust the Turnover Rent in accordance with paragraphs (b) and (c) of this clause.

5.6 Records

The Lessee must keep full and accurate accounting records to enable the calculation of Turnover for at least 3 years after the Operating Year to which they relate.

5.7 Lessor May Inspect Records

- (a) If the Lessor gives the Lessee reasonable notice, the Lessor may inspect or audit the Lessee's accounting records at the Premises or any other place the Lessor reasonably requires.
- (b) If an audit or inspection shows that the Turnover stated in a certificate under clause 5.2 is understated by more than 3% the Lessee must pay the Lessor's cost of undertaking the audit on demand.
- (c) If an audit reveals any error in a certificate given under clause 5.2, the Lessor and Lessee must make any necessary adjustment within 14 days of the error being discovered.

5.8 Dispute as to the value of "Turnover"

- (a) For the purposes of the value of "Turnover", if there is any dispute as to the value of any thing other than money, received or receivable by the Lessee in relation to the Land or remises, either or both parties may request the president of the Institute of Chartered Accountants in Australia to nominate an independent accountant who has at least five years' experience in valuing business operations similar to that conducted by the Lessee, to determine the dispute and the proportion of his or her costs that each party must bear.
- (b) The independent accountant appointed under paragraph (a) acts as an expert and not as an arbitrator and his or her decision is final and binding.

6. OUTGOINGS AND OTHER PAYMENTS

6.1 Lessee to Pay Outgoings

The Lessee must pay or reimburse the Lessor for all Outgoings during the Term. Where the Lessor receives invoices or other requests for payment of Outgoings, the Lessor may forward such invoices or other requests direct to the Lessee for payment, in which case the Lessee must promptly pay such invoices or other requests and provide the Lessor with proof of payment. Alternatively, the Lessor may (but is not obliged to) elect to pay the

Outgoings itself, in which case, if the Lessor provides a written request for payment to the Lessee together with reasonable details of the relevant Outgoings, the Lessee must promptly reimburse the Lessor for such payments.

6.2 Lessee to Pay for Services

Subject to clause 6.1 and to the extent that the relevant Services charges are not already covered in the definition of Outgoings, the Lessee will as and when the same become due for payment pay to the Lessor or to any other person or body authorised to supply the same all proper charges for gas, electricity, water or other services, either separately metered or otherwise attributed to the Premises, and supplied to the Lessee or consumed in or on the Premises, by the Lessee.

6.3 Lessee to Pay for Cost of Works

Whenever the Lessee is required under this Lease to do or effect any act, matter, work or thing then the doing of such act matter or thing will unless this Lease otherwise provides be at the sole risk, cost and expense of the Lessee.

6.4 Manner of Payment of Rent and Other Moneys

The Rent and other moneys payable in accordance with this Lease must be paid to the address or bank account specified in Item 14 or to such other person or at such other address as the Lessor may from time to time direct by notice in writing served on the Lessee.

6.5 Interest on Overdue Payments

Without prejudice to any other rights, powers or remedies of the Lessor under this Lease, the Lessee must pay to the Lessor interest on any money due to the Lessor under this Lease but unpaid. Such interest will be calculated on a daily basis and on the basis of a year of 365 days from (and including) the due date up to (and excluding) the date of actual payment at the Interest Rate. Interest will be payable monthly in arrears. If such interest is not paid when due, it will itself bear interest in accordance with this clause.

7. LESSEE'S OBLIGATIONS

7.1 General Obligations

Without limiting the Lessee's other obligations under this Lease, the Lessee must at all times during the Term, in using, managing, maintaining and repairing the Premises comply with its obligations under this Lease and must:

- (a) comply with all Laws, all Environmental Laws, all Approvals and all applicable requirements of any Authority in connection with the Premises or the use and occupation of the Premises by the Lessee, including all Laws and Approvals relating to public health and safety;
- (b) ensure that all Approvals necessary to authorise the use of the Premises for the Permitted Use are held and maintained by the Lessee;
- (c) comply with any conditions imposed by any of the Insurances; and
- (d) upon request by the Lessor, provide such evidence as the Lessor reasonably requires to demonstrate that the Lessee has complied with this clause 7.1.

7.2 Lessee's Operations

- (a) The Lessee must operate the Premises and the activities conducted on the Premises:
 - (i) only for the Permitted Use;
 - (ii) for their intended purpose;
 - (iii) properly and efficiently;
 - (iv) in a reputable manner;
 - (v) in accordance with all Approvals; and
 - (vi) in accordance with the terms and conditions of this Lease.

7.3 Operational Plan

- (a) The Lessee must maintain an up to date detailed Operational Plan, relating to the safe and efficient operation of a high quality speedway facility on the Premises and compliance, in conformance with the requirements of Government Agencies and motor sport authorities;
- (b) The Operational Plan must be submitted to the Lessor for approval prior to the start of an Operating Year. If the Lessor does not approve the Operational Plan, the Lessor must notify the Lessee of the reason why approval was not granted and the Lessee must amend the Operational Plan to take address the reason and resubmit the Operational Plan for the Lessor's approval. The Operational Plan must be resubmitted until the Lessor's approval was granted.

7.4 Major Event Operations Plan

- (a) The Lessee acknowledges that a Major Event Operations Plan will or does apply to the Eastern Creek Motorsport Precinct.
- (b) The Lessee must observe all terms and conditions on its part under the Major Event Operations Plan.

7.5 Event Co-ordination Agreement

- (a) The Lessee must when directed by the Lessor enter into an Event Coordination Agreement with the other operators at the Eastern Creek Motorsport Precinct.
- (b) The Lessee must observe all terms and conditions on its part under the Event Coordination Agreement.

7.6 Complementary Recreation and Community Use Activity Plan

- (a) The Lessee must maintain an up to date Complementary Recreation and Community Use Activity Plan as part of the Operational Plan.
- (b) The Complementary Recreation and Community Use Activity Plan will include:
 - (i) TAFE program for automotive students by supplying a car, to fit out, work on and get race ready,

- (ii) Hospitality industry – provide options to schools through school-based work placements/experience,
- (iii) Junior training through utilising caged karts,
- (iv) Junior motorcycle racing and training days,
- (v) Speedway vintage display day,
- (vi) Adopt a buddy apprentice scheme marrying up mechanics/enthusiasts to race teams,
- (vii) Foodies and farmer markets,
- (viii) Festivals (arts & crafts, multicultural, food & wine, music and expos),
- (ix) Charity events (Christmas toy drop off, sleep outs, recycling, RSPCA),
- (x) Events (NYE fireworks, movie nights, supercross & MX events, stadium truck experience),
- (xi) Clubs (remote control cars, BMX bikes, corporate hire days), Team building (back on track, make a dog a house)

which are set out in more detail in the Recreation and Community Activity Schedule.

7.7 Permitted Sanctioning Body Requirements

- (a) The Lessee must ensure that no Speedway Racing occurs on the Premises unless such Speedway Racing has been sanctioned by a Permitted Sanctioning Body.
- (b) The Lessee must comply with all requirements of Permitted Sanctioning Bodies where such requirements apply to the Lessee or the Premises or the Land including because the Permitted Sanctioning Bodies are sanctioning events held on the Premises, or for any other reason.
- (c) The Lessee must upon request by the Lessor, provide such evidence as the Lessor reasonably requires to demonstrate that the Lessee has complied with this clause 7.7.

7.8 Reciprocal Car Parking Agreement

- (a) The Lessee must either prior to the Occupation Date or promptly on request by the Lessor enter into a Reciprocal Car Parking Agreement with the Dragway Lessee for reciprocal car parking rights on their respective sites.
- (b) The Lessee must observe all terms and conditions on its part under the Reciprocal Car Parking Agreement.
- (c) The Lessee must not enter into any variation of the Reciprocal Car Parking Agreement with the Dragway Lessee without first obtaining the approval of the Lessor.
- (d) If the Reciprocal Car Parking Agreement expires before the Termination Date, the Lessee must enter into a new reciprocal car parking agreement with the Dragway Lessee or its successor on terms and conditions approved by the Lessor for the

period commencing on the day of the date of expiration of the Reciprocal Car Parking Agreement until the Termination Date.

7.9 Spectator Access Road

- (a) The Lessor grants a non-exclusive licence to the Lessee to use the Spectator Access Road for the purpose of access to and from the Land.
- (b) The Lessee acknowledges that it does not have exclusive use of the Spectator Access Road, but shares rights to use the Spectator Access Road in common with the Dragway Lessee and the general public.
- (c) Without limiting the generality of the preceding paragraph, the Lessee must ensure that:
 - (i) reasonable access is provided to the Spectator Access Road at all times for the Dragway Lessee and the general public; and
 - (ii) unimpeded access to the Spectator Access Road is provided at all times (including during an event at the Premises) for emergency vehicles.
- (d) Without limiting the generality of the Lessee's obligations in this Lease regarding repairs and maintenance, the Lessee must, at its own cost and expense, pay the Lessee's share of the repair and maintenance cost in accordance with any agreement from time to time between the Lessee and the Dragway Lessee. The Lessee must at its own cost and expense ensure that the Spectator Access Road is maintained to a standard required by the Lessor but only where repairs and maintenance are required as a direct consequence of the Lessee using the access road. Details relating to the repairs and maintenance of the Spectator Access Road must be included in the Repairs and Maintenance Plan referred to in clause 7.14, as if it was part of the Premises.
- (e) The Lessee must not without the Lessor's consent:
 - (i) erect any buildings or other structures on or at the sides of the Spectator Access Road;
 - (ii) erect any signs on or to the side of the Spectator Access Road, except permanent or temporary signs that provide directions to assist patrons entering or leaving the Premises, after full consultation with the New South Wales Police, Ambulance and Fire Authorities, the Dragway Lessee and any other potential user of the Spectator Access Road.

7.10 Dust Mitigation and Control Measures

The Lessee must comply with the Dust Mitigation and Control Measures Operations and any other direction of the Lessor in relation to the mitigation and control of dust arising from the Lessee's use of the Premises.

7.11 Management During Term

- (a) The Lessee must, at all times during the Term, and in accordance with the terms and conditions of this Lease:
 - (i) manage the Premises in a professional and cost effective manner, in accordance with relevant industry standards including being responsible

for contractual arrangements and the collection of money and the payment of all operating expenses relating to the Premises; and

- (ii) manage the Premises in accordance with the Lessee's Operational Plan.
- (b) If the Lessee proposes to enter into an agreement to appoint an operational manager for the Premises or to manage the day to day operation or management of activities at the Premises, and the operational manager is to be anyone other than an office holder of the Lessee or employee of the Lessee then the Lessee must seek the Lessor's approval in principle to such appointment and invite the Lessor to participate in the process of identifying suitable candidates and selecting an appropriate appointee to the role. The Lessor will be entitled to give or refuse its consent to any proposed appointment or the terms and conditions of such appointment such consent not to be unreasonably withheld.

7.12 Environmental Conservation

- (a) The Lessee must ensure that its use of the Premises does not pose a threat to any threatened species within or in the vicinity of the Premises and must if requested to do so by the Lessor, provide the Lessor with written details of the reasonable steps taken by it to comply with this requirement.
- (b) The Lessee must comply with any conservation management plan which applies to the Premises or the Parklands.
- (c) The Lessee must not damage or remove any vegetation within that part of the Premises which is within or adjoins the area known as the southern green belt, and must if requested to do so by the Lessor, provide the Lessor with written details of steps taken by it to comply with this requirement.

7.13 Staff

- (a) The Lessee must ensure that the Lessee's employees, contractors and agents, and others employed to work at the Premises do not do anything which would be a breach of this Lease if done by the Lessee.
- (b) The Lessee must ensure that an appropriate number of experienced staff are employed at the Premises to enable a high level of customer service to be provided and to reasonably service the public in an appropriate and timely manner.

7.14 Maintenance and repair

The Lessee must:

- (a) promptly replace any part of the Premises which is worn or damaged with items of similar quality;
- (b) keep the Premises, the Services and the Lessee's Fixtures and Fittings in good and substantial repair and structurally sound condition having regard to their condition at the commencement of the Lease including undertaking repairs of a major capital or structural nature and replacement of them at the end of their life cycle;
- (c) comply with and carry out works set out in the Repairs and Maintenance Plan;
- (d) keep in good condition any part of the Premises that are landscaped, keep the Premises free of weeds;

- (e) keep the Premises secure and comply with the Lessor's directions regarding security of the Premises;
- (f) keep the Premises clean and free from waste and rubbish, to a standard equivalent to the standard of a well maintained motorsports facility, removing all rubbish and refuse on each day on which the Premises are open for business;
- (g) store all cleaning products, chemicals and flammable substances in a cool and dry place within the Premises, away from any direct sunlight or an open flame;
- (h) carry out any necessary upgrades, improvements or modifications to ensure that the Premises meet the requirements of a Permitted Sanctioning Body ;
- (i) prior to the Commencement Date and then prior to the start of an Operating Year, prepare and submit a Repairs and Maintenance Plan for the following three (3) years. The Repair and Maintenance Plan must be submitted to the Lessor for approval. If the Lessor does not approve the Repair and Maintenance Plan, the Lessor must notify the Lessee of the reason why approval was not granted and the Lessee must amend the Repair and Maintenance Plan to take address the reason and resubmit the Repair and Maintenance Plan for the Lessor's approval. The Repair and Maintenance Plan must be resubmitted until the Lessor's approval was granted; and

repaint or redecorate those parts of the Improvements as are normally painted to the Lessor's reasonable satisfaction during the last 6 months of the Term unless otherwise agreed with the Lessor.

7.15 Alterations or Additions

- (a) The Lessee must not at any time:
 - (i) conduct any capital works to the Premises;
 - (ii) make any significant alterations or additions to the Improvements; or
 - (iii) conduct any activities which physically alter the structure of the Premises
 without the prior written consent of the Lessor (such consent not to be unreasonably withheld or delayed).
- (b) The Lessee may conduct minor works to the Improvements or the Premises without Lessor's consent.
- (c) Before the Lessee carries out any works referred to in paragraph 7.15(a), it must obtain, at its own cost, all necessary Approvals from the relevant Authorities.

7.16 Submission of Plans and Specifications

- (a) In seeking the consent of the Lessor to works pursuant to clause 7.15(a), the Lessee will submit detailed drawings, plans and specifications in relation to such activity.
- (b) The Lessor may impose such conditions as it reasonably sees fit on any consent issued by the Lessor pursuant to clause 7.15(a), including that:

- (i) the Lessee shall procure at the Lessee's cost any Approval from any relevant Authority for such work and promptly produce copies of such Approvals to the Lessor upon request by the Lessor to do so; and
- (ii) upon completion of such work the Lessee shall produce to the Lessor any certificates of compliance or other certificates required by the Lessor and issued or appropriate to be issued by any relevant Authority including private certifiers.

7.17 Conduct of Works

In conducting any works referred to in clauses 7.15(a) or 7.15(b), the Lessee must:

- (a) cause as little inconvenience, nuisance or damage as reasonably possible to any adjoining occupier or adjoining property;
- (b) not store any Hazardous Substances in or about the Premises except as reasonably necessary for the works and shall not allow any Hazardous Substances to escape from the Premises;
- (c) not do anything to contravene any Environmental Law in relation to the Premises; and
- (d) comply with all Laws and the requirements of any Authorities;
- (e) comply with all directions of the Lessor. .

7.18 Signage, Advertising and Naming Rights

- (a) No signs or advertisements are to be placed on any part of the Premises except in accordance with the Signage Policy and in accordance with the requirements of all relevant Authorities.
- (b) Subject to clause 7.18(a), the Lessee may erect any signs or grant any advertising rights in relation to the Land or the Premises provided that it has obtained the written consent of any relevant Government Agency and subject to the following:
 - (i) the Lessee must obtain the Lessor's prior approval to erect any structure for the purpose of displaying any signs or advertising, such approval not to be unreasonably withheld and must be granted or refused within twenty-eight (28) days of the Lessor receiving full details of the proposed structures;
 - (ii) the Lessee must obtain the prior approval of the Lessor in relation to any agreement for sign or advertising which may extend beyond the Termination Date in Item 5 or which does not comply with the Signage Policy; and
 - (iii) the Lessee must comply with all Laws.
- (c) The Lessee must not grant any naming rights for the Land or the Premises.
- (d) Despite clause 7.18(a), the Lessee is not required to obtain the Lessor's consent to the following signs:
 - (i) notices which are required for workplace health and safety purposes or otherwise required by Law;

- (ii) signs inside structures that are not visible from the exterior of, or outside, those structures; and
- (iii) usual directional signage and signage of an administrative nature, provided always that any such signage is consistent with the Signage Policy.

7.19 Infectious illness

If an infectious illness or disease occurs in the Premises, or to any person using the Premises, the Lessee must promptly:

- (a) notify the relevant Authorities which are required to be advised by Law of that occurrence;
- (b) provide a copy of each notification referred to in clause 7.19(a) to the Lessor; and
- (c) fumigate and disinfect the Premises as required by the relevant Authorities, and comply with their other requirements in respect of the Premises.

7.20 Bushfire Management and Risk Mitigation

- (a) The obligations for bush fire management as defined by the *Rural Fires Act, 1997* and any associated Acts, Regulations or bush fire planning instruments which specifically relate to the Premises shall be the responsibility of the Lessee.
- (b) The Lessee (acting reasonably) must prepare its own bush fire management plan in relation to the Premises in consultation with the Lessor (acting reasonably) and relevant emergency service organisations.
- (c) The Lessee must, in relation to the Premises, comply with the requirements of the NSW Rural Fire Service Cumberland Zone Bush Fire Management Committee (BFMC) Bush Fire Management Plan (BFMP) and the reasonable requirements of associated Bush Fire Management Plan prepared by the Lessor for lands under its control as amended from time to time and notified to the Lessee, and any requirements of relevant emergency service organisations.
- (d) The parties agree they will cooperate to create, or allow to be created, and give access thereto to emergency service organisations, such internal access ways, service roads and external entry points and the like as may be reasonably required from time to time by any relevant emergency service organisations provided that any access granted under this paragraph 7.20(d) which the Lessee is not required by Law to grant must not adversely affect the Lessee's use of the Premises for the Permitted Use.
- (e) The Lessee must not make any Claim against the Lessor in relation to any costs of complying with its obligations under this clause.

7.21 Lessee's Obligations

- (a) Without limiting the Lessee's obligations under this Lease, the Lessee must (and where applicable must ensure that its employees, contractors, agents and invitees):
 - (i) carry out the Permitted Use and use the Premises only for the Permitted Use;
 - (ii) carry on its business in a professional and competent way;

- (iii) give the Lessor a copy of any notice or order which may materially affect the Lessor or the Premises, or the use or occupation of the Premises, promptly after the Lessee receives the notice or order;
- (iv) comply with the restrictions, easements and covenants, if any, registered on the title to the land;
- (v) comply with any general regulations imposed by the Lessor from time to time in respect of the Parklands provided that these are not inconsistent with the terms of the Lease;
- (vi) comply with the directions of the Lessor in relation to security and emergency control at the Parklands; and
- (vii) inform the Lessor of any material damage to, or significant accident, injury or death in, the Premises as soon as reasonably possible after the Lessee becomes aware of it.

7.22 Prohibited Acts

- (a) Without limiting the Lessee's obligations under clause 7 the Lessee must not (and where applicable must ensure that its employees and invitees do not):
 - (i) allow or permit Speedway Racing to occur on the Premises at any time without holding an Authorisation for the relevant event from a Permitted Sanctioning Body
 - (ii) operate the business or do anything in or upon the land or the Premises which in the reasonable opinion of the Lessor may become a nuisance, disturbance or obstruction or cause of damage whether to the Lessor or to other users of the Parklands;
 - (iii) do anything in or around the Premises which is dangerous;
 - (iv) keep any animals or birds on the Premises;
 - (v) inform the Lessor of any material damage to, or significant accident, injury or death in, the Premises as soon as reasonably possible after the Lessee becomes aware of it;
 - (vi) bring on to the Premises or keep any Hazardous Substance on the Premises without the prior consent of the Lessor, except for small quantities required for the normal operation and maintenance of the Premises in accordance with the Permitted Use.
 - (vii) use the Premises or use the Lessor's Property for other than its intended use;
 - (viii) do anything to cause Contamination or Pollution to the Premises or the Parklands; or
 - (ix) object to any condition of a consent or approval issued by an Authority which repeats or reinforces a restriction, right, reservation or obligation under this Lease.

7.23 Security

The Lessee is responsible for arranging and maintaining security at the Premises to protect against unauthorised entry during the Term, at its cost.

7.24 Alcohol

The Lessee must not permit any alcohol to be brought on, sold from or consumed on the Premises, without the prior consent of the Lessor and then only within designated corporate box/hospitality areas within the Premises and in accordance with all Laws.

7.25 Work Health and Safety

(a) *Work Health and Safety Act 2011*

Without limiting its obligations under any other provision of this Lease, when the Lessee is using and occupying the Premises it must comply with all applicable occupational health and safety legislation, including the *Work Health and Safety Act 2011* (NSW) and the regulations made under that Act which the Lessee acknowledges it will fully and competently do at all times during the Term.

(b) *Lessee's acknowledgement of the Lessor's reliance*

The Lessee acknowledges that the Lessor relies on the Lessee's competency and capability in meeting its obligations under clause 7.25(a) to put in place and control safe systems of work and relevant procedures and that the Lessor has no control over the systems of work or procedures employed by the Lessee while it is using and occupying the Premises or performing its obligations under this Lease.

7.26 Lessee to comply with Environmental Laws

(a) The Lessee acknowledges receipt of the Environmental Assessment Reports and Asbestos Management Plan.

(b) The Lessee acknowledges and agrees that:

(i) it has had full and ample opportunity to review, consider and understand the Environmental Assessment Reports and the Asbestos Management Plan and that it does understand the Environmental Assessment Reports and Asbestos Management Plan;

(ii) the Lessor discloses the Environmental Assessment Reports and the Asbestos Management Plan to the Lessee in good faith and for the information of the Lessee;

(iii) the Lessee has made its own independent inquiries, inspections and assessments of, and satisfied itself in relation to, the Environmental Aspects of the Premises; and

(iv) the Lessor has not prevented or impeded the Lessee in making all necessary inquiries, inspections and assessments of the Premises.

(c) The Lessor does not warrant or represent:

(i) that the Premises are suitable for any use, or for any particular use;

(ii) that there are no Environmental Aspects either affecting the Premises or arising as a result of activities on the Premises;

- (iii) the accuracy of information about the past use of the Premises before they were owned by the Lessor;
 - (iv) that the Premises are or are not Contaminated, or the nature or extent of any Contamination;
 - (v) any liability, duty or obligation that may be incurred by the occupier of the Premises from time to time or any particular occupier; or
 - (vi) any compliance with any Laws.
- (d) On and from the date on which the Lessee takes possession of the Premises, the Lessee accepts the Premises in its existing state and condition including:
 - (i) any existing Contamination of the Premises; and
 - (ii) the condition of any existing structures located on the Premises.
- (e) The Lessee is not responsible for any Contamination in the containment cell existing in the Premises when the Lessee first took occupation of the Premises except to the extent any Contamination of the Premises or surrounding land is caused or contributed to by the Lessee disturbing or interfering with that containment cell.
- (f) Except as set out in clause 7.26(e), the Lessee shall, as and from the Commencement Date, be responsible for, and will release the Lessor from any Claims in relation to:
 - (i) any change or disturbance to existing Contamination which is caused or contributed to by the Lessee; and
 - (ii) any Contamination the Lessee causes on the Premises during the Term.
- (g) The Lessee must:
 - (i) not Contaminate the Premises;
 - (ii) not cause any Pollution of or from the Premises;
 - (iii) allow the Lessor and the Lessor's employees, contractors and agents access to the Premises at reasonable times (provided written notice is first given to the Lessee) to carry out environmental audits, assessments and investigations of any part of the Premises; and
 - (iv) at the Lessee's cost carry out any Remedial Work to remediate any Contamination of or from the Premises.
- (h) In relation to its use of the Premises, the Lessee must, during the Term, and in relation to the Premises:
 - (i) comply with relevant Environmental Laws;
 - (ii) use its reasonable endeavours to prevent a breach of any Environmental Law;
 - (iii) report any breach of Environmental Law; and

- (iv) provide to the Lessor as soon as reasonably practicable details of notices received by or proceedings commenced against the Lessee pursuant to an Environmental Law:
 - (A) relating to a breach or alleged breach by the Lessee of an Environmental Law; or
 - (B) requiring the Lessee to carry out works to decrease the affectation of the Premises by any Hazardous Substance;
- (v) before carrying out any Remedial Work, provide to the Lessor full written details of the Contamination and the proposed Remedial Work, and obtain the approval in writing of the Lessor (such approval not to be unreasonably withheld) and all Approvals required from relevant Authorities for the carrying out of such remediation works; and
- (vi) after carrying out any Remedial Work obtain and provide to the Lessor a Site Audit Statement.
- (i) The Lessee shall indemnify and keep the Lessor indemnified against all Claims arising from a breach by the Lessee of any Environmental Law which breach is in relation to the Premises or any Contamination caused by the Lessee in relation to the Premises. This clause shall not merge on expiration or other determination of this Lease in respect of any act, deed, matter or thing happening before such expiration or determination.

7.27 Compliance with particular Legislation

- (a) Notwithstanding anything to the contrary in this Lease, including without limitation, the description of the Permitted Use, the Lessee must comply with the provisions of the *State Environmental Planning Policy (Western Parklands) 2009* and any Plan of Management or Precinct Plan for the Premises prepared and administered under the *Western Sydney Parklands Act (2006)*.
- (b) When accessing or utilising the Premises and/or administering any installation or maintenance as permitted under this Lease, the Lessee must observe and comply with all Laws relating to the Premises and/or the Permitted Use.

7.28 Safety Management System

- (a) The Lessee must prepare and submit to the Lessor for approval details of a safety plan for the Premises to provide for the safety of the Lessee's employees, contractors, agents and invitees, and members of the public. The Lessee must consult with the Lessor in relation to the safety plan, and must incorporate in the safety plan all reasonable requirements of the Lessor. The Lessee must ensure that its employees, contractors, agents and invitees comply with the safety plan.
- (b) The Lessee must comply with all applicable safety Laws.

7.29 Trading hours

- (a) Subject to paragraph 7.29(b), the Lessee may not trade from the Premises outside the Maximum Trading Hours.
- (b) Following a request by the Lessee, the Lessor may at its discretion (exercised reasonably) permit extended trading hours, subject to compliance with after-hours security access control arrangements and any other reasonable conditions

imposed by the Lessor. The Lessee may not trade outside of the hours stipulated in any relevant Approval.

7.30 Financial Reports

- (a) The Lessee will comply with its statutory reporting obligations and within 1 month of the receipt of the audited financial statements from the auditor each year during the Term, the Lessee must provide to the Lessor a copy of the Lessee's annual audited financial statements, including the Lessee's statement of financial performance, statement of financial position and statement of cash flows, showing:
 - (i) the income and expenditure of the Lessee during its last financial year;
 - (ii) the assets and liabilities of the Lessee at the end of its last financial year;
 - (iii) mortgages, charges and other securities of any description affecting any of the property of the Lessee at the end of its last financial year;
 - (iv) financial statements relating to any trust of which the Lessee was a trustee during the relevant period; and
 - (v) any other information reasonably required by the Lessor to enable the Lessor to assess the commercial and financial viability of the Lessee's activities on the Premises, the Lessee's management of the Premises and the Lessee's progress against its Operational Plan agreed with the Lessor.
- (b) At the expiration of each Operating Year during the Term, the Lessee must provide to the Lessor such financial statements and accounts relating to the operation of the Premises and the business enterprise conducted by the Lessee at the Premises in such form and detail as reasonably required by the Lessor.
- (c) The Lessee must provide to the Lessor copies of all documentation required to be provided by the Lessee to, or lodged by the Lessee with the Australian Securities and Investment Commission or any other Government Agency. Copies of such documentation must be provided to the Lessor at the same time it is provided to or lodged with the Australian Securities and Investment Commission or other similar Government Agency.
- (d) The Lessee must at all times provide to the Lessor full and unrestricted access to the Lessee's financial and non-financial books and records to enable the Lessor to review and verify any information provided to the Lessor under this clause 7.30. The Lessor will give reasonable notice to the Lessee prior to making a request for access.

7.31 Safety in Design Statement and mitigation of operational risks

- (a) The Lessee acknowledges and agrees to the matters set out in the Safety in Design Statement.
- (b) The Lessee must take steps required to mitigate operational risks arising from the Lessee's use, occupation or operation of the Premises, including as set out in the Safety in Design Statement, and any steps reasonably required by the Lessor.

8. OTHER DEVELOPMENT IN EASTERN CREEK MOTORSPORTS PRECINCT

- (a) The Lessee acknowledges that during the Term there will be further development of other land owned by the Lessor in the vicinity of the Premises and in the Parklands.
- (b) The Lessee must not object to any such further development or activities on such other land or make any Claim in relation to such further Development, or activities on such other lands.

9. RISK AND INDEMNITIES

9.1 Indemnity for use of Premises

The Lessee will indemnify and keep indemnified the Lessor from and against any Claims:

- (a) which the Lessor may be or becomes liable, in respect of or arising directly from any loss, damage or injury to property or persons caused or contributed to by:
 - (i) any wilful or negligent act or omission;
 - (ii) any default under this Lease; or
 - (iii) the occupation, operation or use of the Premises,

by or on the part of the Lessee or the Lessee's employees, agents, contractors or invitees except to the extent that any such Claims arise from or are caused or contributed to by the negligence or wilful act or omission on the part of Lessor or Lessor's employees, agents or contractors.

9.2 Indemnity Continues After Expiration of Lease

The rights of the Lessor and obligations of the Lessee under this clause 9 continue after the expiration or other determination of this Lease in respect of any act, deed, matter or thing happening before such expiration or determination.

9.3 Lessee's Risk

- (a) The Lessee shall occupy, use and keep the Premises at the risk of the Lessee.
- (b) Without limiting clause 9.3(a), the Lessee accepts responsibility for all operational risks (including as set out in the Safety in Design Statement) relating to the Lessee's use, occupation or operation of the Premises.

9.4 Release of Lessor from Liability

The Lessee hereby releases the Lessor from any Claims resulting from:

- (i) any accident, damage, injury or death occurring on or near the Premises;
- (ii) the Lessee's use, occupation or operation of the Premises; and
- (iii) the Premises not complying with any law or the requirements of Authorities,

except to the extent any such Claims arise from or are caused or contributed to by the negligence or wilful act or omission on the part of the Lessor or Lessor's employees, agents or contractors.

9.5 No Liability for Failure of Services

The Lessor will not be under any liability for any loss, injury or damage sustained by the Lessee or any other person at any time as a result of or arising in any way out of the failure of the electricity, telephones, gas, water supply, sewerage, drainage or any other Services or facilities provided by the Lessor or enjoyed by the Lessee in conjunction with the Premises or this Lease.

9.6 Lessee's Failure to Comply with Statutory Requirements

- (a) Where the Lessee breaches any Law in relation to its use of the Premises it is taken to breach a condition of this Lease.
- (b) The Lessee will indemnify and keep indemnified the Lessor from and against any Claims arising from the non-compliance by the Lessee with any Law that may apply to the Lessee's use and occupation of the Premises and access thereto and the Lessee's operation of their business from the Premises and access thereto.

10. INSURANCES

10.1 Public Liability Insurance

The Lessee will effect and maintain throughout the Term, with respect to the Premises and the activities carried on in the Premises public liability insurance for an amount not less than the amount set out in Item 10 (or such other amount as the Lessor may from time to time reasonably require) as the amount payable in respect of liability arising out of any one single accident or event. The public liability insurance must cover the Lessee's obligations to indemnify the Lessor under clause 9.1.

10.2 Contents

The Lessee will effect and maintain throughout the Term insurance for the contents of the Premises and the Lessee's Fixtures and Fittings against damage, destruction and any other risk for their full replacement value or on a reinstatement basis.

10.3 Employers' Liability and Workers Compensation Insurance

The Lessee will effect and maintain throughout the Term and with respect to the Premises and the activities carried on in the Premises employers' liability and workers compensation insurance.

10.4 Provisions Re Insurance Policies

- (a) The Lessee must take out each policy with an insurance company approved by the Lessor.
 - (b) All insurance policies required to be effected by the Lessee pursuant to this Lease are specified in this Clause 10 and must be in place prior to the Lessee occupying the Premises.
 - (c) The Lessee must produce to the Lessor, once per calendar year or once per period of insurance (whichever first occurs), a certificate of insurance and/or a
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certificate of currency in respect of the insurance policies required to be effected by the Lessee pursuant to this Lease.

- (d) The Lessee must not at any time during the Term do any act or omit to do any act which may render void or voidable any policy of insurance. If the Lessee does any act or fails to do any act whereby the rate of premium on such insurance shall be liable to be increased, the Lessee must obtain insurance cover for such increased risk and pay all additional premiums required on account of the additional risk caused by the use to which the Premises are put by the Lessee.
- (e) The Lessee must use all reasonable endeavours to ensure that full, true and particular information is given to the office or company with which the insurances are effected of all matters and things the non-disclosure of which might in any way prejudice or affect any such policy or policies of insurance or the payment of all or any moneys there under.
- (f) The Lessee must ensure that all insurance policies note the Lessor as an interested party.

10.5 Lessor to insure the Premises

The Lessor must insure the Premises against loss, damage or destruction from an insurable risk.

11. EASEMENTS

11.1 Easements

- (a) The Lessor may grant easements in or over the Land to any party or any authority, to provide services for or access to the Land or such other land or for any other purpose provided that in granting such easements, the Permitted Use of the Premises under the Lease are not materially adversely affected. .

11.2 Documents

The Lessee must at the Lessor's request promptly execute any consents or other documents to enable the Lessor to exercise its rights under clause 11.1.

12. LESSOR'S OBLIGATIONS

12.1 Quiet Enjoyment

- (a) The Lessor agrees that subject to:
 - (i) the Lessor's rights under this Lease;
 - (ii) the Lessee complying with its obligations under this Lease;the Lessee may hold and occupy the Premises without undue interference by the Lessor.

13. ASSIGNMENT, SUBLEASING AND PARTING WITH POSSESSION

13.1 General Prohibition

Subject to clauses 13.3 – 13.5 inclusive, the Lessee must not during the Term:

- (a) assign or, transfer this Lease;
- (b) grant a sublease of the Premises;
- (c) grant any licence of the Premises;
- (d) mortgage, charge or otherwise encumber this Lease or the Lessee's Fixtures and Fittings; or
- (e) otherwise deal with its interest under this Lease.

13.2 Change of Control

- (a) The Lessee must ensure that there is no Change of Control of the Lessee. For the purposes of this clause 13.2, any of the following transactions is a Change of Control:
 - (i) where the Lessee is a body corporate, a transfer of shares with the result that:
 - (A) a person or group of persons cease to have voting power of at least 50% in the Lessee; or
 - (B) a person or group of persons who on the Commencement Date did not have voting power of more than 50% in the Lessee are to have voting power of more than 50% in the Lessee.
 - (ii) where the Lessee is the trustee of a unit trust, a transfer of the units in that trust with the result that:
 - (A) a person or group of persons cease to have voting power of at least 50% in the Lessee; or
 - (B) a person or group of persons who on the Commencement Date did not have voting power of more than 50% in the Lessee are to have voting power of more than 50% in the Lessee.
 - (iii) any declaration by the Lessee that it holds its interest in this Lease on trust for any person or persons, with the effect that:
 - (A) a person or group of persons cease to have voting power of at least 50% in the Lessee; or
 - (B) a person or group of persons who on the Commencement Date did not have voting power of more than 50% in the Lessee are to have voting power of more than 50% in the Lessee.
- (b) For the purposes of this clause 13.2, voting power means the power to control the outcome of decisions made by the Lessee.

13.3 Assignment

An assignment of this Lease or a Change of Control shall be deemed not to be a breach of clause 13.1 or 13.2 if:

- (a) the Lessee has given the Lessor at least one month's notice in writing of the proposed assignment or Change of Control together with details of the parties and a copy of all proposed documentation and all other relevant information reasonably requested by the Lessor; and
- (b) the Lessee is not in default under this Lease, unless the default is waived by the Lessor; and
- (c) the Lessee establishes to the Lessor's satisfaction that any proposed assignee or New Controller:
 - (i) is of good repute and has not been the subject of significant adverse publicity or the subject of any formal adverse finding by any Authority that would cause a reasonable person to have concerns about reputational risk to the Lessor or the fitness or ability of the Lessee to perform its obligations; and
 - (ii) meets each of the Assignment Tests; and
 - (iii) has demonstrable experience in successfully carrying on a business of the kind permitted under the Permitted Use; and
- (d) the Lessor is given any additional guarantee, indemnity or other security it requires in relation to the proposed transaction, to be prepared by the Lessor's solicitors at the Lessee's cost; and
- (e) the Lessee and assignee enter into a deed in the form reasonably required by the Lessor under which (amongst other things):
 - (i) the assignee agrees to perform all of the Lessee's express and implied obligations under this Lease, including the obligation to indemnify the Lessor; and
 - (ii) the Lessee releases the Lessor from all obligations under this Lease from the date of assignment.
- (f) the Lessee gives the Lessor a signed stamped and registrable transfer of this Lease; and
- (g) the Lessor has given its written consent to the proposed assignment or Change of Control (such consent not to be delayed or unreasonably withheld or delayed).

13.4 Subleasing and Licensing

- (a) A sublease and or licence of part only of the Premises shall be deemed not to be a breach of clause 13.1 if:
 - (i) the Lessee has given the Lessor at least one month's notice in writing of proposed sublease or licence together with details of the proposed transaction and a copy of all proposed documentation and all other relevant information; and
 - (ii) the Lessee is not in default under this Lease, unless the default is waived by the Lessor; and
 - (iii) the Lessee establishes to the Lessor's satisfaction that any proposed sublessee or licensee:

- (A) is of good repute and has not been the subject of significant adverse publicity or the subject of any formal adverse finding by any Authority that would cause a reasonable person to have concerns about reputational risk to the Lessor or the fitness or ability of the Lessee to perform its obligations; and
- (B) meets each of the Assignment Tests; and
 - (C) has demonstrable experience in successfully carrying on a business of the kind permitted under the Permitted Use has funding available to fund its obligations under the sublease or licence;
 - (iv) the sublease or licence contains a provision to the effect that the sublease or licence terminates immediately on termination of this Lease;
 - (v) the rent or licence fee payable is equal to or greater than the proportion of the Base Rent plus Turnover Rent calculated in accordance with clause 13.4(b);
 - (vi) the Lessee and the sublessee or licensee enter into a deed in the form reasonably required by the Lessor under which (amongst other things):
 - (A) the Lessee acknowledges its continuing obligations under this Lease;
 - (B) the sublessee or licensee agrees that the sublease or licence terminates immediately on termination of this Lease; and
 - (C) the sublessee or licensee agrees that it must not grant a sublease or licence, transfer its sublease or licence or part with or share possession of the subleased or licensed premises; and
 - (vii) the Lessor has given its written consent to the proposed sublease or licence (such consent not to be unreasonably withheld or delayed).
- (b) If any sublease contains a provision requiring the sublessee to pay to the Lessee or any Related Body Corporate of the Lessee or any person otherwise associated with the Lessee a premium or rent in advance, the sublease must require the sublessee to pay annual rent to the Lessee, in addition to any premium or any rent in advance, of not less than the amount calculated in accordance with the following formula:

$$(R + TR) \times (A / B)$$
 where:
 - R = the annual Base Rent payable under this Lease at the time that the sublease is entered into.
 - TR = the Turnover Rent payable under this Lease at the time that the sublease is entered into
 - A = the total area subleased pursuant to the sublease
 - B = the total area leased pursuant to this Lease
 In this paragraph 13.4(b), references to sublease include licence and references to rent include licence fees.

- (c) No sublease or licence can extend for a term longer than the term of this Lease and must be structured so that a plan of subdivision is not required.

13.5 Lessor's Costs Consent to Assignment, Change of Control, Subleasing and Licensing

The Lessee must:

- (a) Provide the Lessor with such information as the Lessor may reasonably require concerning the financial standing and business experience of the proposed assignee, New Controller, sublessee or licensee including information as to the proposed assignee's, New Controller's, sublessee's or licensee's business skills and the business skills of the directors of the assignee, New Controller, sublessee or licensee, if the assignee or New Controller is a company; and
- (b) pay the Lessor is reasonable costs, charges and expenses of and incidental to any assignment, change of Control, sublease or licence including any inquiries which may be made by or on behalf of the Lessor as to the respectability, responsibility, solvency, fitness and suitability of the proposed assignee, New Controller, sublessee or licensee.

14. LESSEE'S DEFAULT

14.1 Events of Default

Each of the events set out in this clause 14.1 is an Event of Default, whether the cause is beyond the control of the Lessee or any other person:

- (a) any money payable by the Lessee under this Lease has not been paid for 10 Business Days after its due date or, if payable on demand, has not been paid within 10 Business Days of the making of a demand for payment; or
- (b) the Lessee commits, permits or suffers to incur any breach or default in the due and punctual observance and performance of any of the covenants, obligations and provisions to be performed by the Lessee under this Lease (other than an obligation to pay money) and the Lessee does not remedy that breach or default within the time period set out in a Default Notice;
- (c) an Event of Insolvency occurs in relation to the Lessee; or
- (d) the Lessee repudiates its obligations under this Lease.

14.2 Rights upon Event of Default

- (a) The Lessor may at any time after the occurrence of any one or more of the Events of Default, without prejudice to any other actions or remedies which the Lessor has or may have or otherwise could have had for any such event, failure to perform or non-observance of any provision of this Lease:
 - (i) terminate this Lease by re-entering and taking possession of the Premises, using reasonable force to secure possession; or
 - (ii) by notice in writing to the Lessee terminate this Lease and from the date of giving such notice this Lease will be terminated; or
 - (iii) institute proceedings for possession of the Premises against the Lessee.

- (b) The termination of this Lease will not prejudice or affect any rights or remedies of any party against any other party on account of any antecedent claim or antecedent breach or non-observance by any party of any covenant or provision of this Lease.

14.3 Breach of Essential Term

The Lessor may treat the Lessee's breach of an Essential Term of this Lease as a repudiation of this Lease and may terminate this Lease for breach of the essential term and for repudiation. The Lessor is then entitled to immediate possession of the Premises.

14.4 Lessor's Entitlement to Damages

- (a) If the Lessee:

- (i) repudiates this Lease;
- (ii) breaches an Essential Term under this Lease; or
- (iii) defaults under this Lease in any other way,

the Lessee must compensate the Lessor for the loss or damage suffered by the Lessor as a consequence of the repudiation, breach or other default.

- (b) The compensation payable by the Lessee under paragraph 14.4(a) extends to the loss or damage suffered by the Lessor during the Term, including the periods before and after termination of this Lease.
- (c) The Lessee's obligation to compensate the Lessor for loss or damage is not affected if:
 - (i) the Lessee abandons or vacates the Premises;
 - (ii) the Lessor elects to re-enter or to terminate this Lease;
 - (iii) the Lessor accepts the Lessee's repudiation; or
 - (iv) the parties' conduct constitutes a surrender by operation of law.
- (d) The Lessor's entitlement to damages is in addition to any other remedy or entitlement, including termination of this Lease.

14.5 Waiver

A waiver by the Lessor of a particular breach or default will not be deemed to be a waiver of the same breach or default if it occurs again or of any subsequent breach or default nor will the Lessor's failure to take action on any breach or default be, or be construed as, a waiver of that breach or default.

14.6 Mitigation of Loss

The Lessor acknowledges that it has a general duty to mitigate the loss in the event of termination of this Lease due to an Event of Default.

15. DAMAGE OR DESTRUCTION

15.1 Abatement of Rent and Outgoings

- (a) Subject to clause 15.3, if the Improvements or the Premises are damaged or destroyed and the Premises:
 - (i) cannot be used by the Lessee, the Lessee is not liable to pay Rent or the Outgoings for the period that the Premises cannot be used; or
 - (ii) is useable by the Lessee, but the useability is diminished because of the damage or destruction, the Lessee's liability to pay Rent and the Outgoings is reduced in proportion to the reduction in useability.

15.2 Repair of damage

- (a) Subject to clause 15.3, if the Premises or the Improvements are damaged or destroyed and:
 - (i) **no repair:** the Lessor gives the Lessee notice that the Lessor considers that, in its absolute discretion, it is impracticable or undesirable to repair the damage, then either the Lessor or the Lessee may terminate this Lease by giving at least seven days' notice to the other and no compensation is payable in respect of that termination; and
- (b) **request to repair:** within 14 days of any damage to the Premises occurring the Lessee requests the Lessor in writing to repair the damage:
 - (i) if the Lessor does not give the Lessee notice within 21 days of receiving the Lessee's request that it intends to repair the damage; or
 - (ii) the Lessor gives the Lessee notice that it intends to repair the damage but does not do so within a reasonable time,
- (c) the Lessee may terminate this Lease by giving at least 30 days notice to the Lessor.

15.3 Damage caused by Lessee

- (a) If the damage or destruction referred to in clause 15.1 is caused by the Lessee or the Lessee's Agents:
 - (i) clauses 15.1 and 15.2(b) do not apply; and
 - (ii) the Lessee cannot terminate this Lease under clause 15.2(a)(i) or 15.2(c).

15.4 Lessor's rights not affected

- (a) Nothing in this clause 15 affects any rights the Lessor may have if:
 - (i) any damage or destruction is caused or contributed to by; or
 - (ii) any right under an insurance policy in connection with the Premises or the Improvements is prejudiced or a policy is cancelled or payment of a premium or a claim is refused by the insurer because of,

- (iii) the act, negligence or default of the Lessee or the Lessee's Agents.
- (b) Nothing in this clause 15 obliges the Lessor to restore or reinstate the Premises or the Improvements.

15.5 Dispute

- (a) If any dispute arises under clause 15 the Lessor or the Lessee (or both) may request the President of the Australian Property Institute Inc - NSW Division to appoint a Valuer to determine the dispute and the proportion of the Valuer's costs that each party must pay.
- (b) The Valuer acts as an expert and not as an arbitrator and the Valuer's decision is final and binding.

16. RIGHTS AND OBLIGATIONS ON TERMINATION ON EXPIRY

16.1 Lessee to Cooperate

In the 6 months prior to expiry of the Term (unless the Lessee has exercised any option to renew this Lease), the Lessee is required to co-operate with the Lessor with respect to any process conducted by the Lessor for the granting of a new Lease of the Premises. The Lessor does not represent or warrant that any new lease will be granted to the Lessee.

16.2 Removal of Lessee's Fixtures and Fittings

- (a) At the expiry of the Term, or within 20 Business Days of the sooner determination of this Lease, the Lessee must:
 - (i) remove all of the Lessee's Fixtures and Fittings from the Premises, unless the Lessor directs otherwise, and make good any damage caused by removal;
 - (ii) Remove all rubbish and leave the Premises clean and tidy;
 - (iii) give vacant possession of the Premises in a condition consistent with the Lessee's obligations under clause 7.14;
 - (iv) remove any signs, advertisements, notices or hoardings unless the Lessor directs otherwise, and make good any damage caused by removal;
 - (v) hand over to the Lessor all keys and security devices;

The Lessor will, if necessary, provide access to the Premises for this purpose.

- (b) If the Lessee fails to remove any of the Lessee's Fixtures and Fittings in accordance with clause 16.2(a), the Lessor may, at its option:
 - (i) cause such items to be removed and destroyed or stored in such manner as the Lessor in its absolute discretion deems fit at the risk and at the cost of the Lessee; or
 - (ii) treat such items as if the Lessee had abandoned its interest in them and they had become the property of the Lessor and deal with the same in such manner as the Lessor thinks fit without being liable in any way to account to the Lessee.

16.3 Environmental matters

- (a) The Lessee must at the expiration of the Term or within 10 Business Days after the sooner determination of this Lease at its own expense arrange for a suitably qualified Environmental Consultant to prepare an environmental report to identify any Contamination on, in or near the Premises. The environmental report is to be addressed to the Lessee and the Lessor and a copy provided to the Lessor.
- (b) Subject to paragraph (d), if the environmental report identifies or recommends the remediation of Contamination on, in or near the Premises, then the Lessee must at its own expense carry out such remediation works as are required so that the Environmental Consultant can issue a further report addressed to the Lessee and the Lessor confirming that the Contamination has been remediated to the standards set out in the environmental report, and the Lessee must cause such report to be prepared and delivered to the Lessor.
- (c) If the Lessee fails to comply with its obligations under this clause 16.3, the Lessor may perform such obligations and recover the costs from the Lessee.
- (d) Notwithstanding anything to the contrary in this clause 16.3, if the environmental report identifies or recommends the remediation of Contamination on the Premises which was identified in the Environmental Assessment Reports and Asbestos Management Plan as being in existence prior to the Occupation Date, the Lessee is only required to carry out any remediation works under paragraph (b) in relation to that Contamination if:
 - (i) the Lessor gives notice in writing to the Lessee requiring that such remediation works be carried out; and
 - (ii) the Lessor reimburses the Lessee's costs of carrying out such remediation works.

17. RIGHTS RESERVED BY THE LESSOR

17.1 Inspection and right of entry

The Lessee grants to the Lessor and its agents the right at any time during the Term to enter the Premises on reasonable notice (if at least two Business Days notice is provided) during business hours to inspect and observe the Lessee's operation, maintenance and repair of the Premises and compliance by the Lessee with this Lease provided that the Lessor is accompanied by a representative of the Lessee.

17.2 Further rights

The Lessor reserves the right to enter the Premises with all necessary material and equipment at all reasonable times (except in the case of an emergency in which case the Lessor may enter at any time):

- (a) to carry out repairs or other works to the Premises or any Services in the Premises which the Lessor wishes to carry out, which is deemed necessary or desirable by the Lessor or which the Lessee is required to carry out in accordance with this Lease but has failed to carry out despite written notice being provided by the Lessor to do so;
 - (b) for the purpose of complying with the terms of any law affecting the Premises or of any notice served on the Lessor or the Lessee by any Authority; and
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- (c) if the Premises are destroyed or damaged, and the Lessor elects to rebuild or reinstate the Premises.

18. SECURITY DEPOSIT

18.1 Security deposit

- (a) The Lessee must deposit with the Lessor the amount specified in Item 11 as a security deposit to be held by the Lessor. If the Lessor reasonably considers that the Lessee has defaulted under this Lease, the Lessor may apply the security deposit towards remedying such default and to otherwise compensate the Lessor for any loss or damage suffered by the Lessor as a result of such default.
- (b) The Lessor may invest the security deposit and is entitled to the interest.
- (c) If the Lessor applies any part of the security deposit and this Lease is not terminated, the Lessee must pay the amount appropriated to the Lessor to maintain the security deposit.
- (d) If the Rent increases, the Lessee must pay to the Lessor any additional amount required to ensure that the security deposit is not less than the amount specified in Item 11.

19. POWER OF ATTORNEY

19.1 Appointment of Attorney

The Lessee irrevocably appoints the Lessor as its attorney to:

- (a) complete this Lease;
- (b) do anything that the Lessee must or may do under this Lease if the Lessor considers that the Lessee has not done it or has not done it properly;
- (c) do anything that the Attorney considers is necessary or desirable to remedy any breach of this Lease by the Lessee of this Lease;
- (a) exercise any right, power, authority, discretion or remedy of the Lessee under this Lease, after the Lessee has breached this Lease; and
- (d) execute a transfer or surrender of this Lease, after the Lessee has breached this Lease.

The Attorney may appoint and remove substitutes, and may delegate its powers (including this power of delegation) and revoke any delegation.

19.2 General

- (a) An Attorney may do anything contemplated by this clause even if the Attorney is affected by an actual or potential conflict of interest or duty, or might benefit from it.
- (b) An Attorney may do anything contemplated by this clause in its name, in the name of the Lessee or in the name of both of them.
- (c) The Lessee must ratify anything done by an Attorney under this clause.

- (d) The Lessee gives the power of attorney in this clause:
 - (i) to secure performance by the Lessee of its obligations to the Lessor under this Lease and any property interest of the Lessor under this Lease; and
 - (ii) for valuable consideration, receipt of which is acknowledged by the Lessee.

20. PPSA

20.1 Security interest

This clause applies to the extent that the Lessor's interest in respect of personal property made available to the Lessee is a security interest for the purposes of the PPSA. If a term used in this clause has a particular meaning in the PPSA, it has the same meaning in this clause.

20.2 Obligations of the Lessee

The Lessor may register any actual, impending or likely security interest. The Lessee may not make any claim against the Lessor in respect of any registration even if it is determined that the Lessor should not have registered. The Lessee must do anything (such as obtaining consents and signing documents) which the Lessor requires for the purposes of ensuring that the Lessor's security interest is first priority, perfected and otherwise effective under the PPSA.

20.3 Cumulative rights

The rights of the Lessor under this Lease are in addition to and not in substitution for the Lessor's rights under other law (including the PPSA) and the Lessor may choose whether to exercise rights under this Lease and/or under such other law as it sees fit.

20.4 Waiver of rights by the Lessee

To the extent that:

- (a) section 115 of the PPSA permits the parties to contract out of any provision of Chapter 4 of the PPSA that may otherwise apply; and
- (b) such a provision requires the Lessor to give a notice, allow time, give an account, or allow reinstatement or similar rights to the Lessee in connection with enforcement,

the parties agree that all such provisions are contracted out of. The Lessee also waives its rights to receive a verification statement in relation to registration events under section 157 of the PPSA.

20.5 Agreement not to disclose information

The Lessor and the Lessee agree not to disclose information of the kind that can be requested under section 275(1) of the PPSA. The Lessee must do everything necessary on its part to ensure that section 275(6)(a) of the PPSA continues to apply. The agreement in this sub-clause is made solely for the purpose of allowing to the parties the benefit of section 275(6)(a) and a party shall not be liable to pay damages or any other compensation or be subject to injunction by reason only of any actual or threatened breach of this sub-clause.

20.6 No disposal or creation of security without consent

The Lessee must not dispose or purport to dispose of, or create or purport to create or permit to be created any security interest in, or lease, hire, bail or give possession of personal property made available by the Lessor other than with the express written consent of the Lessor.

20.7 Lessee's Property

- (a) The Lessee must notify the Lessor on or before the Commencing Date if the Lessee's Property or any other personal property of the Lessee relevant to this Lease is subject to a security interest.
- (b) The Lessee agrees not to create a security interest in favour of a third party in respect of the Lessee's Property or any other personal property of the Lessee relevant to this Lease except with the prior written consent of the Lessor, such consent not to be unreasonably withheld.

21. REPRESENTATIONS NEGATIVED

21.1 Representation warranty or undertaking

- (a) The Lessee acknowledges and agrees that no representation, warranty or undertaking has been given by the Lessor relating to:
 - (i) the suitability of the Premises for the Permitted Use, or any other uses;
 - (ii) the condition or state of repair of the Premises;
 - (iii) the Premises and amenities found in the Premises;
 - (iv) the suitability of the Services available at the Premises; or
 - (v) whether the Permitted Use are uses which may lawfully be made of the Premises.
- (b) The Lessee will make its own enquiries in relation to the matters referred to in this clause 21.1 and all other matters relating to the Premises generally and this Lease.

22. NOTICES

22.1 Service of Notice on Lessee

Any notice served by the Lessor on the Lessee must be in writing and will be sufficiently served if served personally or left addressed or forwarded by prepaid post addressed to the Lessee at the address stated in Item 12 or such other address as the Lessee notifies in writing to the Lessor.

22.2 Service of Notice on Lessor

Any notice served by the Lessee on the Lessor must be in writing and will be sufficiently served if served personally or left addressed or forwarded by prepaid post addressed to the Lessor at the address stated in Item 13 or such other address as the Lessor notifies in writing to the Lessee.

22.3 Notices

- (a) Any notice served by a Party under this Lease will be effective if signed by the party personally if an individual a director or secretary or the solicitors for the party giving the notice or any other person or persons nominated in writing from time to time respectively by the Lessor or by the Lessee to the other. In addition, any notice may be signed on behalf of the Lessor by any officer for the time being of the Lessor.
- (b) Any notice sent by prepaid post will be deemed to be served at the expiration of 2 Business Days after the date of posting.

23. EXPENSES AND STAMP DUTIES

23.1 Liability for Expenses

The Lessee must indemnify the Lessor against, and must pay to the Lessor on demand the amount of all costs and expenses incurred in connection with:

- (a) the preparation of this Lease;
- (b) any request for the consent or approval of the Lessor, the Lessor's mortgagee or any head lessor required in order to grant the Lease;
- (c) any assignment, change of Control, sublease, licence, mortgage, charge or other encumbrance referred to in clause 13;
- (d) any default by the Lessee under this Lease and the enforcement or protection, or attempted enforcement or protection of any other right under this Lease;
- (e) any amendment to, or waiver of or under, or surrender of, this Lease or any Further Lease; or
- (f) the cost of preparing any plan needed for any Further Lease,

including legal expenses on a full indemnity basis, administration costs of the Lessor and expenses incurred in engaging consultants in respect of any Further Lease.

23.2 Stamp Duties

The Lessee must pay all stamp duties and similar taxes, including fines and penalties, which may be payable to or required to be paid by any appropriate authority or determined to be payable in connection with the execution, performance or enforcement of this Lease.

24. GOODS AND SERVICES TAX

- (a) For the purposes of this Lease, "GST", "taxable supply", "consideration" and "tax invoice" have the meanings given to those terms in *A New Tax System (Goods and Services Tax) Act 1999*.
- (b) Subject to paragraph (d), all payments to be made or other consideration to be provided under this Lease are GST exclusive unless otherwise expressly stated. If any payment or consideration to be made or provided by either Party is for a taxable supply under this Lease that payment or consideration must be increased by the amount equal to GST imposed on that taxable supply and GST will be payable at the same time and in the same manner as the consideration for that taxable supply.
- (c) Subject to paragraph (d), if a clause of this Lease requires a Party to reimburse, indemnify or otherwise pay another Party for any expense, loss or outgoing (**reimbursable expense**), the amount required to be paid by the first party will be the amount of the reimbursable expense inclusive of any GST paid when the expense, loss or outgoing was incurred less the amount of any input tax credits (if any) to which the other party is entitled in respect of a reimbursable expense.
- (d) A Party is not obliged to pay any amount under paragraphs 24(b) or 24(c) unless a tax invoice is first provided.
- (e) The Parties agree that they are respectively liable to meet their own obligations under the GST Law. The GST Amount must not include any amount incurred in respect of penalty or interest or any other amounts payable by a Party as a result of default by that Party in complying with the GST Law.
- (f) Each separate or periodic component of a taxable supply as referred to in section 156-5 of the GST Law is taken to be a separate taxable supply.
- (g) This clause 24 will continue to apply after expiration or termination of this Lease.

25. ACCESS FOR SYDNEY METRO AND ITS AGENTS

25.1 Definitions

In this clause:

- (a) **Speedway Works** the design and construction by Sydney Metro of a new speedway facility and any works ancillary to those works or otherwise necessary for the purposes of the construction of the new speedway facility
- (b) **Sydney Metro** means Sydney Metro ABN 12 354 613 505, a NSW Government Agency constituted by Section 38 of the *Transport Administration Act 1988* (NSW).

25.2 Access

- (a) The Lessee acknowledges and agrees that from the Occupation Date the Lessor may grant Sydney Metro, its builder and its agents a non-exclusive licence to enter, use and access the Premises for the purpose of:
 - (i) completing and inspecting the Speedway Works (whether those works are being carried out to the Land or any surrounding land); and

- (ii) rectifying any defects during a defect liability period or otherwise.
- (b) The Lessee must allow Sydney Metro, its builder, its agents and any independent reviewer to enter, use and access the Premises for the purposes referred to in clause 25.1(a) without undue interference by the Lessee, its agents, employees, licensees, contractors and invitees.

26. CAPACITY OF LESSOR AS GOVERNMENT AGENCY

The Lessee acknowledges that the Lessor is a Government Agency vested with statutory powers and responsibilities. Nothing in this agreement abrogates or fetters, or is intended to abrogate or fetter, the lawful and proper discharge by the Lessor of any of its statutory powers and responsibilities as a Government Agency under any relevant laws, whether in relation to the subject matter of this agreement or otherwise. In the event of any conflict between the unfettered discretion of the Lessor in the exercise of its statutory powers or responsibilities as a Government Agency and the performance of its or obligations under this agreement, the former prevails.

27. MISCELLANEOUS

27.1 No Moratorium

Any present or future legislation which operates to vary obligations between the Lessee and the Lessor, except to the extent that such legislation is expressly intended to apply to this particular Lease or that its exclusion is prohibited, is excluded from this Lease.

27.2 Further assurances

Each Party must do everything necessary to give full effect to this Lease.

27.3 Relationship of Lessor and Lessee

Nothing contained or implied in this Lease will be deemed or construed to create the relationship of partnership or of principal and agent or of joint venture between the Lessor and the Lessee. Specifically, the Parties understand and agree that neither the method of computation of Rent, nor any other provision, nor any acts of the Lessee and the Lessor or either of them will be deemed to create any relationship between them other than the relationship of Lessor and Lessee upon the terms and conditions only as provided in this Lease.

27.4 No Waiver

No waiver by a Party of any breach of any covenant obligation or provision in this Lease either express or implied shall operate as a waiver of another breach of the same or of any other covenant obligation or provision in this Lease contained or implied. None of the provisions of this Lease shall be taken either at law or in equity to have been varied, waived, discharged or released by a Party unless by express consent in writing.

27.5 No Merger

Nothing in this lease merges, postpones, extinguishes, lessens or otherwise prejudicially affects the rights and remedies of the Parties under this Lease or under any other agreement.

27.6 Contact Person

The Lessor and the Lessee each must nominate a person to contact about matters arising under this Lease. The person so nominated is the person referred to in Item 13 and Item 12 of or such other person as the Lessor nominates in writing to the Lessee and the Lessee nominates in writing to the Lessor from time to time.

27.7 Applicable Law

This Lease shall be construed and interpreted in accordance with the law of New South Wales.

27.8 No Holding Out

The Lessee will not in connection with the Premises or otherwise directly or indirectly hold out or not permit to be held out to any member of the public any statement, act, deed, matter or thing indicating that the Premises or the business conducted or operated thereon or any parts or parts thereof are or is being carried on or managed or supervised by the Lessor nor shall the Lessee act as or represent itself to be the servant or agent of the Lessor.

27.9 Whole Agreement

- (a) The provisions contained in this Lease expressly or by statutory implication cover and comprise the whole of the agreement between the Parties.
- (b) No further or other provisions whether in respect of the Premises or otherwise will be deemed to be implied in this Lease or to arise between the Parties hereto by way of collateral or other agreement by reason or any promise representation warranty or undertaking given or made by any Party hereto to another on or prior to the execution of this Lease.
- (c) The existence of any such implication or collateral or other agreement is hereby negated.

27.10 Severability

Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall as to such jurisdiction be ineffective to the extent of such prohibition or inability to enforce without invalidating the remaining provisions of such provisions in any other jurisdiction.

27.11 Essential Terms of Lease

The Lessor and the Lessee agree that the clauses specified in Item 15 are essential conditions of this Lease. Other provisions of this Lease may also be essential conditions.

27.12 Counterparts

- (a) A Party may execute this lease by signing any counterpart.
- (b) All counterparts constitute one document when taken together.

28. DISPUTE RESOLUTION

28.1 Procedure to settle disputes

- (a) If a Party to this Lease considers that the other Party is in breach of this Lease or a dispute or difference arises between the parties in relation to this Lease, the parties are to be considered in dispute and either party may give to the other a Dispute Notice.
- (b) If a Dispute Notice has been served, the parties must use reasonable endeavours acting in good faith to settle the dispute as soon as practicable.
- (c) The procedure that is to be followed to settle a dispute arising under this Lease is as follows:
 - (i) first, negotiation of the dispute under clause 28.2; and
 - (ii) second, mediation of the dispute under clause 28.3,
 unless the Parties agree that the dispute is best resolved by an independent expert in accordance with clause 28.4 or clause 28.4 otherwise applies.
- (d) A Party may not commence court proceedings in relation to a dispute arising in connection with this Lease until it has exhausted the procedures in this clause, unless the Party seeks appropriate injunctive or other interlocutory relief to preserve property or rights or to avoid losses that are not compensable in damages.

28.2 Negotiation

If there is a dispute between the Parties relating to or arising out of this Lease (other than a dispute to which clause 28.4 applies), then within 10 Business Days of service of the Dispute Notice, senior representatives from the Parties to the dispute must meet and use reasonable endeavours, acting in good faith, to resolve the dispute by joint discussions.

28.3 Mediation

If a dispute arising under this Lease is not resolved under clause 28.2 within 10 Business Days of service of the Dispute Notice, the Parties will submit the matter to mediation on the following terms:

- (a) the mediator will be chosen by the Parties within 15 Business Days of service of the Dispute Notice and appointed within a further 5 Business Days;
- (b) in the absence of agreement by the Parties as to the mediator within 15 Business Days of service of the Dispute Notice, the mediator will be appointed on the application of any Party by the President of LEADR within 10 Business Days of the application;
- (c) the Parties must endeavour to procure that a mediator appointed under paragraph 28.3(a) or 28.3(b):
 - (i) assists the parties to reach a resolution of the dispute by agreement;
 - (ii) acts impartially and ensures that each Party has a clear understanding of the other party's points of view to enable proposals to be formulated for settlement of the dispute;
 - (iii) does not make his or her personal or professional views known to the parties or give any professional advice to one of the Parties;

- (iv) is entitled to terminate the mediation if, after consultation with the Parties, the mediator forms the view that the mediation process is exhausted; and
- (v) does not impose a solution on the Parties and any suggestion made during the course of the mediation by the mediator will not be binding on the parties;
- (d) each Party may appoint a person, including a legally qualified person, to represent it or assist it in the mediation;
- (e) each Party will bear its own costs relating to the preparation for and attendance at the mediation;
- (f) the costs of the mediator will be borne equally between the Parties to the mediation; and
- (g) the mediation process will cease if the dispute has not been settled within 20 Business Days of the mediator being appointed, or such longer time as may be agreed by the Parties.

28.4 Independent Expert

If the Parties agree the dispute is best resolved by an independent expert, or this Lease requires the dispute to be determined under this clause 28.4, the Party serving the Dispute Notice will specify that this clause 28.4 applies and the Parties will submit to the following procedure prior to any other course of action being taken to resolve the dispute:

- (a) the Parties will jointly choose and appoint an independent expert;
- (b) in the absence of agreement by the parties as to the independent expert within 2 Business Days of notice of a dispute, the independent expert will be appointed on the application of any Party to the dispute by the President of the Institute of Arbitrators Australia;
- (c) the independent expert must make a determination or finding on the issues in dispute as soon as practicable and in any event within 15 Business Days, or such longer period as may be agreed between the parties to the dispute;
- (d) the independent expert will act as an expert and not as an arbitrator and may adopt such procedures as he or she sees fit;
- (e) the independent expert's decision will be final and binding on the Parties to the dispute; and
- (f) the costs of the independent expert will be borne by the Parties equally or as the independent expert may otherwise determine and each Party will bear its own costs relating to the independent expert's decision.

28.5 Amalgamation of Disputes

The parties may by agreement permit a dispute being dealt with under this clause 28 to be amalgamated with any other dispute or disputes involving the parties.

29. GUARANTEE

29.1 Guarantee and indemnity

In consideration of the Lessor entering into this Lease at the Guarantor's request, the Guarantor unconditionally and irrevocably guarantees to the Lessor the due and punctual performance by the Lessee of all its duties, obligations and undertakings under this Lease (**Guaranteed Obligations**) and undertakes to the Lessor that if the Lessee fails in any respect to fulfil, or is in breach of any Guaranteed Obligations, the Lessor will be at liberty to act and the Guarantor will be liable for the Guaranteed Obligations as if the Guarantor were the party principally bound by the Guaranteed Obligations. The Guarantor indemnifies and will keep indemnified the Lessor against all claims, losses, liabilities and expenses which may be suffered or incurred by the Lessor by reason of any default on the part of the Lessee in the performance of any Guaranteed Obligations.

29.2 Extent of Guarantor's obligations

The obligations of the Guarantor under this Lease will be a continuing security and will not be affected by any act, omission, matter or thing which but for this provision might operate to release or otherwise exonerate the Guarantor from his or its obligations under this Lease or affect those obligations including without limitation:

- (a) this Lease not being registered;
- (b) a sub-lease of the Premises;
- (c) any time or indulgence granted to, compromise or composition with or release of the Lessee;
- (d) any delay or failure by the Lessor to take action against the Lessee or the Guarantor;
- (e) an amendment, novation, renewal or assignment of this Lease, whether or not this increases the liability of the Lessee or the Guarantor and whether or not with the Guarantor's knowledge or consent;
- (f) the partial performance of the Guaranteed Obligations;
- (g) an Insolvency Event, death or change in constitution of any party;
- (h) the termination of this Lease;
- (i) the fact that this Lease is wholly or partially void, voidable or unenforceable; or
- (j) the exercise or purported exercise by the Lessor of its rights under this Lease.

29.3 Enforcement against Guarantor

The Lessor may proceed against the Guarantor under this Lease without first having to proceed against the Lessee or anyone else.

29.4 Guarantor to postpone claims

The Guarantor expressly postpones any claim he or it might have against the Lessee, by way of subrogation or otherwise, to the claims made by the Lessor.

29.5 No set-off or withholding

- (a) The Guarantor must make all payments due under this Lease without set-off or counterclaim.
- (b) Except as required by law, the Guarantor may not make a deduction or withholding from any payment due under this Lease in respect of a present or future tax, levy, impost, duty, charge or fee of any nature which is or may be imposed, levied or assessed by a taxing or other authority.
- (c) If the Guarantor is required by law to deduct or withhold an amount from any payment due to the Lessor under this Lease, he or it must pay the Lessor such amount as is necessary to ensure that the net amount received by the Lessor after deduction or withholding equals the amount the Lessor would otherwise have been entitled to if not for the withholding.

29.6 Assignment

The Lessor may assign the benefit of this clause 29 without the Guarantor's consent.

29.7 Judgments

Any dispute settlement, certificate, determination, judgment, order or award which is binding on the Lessee is also binding on the Guarantor.

Reference Schedule

Item 1 (Clause 1.1)	Land Proposed Lot 3 DP 1077822 in Draft Plan of Subdivision located at Ferrers Road, Eastern Creek
Item 2 (Clause 1.1)	Premises The Land, the Improvements and all of the Lessor's Property.
Item 3 (Clause 1.1)	Term [To be inserted] years
Item 4 (Clause 1.1)	Commencement Date [To be inserted], being the day after practical completion of milestone 2 works]
Item 5 (Clause 1.1)	Termination Date 29 November 2029
Item 6 (Clause 4.1)	Base Rent [REDACTED] per annum, subject to increase as provided in this Lease.
Item 7 (Clause 4.1)	Review Dates (a) Review Dates On each anniversary of the Commencement Date (b) Type of Review [REDACTED]

Schedule 2

MAJOR EVENT OPERATIONS PLAN

Western Sydney Parklands

Eastern Creek

Motor Sports Precinct

Major Event Operations Plan

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1 Scope

1.1 Purpose

- (a) The purpose of the Motorsport Precinct Major Event Operations Plan (MEOP) is to provide a framework and operational procedures for the management of major events within the Motorsport Precinct to avoid major event conflicts as well as managing operations on days when any of the raceway, dragway and speedway hold major events.
- (b) The MEOP seeks to achieve the following outcomes:
 - (i) enhance the management and operation of the Motor Sports Precinct for the benefit of all operators, competitors, spectators, and the public.
 - (ii) minimise conflicts between operators with respect to event coordination, dust pollution, noise pollution, car parking, traffic management and other operational issues.
- (c) The MEOP will complement individual motorsport Operational Plans which will contain details of how Lessees propose to manage and operate their premises and the activities to be conducted on the premises, dealing with the following matters:
 - (i) occupational health and safety;
 - (ii) environmental management;
 - (iii) emergency response
 - (iv) event management;
 - (v) fire management;
 - (vi) traffic management;
 - (vii) spectator supervision and control;
 - (viii) roles and responsibilities for key staff;
 - (ix) staffing requirements;
 - (x) financial control and budgeting;
 - (xi) marketing and promotion;
 - (xii) security and safety;
 - (xiii) storage of dangerous and inflammable substances;
- (d) The overarching obligation of motorsport operators is to conduct their operations and events in accordance with their respective Lease terms and conditions and their specific development consent conditions.
- (e) The matters which should appropriately dealt with under the Lease terms, individual motorsport operational Plans and development consent conditions will not be dealt with under the MEOP.

1.2 Eastern Creek Motor Sports Precinct

- (a) The Eastern Creek Motor Sports Precinct, comprises a total of 272 hectares and currently contains two major motorsport venues: Sydney Motorsport Park (SMP) and the Western Sydney International Dragway (WSID). The Precinct is Precinct 5 in the Western Sydney Parklands Plan of Management 2030 (PoM).
- (b) The PoM describes the future character of the Precinct to be a venue for amateur and professional motorsports, and associated activities, events, exhibitions and facilities.
- (c) Western Sydney Parklands Trust (WSPT) has a primary objective for the Precinct of working with stakeholders to continue providing quality motorsports facilities.
- (d) Key management priorities are:
 - (i) Environmental protection and land stewardship
 - (ii) Creating recreational and community facilities
 - (iii) Community participation and engagement
 - (iv) Financial sustainability and economic development



Figure 1: Eastern Creek Motor Sports Precinct 5

- (e) The NSW Government has made the decision to expand the motorsports activities through significant major capital investment in a new speedway racing facility in the within the Motor Sports Precinct. The new speedway facility, to be known as the Western Sydney International Speedway (WSIS), will involve extensive civil works, along with expanded parking and site access to accommodate concurrent major events at each of the SMP, WSID and WSIS.
- (f) It is envisaged the WSIS will be operational from September 2021.

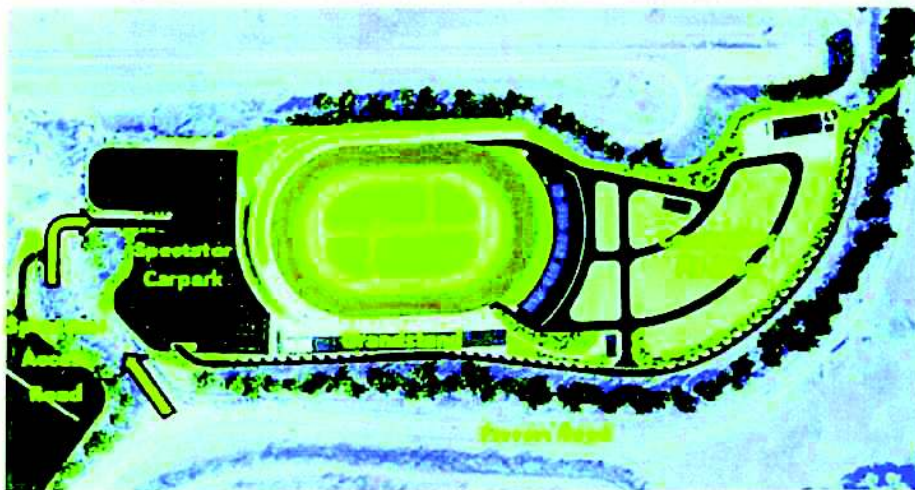
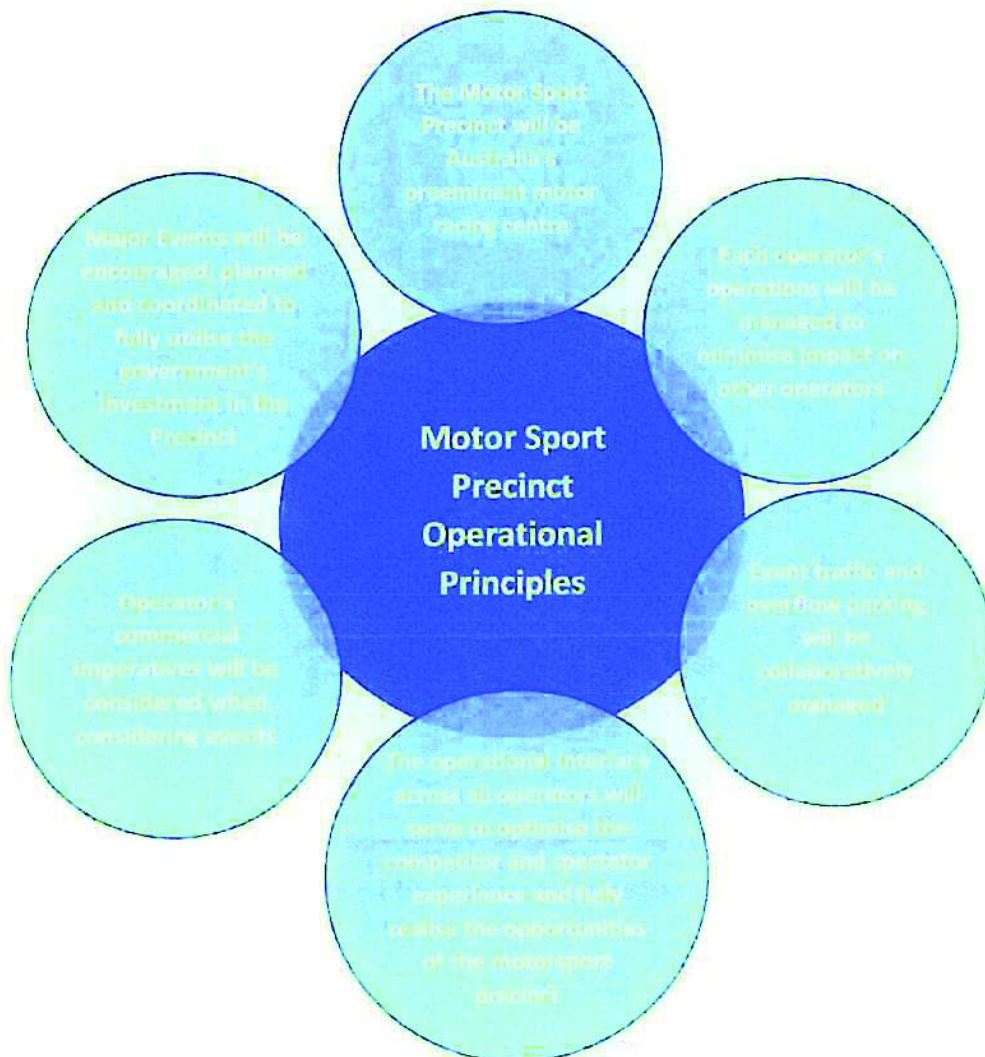


Figure 2: Western Sydney International Speedway Concept Plan

1.3 Principles

- (a) The operational principals within the MEOP are drawn from WSPT's Motorsport Precinct Master Plan and the unique needs of each of the precinct tenants to inform the operational requirements.



- (b) A MEOP Working Group (MWG) will be established to develop the MEOP. The MWG will comprise representatives of the current (SMP, WSID and WSIS), the WSPT, the Office of Sport, NSW Police, and Blacktown City Council. Additional stakeholders may be involved as required.

1.4 Scope

- (a) The key matters to be covered within the MEOP are:
 - (i) Event co-ordination
 - (ii) Dust pollution
 - (iii) Noise pollution
 - (iv) Transport & traffic management
 - (v) Car parking
 - (vi) Emergency response plan
 - (vii) Security
 - (viii) Stakeholder & community engagement

1.5 Supporting documentation

1.5.1 Master Plan

- (a) As part of development phase scope in incorporating the WSIS into the Motorsport Precinct, the NSW Office of Sport and the WSPT, together with motorsport stakeholders and planners, are developing a Precinct Master Plan to address issues and opportunities for collaboration, cooperation and sustainability of motorsport activities within the Precinct.
- (b) The Master Plan will have a scope for the entire Motorsport Precinct beyond the incorporation of the speedway facility. The WSIS is planned to be operational from September 2021 ahead of the 2021 competition season.
- (c) Other activities within or adjacent to the motorsport precinct include karting tracks, off-road rally and motorbike tracks and driver training skidpans. The Master Plan will address how other motorsport activities might be incorporated into the precinct at some future time, motorbike racing and karting.
- (d) The Master Plan will also address sustainability issues and opportunities, plan for further integration across motorsport codes, and augmentation of motorsport activities currently not included in the Motorsport Precinct.
- (e) The MEOP is a key reference document for the Master Plan, and sits as an Appendix to the Master Plan.

2 Event Coordination

2.1 Event Coordination Agreement

- (a) For the avoidance of doubt, the NSW Government has made significant investments in the Eastern Creek Motorsport Precinct to ensure that concurrent Major events can be supported at the Precinct across all codes – ARDC, Dragway and Speedway.
- (b) Prior to Lease Commencement, the Lessee will be required to enter into an Event Coordination Agreement with the other motorsport operators within the Motorsport Precinct.
- (c) The objectives of the Event Coordination Agreement are to:
 - (i) Enhance the management and operation of the Motorsport Precinct as a whole, for the benefit of all operators, competitors, spectators and the general public.
 - (ii) Minimise conflicts between operators with respect to dust pollution, noise pollution, traffic management, car parking and other operational issues.
- (d) The Event Coordination Agreement will include the following elements:

2.2 Annual Event Calendar

- (a) On or before 30 April each year, the operators are to meet to discuss and coordinate the future motorsport events, and by 30 June each year formulate and agree a Coordinated Annual Event Calendar for the next calendar year.
- (b) Events are to be designated major, main, minor or club.
- (c) The Annual Event Calendar is to be provided to the Lessor.

Operator	Event category and spectator numbers			
	Major	Main	Minor	Club
MSP	> 10,000	7,001 – 10,000	501 – 7,000	0 – 500
WSID	> 3,500	2,001 – 3,500	501 – 2,000	0 - 500
WSIS	> 2,500	1,200 – 2,500	501 – 1,200	0 - 500

2.3 Major Events

2.3.1 Reciprocal Rights

- (a) The dragway operator will have the first right to nominate up to five (5) major dragway events (7-13 days) per annum where the dragway operator will have exclusive use of the speedway car park and pit area, and the speedway operator will not be permitted to hold a concurrent speedway event, unless with the agreement of the dragway operator.
- (b) In exchange the speedway operator would have the reciprocal right that speedway events from Dec 26th to the third Saturday in January, where the speedway operator will have free exclusive use of the dragway car park and the dragway

operator will not be permitted to hold a concurrent dragway event, unless with the agreement of the speedway operator.

- (c) The current dragway event schedule 2019-2020 and 2020-2021 will form the base of dragway event calendar, the current 2019-2020 Speedway event schedule will form the base of the Speedway event schedule.

2.3.2 Trial Period

- (a) There will be a trial period of 12 months from Lease Commencement for all Major Events across the Motor Sports Precinct. During this trial period, no concurrent major events are to be scheduled without the agreement of the respective speedway, dragway and raceway operators and WSPT.

2.3.3 Post-Trial Period

- (a) Post the initial 12 month trial period concurrent major events can be held but only by agreement of the respective speedway, dragway and raceway operators.
- (b) The operators will be required to agree additional operational measures to manage the events such as traffic management and car park sharing etc and otherwise in accordance with an agreed Motorsport Precinct Major Event Operations Plan (MEOP).

2.3.4 Event Coordination Agreement Protocols

- (a) There will be an agreed protocol for:
 - (i) Event deferrals and rescheduling due to wet weather.
 - (ii) Shared parking arrangements for major events.
 - (iii) Operators to request addition of new business/event opportunities.
 - (iv) Regular communications and meetings between operators.
 - (v) Conflict resolution.

3 Dust Pollution

3.1 Introduction

- (a) Dust mitigation and control obligations will be incorporated into the new Speedway lease for active management by the Speedway Lessee and will be an essential term of the Lease.

3.2 Baseline Dust Levels

- (a) Dust monitoring stations will be installed on the dragway site during the period up to the operations commencement and will monitor, measure and report the Dragway Baseline Dust Level (DBDL). Subject to final review, the monitors will include at least one adjacent to the racing area, one adjacent to the dragstrip's timing marker and one adjacent to the braking area. These will be known as Site Dust Monitor #1, Site Dust Monitor #2 and Site Dust Monitor #3.

- (b) Data gathered will be used to establish a baseline for safe operational dust levels at the dragstrip. The threshold beyond this baseline that still provides safe dragway operations will be determined, and that threshold level will be the requirement to which the speedway operator will be obligated to manage.
- (c) An air quality management plan will be developed which incorporates the maintenance procedures and operational conditions that need to be in place to minimise the generation of dust.
- (d) Trigger values will be developed to enable the Speedway to be managed in a reactive manner as well as a proactive manner through design measures. The trigger values would be developed as follows:
- (e) Dispersion modelling would be undertaken using either measured or estimated dust emission rates from the speedway. This will be undertaken during speedway track testing ahead of racing operations.
- (f) Modelling would predict the level of dispersion expected as the plume moves away from the track (both in terms of concentration dispersion and deposition rate).
- (g) The maximum allowable ground level deposition rate would be determined from discussions with the Dragstrip operators and the results of the dispersion modelling examined to determine what emission rates would be needed to result in deposition rates of concern.
- (h) Based on the deposition rates of concern, two to three trigger values would be developed which can then be used for the operation of the track. These trigger values would be as follows:
 - (i) Alert Level – elevated levels of dust above $XX \mu\text{g}/\text{m}^3$ (TBD) observe the track to see if obviously elevated dust levels are occurring. Possibly take action or continue to observe closely;
 - (ii) Action level 1 – elevated levels of dust above $XX \mu\text{g}/\text{m}^2$ (TBD) which require actions to be undertaken to bring dust levels down before the next race; and
 - (iii) Action Level 2 – elevated levels of dust above $XX \mu\text{g}/\text{m}^3$ (TBD) which if it remains above this level deposition rates at the Dragstrip may be above acceptable levels.

3.3 Speedway and Dragway Dust Level Monitoring

- (a) From Lease Commencement the Speedway Dust Level (SDL) and the Dragway Dust Level (DDL) will be required to be continuously monitored and regularly sampled on speedway event days, with measurement and testing reports to be made available to the Speedway Lessee, the Dragway Lessee and the Lessor. The position of two real-time operational dust monitors will be finalised during track testing ahead of full speedway operations. These are to be known as Operational Dust Monitor # 1 and Operational Dust Monitor # 2.
- (b) During Speedway racing events, real-time Operational Dust Monitors are to be utilised, positioned appropriately to monitor dust generated by speedway racing that might impact the dragstrip. If during an event, the monitors indicate potential impact on the dragstrip, speedway racing is to cease until the track surface is appropriately treated.

- (c) The monitoring, sampling, measurement, testing and reporting will be conducted by an independent dust consultant, approved by the Lessor, at the cost of the Speedway Lessee.
- (d) Baseline site dust conditions for the dragstrip would be established from the Site Dust Monitors. This would be the level of dust deposition that currently occurs onto the dragstrip independent of speedway construction or operation activities.
- (e) Operational conditions would be agreed as follows:
 - (i) Baseline: dust deposition on the dragstrip (DDL) in the absence of speedway activity.
 - (ii) Condition Option 1 - 'The Speedway Dust Level (SDL) based on Operational Dust Monitors 1 and 2 does not exceed the Speedway Dust Trigger Action Level 2 (SDTL2) [TBD $\mu\text{g}/\text{m}^3$]'.
 - (iii) Condition Option 2 - 'The Speedway Dust Contribution (SDC) at the dragstrip (Site Dust Monitor 1, 2 or 3 – Site Dust Monitor 4) is greater than $\text{XX}\mu\text{g}/\text{m}^3$ (TBD)'.
- (f) The positioning of the real time Operational Dust Monitors will be finalised during speedway track testing. Site Dust Monitor positions are proposed as follows:
 - (i) Site Dust Monitor #1: Adjacent to the dragstrip in the racing area
 - (ii) Site Dust Monitor #2: Adjacent to the dragstrip at about the timing marker
 - (iii) Site Dust Monitor #3: Adjacent to the dragstrip in the braking area
 - (iv) Site Dust Monitor #4: to the east of the speedway competitor pit area
- (g) The dust monitor locations are shown on the following plan:

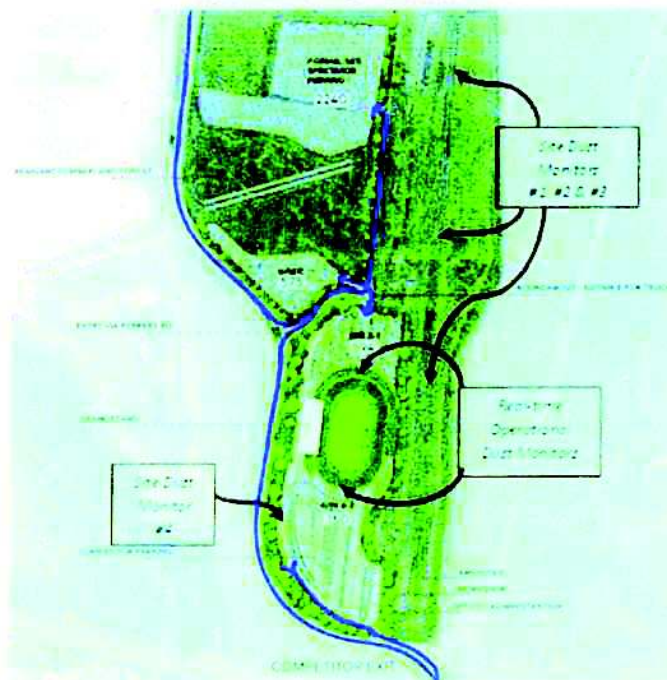


Figure 3 Dust Monitor Locations

3.4 Speedway Dust Level Reporting

- (a) If the SDL does not exceed a Speedway Dust Trigger Level (SDTL) level of [TBD $\mu\text{g}/\text{m}^3$], then the dust consultant will prepare Quarterly reports on the monitoring and sampling of the DSDLs to be made available to the Speedway Lessee, the Dragway Lessee and the Lessor.
- (b) If on any day the SDL exceeds the SDTL, then the dust consultant will immediately, but no more than 24 hours later, notify the Speedway Lessee, the Dragway Lessee and the Lessor of the dragway dust level exceedance.

3.5 Trial Period

- (a) There will be a trial period of 12 months from Lease Commencement where the correlation of the SDTL with the DDL and DBDL will be reassessed and the dust consultant will report on the adequacy of the SDTL and whether the SDTL need to be varied.

3.6 Dust Mitigation and Control Measures

- (a) The Speedway Lessee is to be fully responsible for the implementation and management of dust mitigation and control measures to achieve compliance with the requirement of not exceeding the SDTL.
- (b) The Speedway Lessee will be required to ensure compliance with the above lease obligation through agreement to and implementation of:
 - (i) A Dust Mitigation and Control Plan
 - (ii) A Rectification Action Plan (in the event of a breach)
 - (iii) Dragway dragstrip dust level monitoring
 - (iv) Dragway dragstrip dust level reporting
 - (v) Adoption of approved track curation and preparation procedures
 - (vi) Use and maintenance of approved track material
 - (vii) Conducting and reporting of annual track condition audits
 - (viii) Repair and maintenance of natural and engineered physical barriers

3.7 Remedies

- (a) Should the SDTL2 be exceeded, then the speedway must cease to operate until the Speedway Lessee completes all necessary action to rectify the breach and perform a test that it can comply with its dust control obligations under the Lease.
- (b) If during a speedway event, the breach impacts Dragway's dragstrip safety whereby it needs to stop competition, then the Speedway Lessee will make a payment to Sydney Dragway of up to \$25,000.
- (c) If the Speedway Lessee does not comply with the Dust Mitigation and Control Measures contained in the Lease, then the speedway will not be permitted to operate. If the breach is not remedied within 90 days, then the Lessor would have the right to terminate the Lease.

4 Noise Pollution

4.1 Noise Controls

- (a) Noise controls for each motorsports operator are prescribed in the individual development consent conditions.
- (b) Motorsport operators are required to manage and operate their premises in accordance with the development consent conditions and the terms and conditions of their lease.
- (c) Noise management is included in Individual motorsports operators Operational Plans.
- (d) Noise controls for each motorsports operator are prescribed in the individual development consent conditions.

4.2 Cumulative Noise & Vibration Impacts

- (a) Cumulative noise and vibration impacts from the scheduling of concurrent speedway, dragway and raceway events within the Eastern Creek Motor Sports Precinct could present particular issues for adjoining operators, spectators and the general public.
- (b) A noise and vibration impact study will be required as part of the Sydney Speedway Environmental Impact Statement (EIS) to assess the cumulative noise and vibration impacts of concurrent events.

4.3 Cumulative Noise Management Measures

4.3.1 Overview

- (a) It is anticipated that a range cumulative noise management measures will be required, including:
 - (i) Individual noise control limits (dBA)
 - (ii) Combined noise control limits (dBA)
 - (iii) Public address system management & control
 - (iv) Noise monitoring

4.3.2 Public Address Systems

- (a) It is anticipated that simultaneous public address system announcements will create a nuisance to adjoining motorsports operators and their spectators.
- (b) The public address systems need to be managed and/or modified to minimise the impact on other venues.

4.3.3 Noise Monitoring

- (a) External noise monitoring during events may be required. The purpose of this noise monitoring is to assess compliance with the established event noise control limits and if required apply mitigation during events to meet the required noise criteria.
- (b) The requirement for operators to undertake noise monitoring at surrounding noise sensitive locations will be set out in the Consent Authority's development consent conditions.

4.3.4 Complaints Procedure and Record Handling

- (a) The noise complaints procedure and record handling requirements will be set out in the Consent Authority's development consent conditions.

5 Traffic Management Plan

- (a) An event specific Traffic Management Plan (TMP) is to be completed for any major event(s) held within the Motorsport Precinct. For other event categories, the existing transport infrastructure can accommodate the transport demands generated and as such, no special provisions will be required.
- (b) During major events, the on-site population will increase to beyond the typical day-to-day demands anticipated for the site. These additional transport demands will need to be managed to ensure the efficient operation of the surrounding transport networks for all modes.
- (c) Event specific TMPs will need to be prepared in conjunction with the following transport stakeholders:
 - (i) NSW Transport Management Centre
 - (ii) NSW Police
 - (iii) Other Stakeholders (as required)
- (d) The TMP would need to consider all major modes of transport as follows:
 - (i) Car
 - (ii) Pedestrian
 - (iii) Public transport
 - (iv) Shuttle bus (if provided)
 - (v) Taxi
 - (vi) Cycling
- (e) As part of the TMP prepared for each event, plans would be prepared detailing how transport needs near the site would be managed. These would include details of some or all of the following:
 - (i) car parking arrangements including temporary restrictions and/or removal of on-street parking
 - (ii) implementation of special event parking scheme (if deemed necessary)
 - (iii) any temporary road closures required and associated detours preferred pedestrian routes to and from the site
 - (iv) any public transport considerations (additional bus services, etc.)
 - (v) pedestrian access
 - (vi) temporary taxi and shuttle bus zones
 - (vii) temporary drop off and pick up areas
 - (viii) details of any temporary road closures
 - (ix) on-site loading vehicle arrangements during events
- (f) Emergency vehicle access would take priority over all other modes of transport.
- (g) Accredited traffic controllers will implement all traffic management measures.

- (h) All works and traffic impacts would be monitored throughout events, with contingency plans developed and implemented where and when required.
- (i) A communication strategy will be prepared for each event.
- (j) Variable message signs (VMS) could be provided to alert road users of any road closures or changed traffic conditions during or prior to events.

6 Car Parking

6.1 Permanent Car Parking

- (a) There needs to be sufficient car parking available to cater for the demands of both competitors and spectators of all motorsport operators within the Precinct for all major events and for scheduled concurrent events, via a combination of permanent parking and overflow parking via car park sharing agreements.
- (b) 2,220 car spaces will be constructed in the dragway lease area by Sydney Metro.
- (c) The upper and lower sections of the 1,760 space northern car park would be asphalt.
- (d) The 460 space southern car park would be asphalt.
- (e) Given the provision of full asphalt to the northern and southern car parks, the proposed zone 12 overflow car park can only be provided as a grassed car parking area. The Zone 12 overflow parking would be available to both dragway and speedway spectators and would require the use of a shuttle bus.

6.2 Shared Car Parking

- (a) The Dragway Lessee is to have free exclusive use of the speedway car park and speedway pit area for up to 5 events (7-13 days) per annum.
- (b) The Dragway Lessee will enter into a reciprocal shared car parking agreement with the Speedway Lessee.
- (c) The Speedway Lessee will have free exclusive use of the dragway southern car park for the period from Dec 26th to the third Saturday in January.

6.3 Car Parking Locations

- (a) The permanent and shared car parking locations are shown on the following plan. [Note: Car Parking Location Plan to be prepared and inserted.]

7 Emergency Response Plan

- (a) Emergency Response Plans are included in Individual motorsports operators Operational Plans.
- (b) Operators are to review their individual Emergency Response Plan (ERP) and assess whether any amendments or additions are required to cater for major events.

- (c) The ERP is to be made available for review by WSPT on request, who may engage an experienced and qualified security consultant or crowd control manager to review
- (d) The ERP should provide details of procedures in the case of an injury to public and/or staff, power failure, bomb threat, fire, and emergency evacuation. The plan should cover details including, but not limited to:
- (i) Event organiser's chain of command and communication path, with contact details
 - (ii) Emergency radio call signs (in code)
 - (iii) Emergency evacuation routes and assembly points
 - (iv) Emergency vehicle access
- (e) The ERP should be developed in consultation with NSW Police Force, NSW Fire Brigades and Ambulance Service of NSW and other relevant emergency services.
- (f) The EIRP should clearly identify one suitable person who is responsible for managing the emergency response at the event. That person's contact details should be given to all those who may be involved in responding to an emergency.
- (g) Other issues to be addressed in the ERP may include:
- (i) an emergency medical plan, that includes the contact details of relevant hospitals prepared for a major incident, and that has been developed in consultation with the local Ambulance Service and first aid providers
 - (ii) a chain of command identifying who is responsible for decision-making, such as when decision-making lies with emergency response agencies rather than with the event organiser
 - (iii) the evacuation procedure, which should identify those personnel who can authorise an evacuation, and the location of evacuation exits and meeting areas. WSPT will assist with defining emergency evacuation routes, assembly points and emergency vehicle access routes
 - (iv) the arrangements for minor on-site emergencies not requiring external help
 - (v) an emergency communications plan outlining:
 - how to contact emergency services (always dial 000 first)
 - communication protocols during an emergency (such as how, and to whom, incidents are reported and logged)
 - who else needs to be contacted in an emergency such as: - the family of anyone involved in a serious incident - employees, volunteers, contractors, etc. - the media
 - who are the key stakeholders (with contact details)
 - the mode of contacting key stakeholders, e.g. two-way radio, mobile phone, email, etc.
 - who will respond to media enquiries
 - how to communicate with people attending the event.
 - coded messages for incidents, such as:
 - Red – fire or smoke
 - Orange – evacuation

- Yellow – internal emergency
- Blue – medical
- Brown – external emergency
- Purple – bomb or substance threat
- Black – personal threat

8 Security

- (a) A range of events will be held within the Motorsports Precinct. For larger events tenant(s) will be required to prepare an Event Management Plan that addresses crowd management, emergency and incident response, alcohol service and security response.
- (b) With respect to security, the Event Management Plan will need to provide the following information:
- (i) Details of the security that has been selected for the event, including the security firm that has been contracted and its experience and credentials in working on similar events,
 - (ii) Details of security firm licenses and event day contact etc,
 - (iii) Identify the type of security staff (1a or 1c licensed) and numbers of security staff to be provided for the event
 - (iv) Event security measures to be put in place
 - (v) Communications strategy for the event
 - (vi) Whether there will be additional security during the bump in and bump out e.g. overnight security for any structures and/or equipment protection
 - (vii) The ratio of security to patrons (contact Police for ratio if the event is proposed to be licensed)
 - (viii) Site specific induction measures for staff including emergency protocols, assembly areas, command centre contact and supervisor details
- (c) Each tenant will be responsible for the security and safety of all stakeholders attending their event.
- (d) The MPEWG will review the security profile contained in the EMP to determine whether any additional security overlay is required. If an additional security overlay is required, the MPEWG will work with the tenant(s) to develop a coordinated deployment plan. Costs will be managed as per the operational expenditure cost sharing agreement that is to be developed.

9 Stakeholder and Community Engagement

9.1 Overview

- (a) As the Motorsport Precinct commences a transformation period, the primary focus of engagement will be on community relations and communications. Continuing to be a good neighbour, to engage with new and existing audiences, to strengthen stakeholder relationships will support ongoing activation of the Motorsport Precinct.

9.1.1 **MEOP Working Group**

(a) A MEOP Working Group (MWG) will be established to develop the MEOP. Member agencies will include:

- WSPT
- Office of Sport
- NSW Police
- Blacktown City Council
- SMP
- WSID
- WSIS

(b) The MWG will be chaired and coordinated by the WSPT and supported by the Office of Sport as the industry body.

(c) The MWG will develop oversee the drafting of the MEOP to ensure the delivery of safe and successful major events in the Western Sydney Parklands Motorsport Precinct. It will provide a forum to develop effective traffic and parking operations in the precinct and its surrounds. The agencies represented will provide detailed input into these operations.

(d) The key stakeholders to be consulted to ensure the effective operation of the Motorsport Precinct are identified in the table below. Three major stakeholder categories and likely areas of interest are:

- (i) Delivery partners – including Government agencies and authorities, motorsport organisations within the Precinct, local stakeholders and event producers.
- (ii) Business and tourism – from local businesses to those in greater western Sydney region, including stakeholders across the motorsport sector, and in the tourism, entertainment and retail sectors.
- (iii) Community stakeholders – from local residents, groups and businesses to the broader Sydney community, to cultural consumers and producers, and future visitors to the Precinct.

(e) **Key stakeholders:**

Type	Key stakeholder
Owners, statutory authorities, and other authorities	<ul style="list-style-type: none"> • Western Sydney Parklands Trust • Blacktown City Council
Key Government agencies	<ul style="list-style-type: none"> • Office of Sport • NSW Police • Emergency Services
Operators	<ul style="list-style-type: none"> • SMP • WISD • WSIS
Local residential community	<ul style="list-style-type: none"> • Residential groups • Local surrounding residents
Local business	<ul style="list-style-type: none"> • Neighbouring business

Type	Key stakeholder
community	<ul style="list-style-type: none"> • Chamber of commerce • Local business associations
Visitors and patrons	<ul style="list-style-type: none"> • Competitors • Spectators

9.2 Engagement and community relations for major events

- (a) The primary focus of engagement in this phase will be on community relations and communications. Key areas of focus will be strengthening stakeholder relationships within the neighbourhood as a good neighbour, and engaging with new and existing audiences – supporting activation of the Motorsport Precinct into the future.

Who we should talk to	Proposed engagement activities	Timing
Existing operators	<ul style="list-style-type: none"> • Engagement with WSPT to coordinate / resolve operational matters • Provide material to encourage operator's patrons to access precinct via active transport 	<ul style="list-style-type: none"> • Ongoing
Police and emergency services	<ul style="list-style-type: none"> • Annual site orientation to precinct • involvement in developing key major event plans where required 	<ul style="list-style-type: none"> • As required
Coordination with other authorities	<ul style="list-style-type: none"> • Agency and Authority Coordination Groups - to ensure coordinated planning with other authorities and major events organisers comprising 	<ul style="list-style-type: none"> • As required

Schedule 3
EVENT CO-ORDINATION AGREEMENT



SCHEDULE H

Event Co-ordination Agreement

For the avoidance of doubt, the NSW Government has made significant investments in the Eastern Creek Motorsport Precinct to ensure that concurrent Major events can be supported at the Precinct across all codes – ARDC, Dragway and Speedway.

Prior to Lease Commencement, the Lessee will be required to enter into an Event Coordination Agreement with the other motorsport operators within the Motorsport Precinct.

The objectives of the Event Coordination Agreement are to:

- Enhance the management and operation of the Motorsport Precinct as a whole, for the benefit of all operators, competitors, spectators and the general public.
- Minimise conflicts between operators with respect to dust pollution, noise pollution, traffic management, car parking and other operational issues.

The Event Coordination Agreement will include the following elements:

Annual Event Calendar

- On or before 30 April each year, the operators are to meet to discuss and coordinate the future motorsport events, and by 30 June each year formulate and agree a Coordinated Annual Event Calendar for the next calendar year.
- Events are to be designated major, main, minor or club.
- The Annual Event Calendar is to be provided to the Lessor.

Major Events

Reciprocal Rights

The dragway operator will have the first right to nominate up to five (5) major dragway events (7-13 days) per annum where the dragway operator will have exclusive use of the speedway car park and pit area, and the speedway operator will not be permitted to hold a concurrent speedway event, unless with the agreement of the dragway operator.

In exchange the speedway operator would have the reciprocal right that speedway events from Dec 26th to the third Saturday in January, where the speedway operator will have free exclusive use of the dragway car park and the dragway operator will not be permitted to hold a concurrent dragway event, unless with the agreement of the speedway operator.

The current dragway event schedule 2019-2020 and 2020-2021 will form the base of dragway event calendar, the current 2019-2020 Speedway event schedule will form the base of the Speedway event schedule.

Trial Period

There will be a trial period of 12 months from Lease Commencement for all Major Events across the Motor Sports Precinct. During this trial period, no concurrent major events are to be scheduled without the agreement of the respective speedway, dragway and raceway operators and WSPT.

Post-Trial Period

Post the initial 12 month trial period concurrent major events can be held but only by agreement of the respective speedway, dragway and raceway operators.

The operators will be required to agree additional operational measures to manage the events such as traffic management and car park sharing etc and otherwise in accordance with an agreed Motorsport Precinct Major Event Operations Plan (MEOP).

Event Coordination Agreement Protocols

There will be an agreed protocol for:

- Event deferrals and rescheduling due to wet weather.
- Shared parking arrangements for major events.
- Operators to request addition of new business/event opportunities.
- Regular communications and meetings between operators.
- Conflict resolution.

Schedule 4

DUST MITIGATION AND CONTROL MEASURES

SCHEDULE E

Dust Mitigation and Control Measures Operations

(Speedway Operations Period)

Dust mitigation and control obligations will be incorporated into the new Speedway lease for compliance by the Speedway Lessee and will be an essential term of the Lease.

Baseline Dust Levels

Dust monitoring stations will be installed by Western Sydney Parklands on the dragway site during the period up to the operations commencement and WSPT will monitor, measure and report the Dragway Baseline Dust Level (DBDL). Subject to final review, the monitors will include at least one adjacent to the racing area, one adjacent to the dragstrip's timing marker and one adjacent to the braking area. These will be known as Site Dust Monitor #1, Site Dust Monitor #2 and Site Dust Monitor #3.

Data gathered will be used to establish a baseline for safe operational dust levels at the dragstrip. The threshold beyond this baseline that still provides safe dragway operations will be determined, and that threshold level will be the requirement to which the speedway operator will be obligated to manage.

1. An air quality management plan will be developed which incorporates the maintenance procedures and operational conditions that need to be in place to minimise the generation of dust.
2. Trigger values will be developed to enable the Speedway to be managed in a reactive manner as well as a proactive manner through design measures. The trigger values would be developed as follows:
 - a. Dispersion modelling would be undertaken using either measured or estimated dust emission rates from the speedway. This will be undertaken during speedway track testing ahead of racing operations.
 - b. Modelling would predict the level of dispersion expected as the plume moves away from the track (both in terms of concentration dispersion and deposition rate).
 - c. The maximum allowable ground level deposition rate would be determined from discussions with the Dragstrip operators and the results of the dispersion modelling examined to determine what emission rates would be needed to result in deposition rates of concern.
 - d. Based on the deposition rates of concern, two to three trigger values would be developed which can then be used for the operation of the track. These trigger values would be as follows:

- i. Alert Level – elevated levels of dust above $XX \mu\text{g}/\text{m}^3$ (TBD) observe the track to see if obviously elevated dust levels are occurring. Possibly take action or continue to observe closely;
- ii. Action level 1 – elevated levels of dust above $XX\mu\text{g}/\text{m}^3$ (TBD) on two (2) consecutive 15 minute readings, which require actions to be undertaken to bring dust levels down before the next race; and
- iii. Action Level 2 – elevated levels of dust above $XX\mu\text{g}/\text{m}^3$ (TBD) on three (3) consecutive 15 minute readings, which if it remains above this level deposition rates at the Dragstrip may be above acceptable levels.

Speedway and Dragway Dust Level Monitoring

From Lease Commencement the Speedway Dust Level (SDL) and the Dragway Dust Level (DDL) will be required to be continuously monitored and regularly sampled on speedway event days, with measurement and testing reports to be made available to the Speedway Lessee, the Dragway Lessee and the Lessor. The position of two real-time operational dust monitors will be finalised during track testing ahead of full speedway operations. These are to be known as Operational Dust Monitor # 1 and Operational Dust Monitor # 2.

During Speedway racing events, real-time Operational Dust Monitors are to be utilised, positioned appropriately to monitor dust generated by speedway racing that might impact the dragstrip. If during an event, the monitors indicate potential impact on the dragstrip, speedway racing is to cease until the track surface is appropriately treated.

Baseline site dust conditions for the dragstrip would be established from the Site Dust Monitors. This would be the level of dust deposition that currently occurs onto the dragstrip independent of speedway construction or operation activities. Operational conditions would be agreed as follows:

- Baseline: dust deposition on the dragstrip (DDL) in the absence of speedway activity.
- Condition Option 1 - 'The Speedway Dust Level (SDL) based on Operational Dust Monitors 1 and 2 does not exceed the Speedway Dust Trigger Action Level 2 (SDTL2) [$\text{TBD} \mu\text{g}/\text{m}^3$]'.
- Condition Option 2 - 'The Speedway Dust Contribution (SDC) at the dragstrip (Site Dust Monitor 1, 2 or 3 – Site Dust Monitor 4) is greater than $XX\mu\text{g}/\text{m}^3$ (TBD)' –

The positioning of the real time Operational Dust Monitors will be finalised during speedway track testing. Site Dust Monitor positions are proposed as follows:

- Site Dust Monitor #1: Adjacent to the dragstrip in the racing area
- Site Dust Monitor #2: Adjacent to the dragstrip at about the timing marker
- Site Dust Monitor #3: Adjacent to the dragstrip in the braking area
- Site Dust Monitor #4: to the east of the speedway competitor pit area

The dust monitor locations are shown in the attached plan.

WSPT will be responsible for the dust monitors. The operating costs incurred by WSPT for the dust monitoring will be reimbursed by the Speedway Lessee and the Dragway Lessee on a 50/50 basis.

Speedway Dust Level Reporting

If the SDL does not exceed a Speedway Dust Trigger Level (SDTL) level of [TBD $\mu\text{g}/\text{m}^3$], then the dust consultant will prepare Quarterly reports on the monitoring and sampling of the DSDLs to be made available to the Speedway Lessee, the Dragway Lessee and the Lessor.

If on any day the SDL exceeds the SDTL, then the dust consultant will immediately, but no more than 24 hours later, notify the Speedway Lessee, the Dragway Lessee and the Lessor of the dragway dust level exceedance.

Trial Period

There will be a trial period of 12 months from Lease Commencement where the correlation of the SDTL with the DDL and DBDL will be reassessed and the dust consultant will report on the adequacy of the SDTL and whether the SDTL need to be varied.

Dust Mitigation and Control Measures

The Speedway Lessee is to be fully responsible for the implementation and management of dust mitigation and control measures to achieve compliance with the requirement of not exceeding the SDTL.

The Speedway Lessee will be required to ensure compliance with the above lease obligation through agreement to and implementation of:

- A Dust Mitigation and Control Plan
- A Rectification Action Plan (in the event of a breach)
- Adoption of approved track curation and preparation procedures
- Use and maintenance of approved track material
- Conducting and reporting of annual track condition audits
- Repair and maintenance of natural and engineered physical barriers

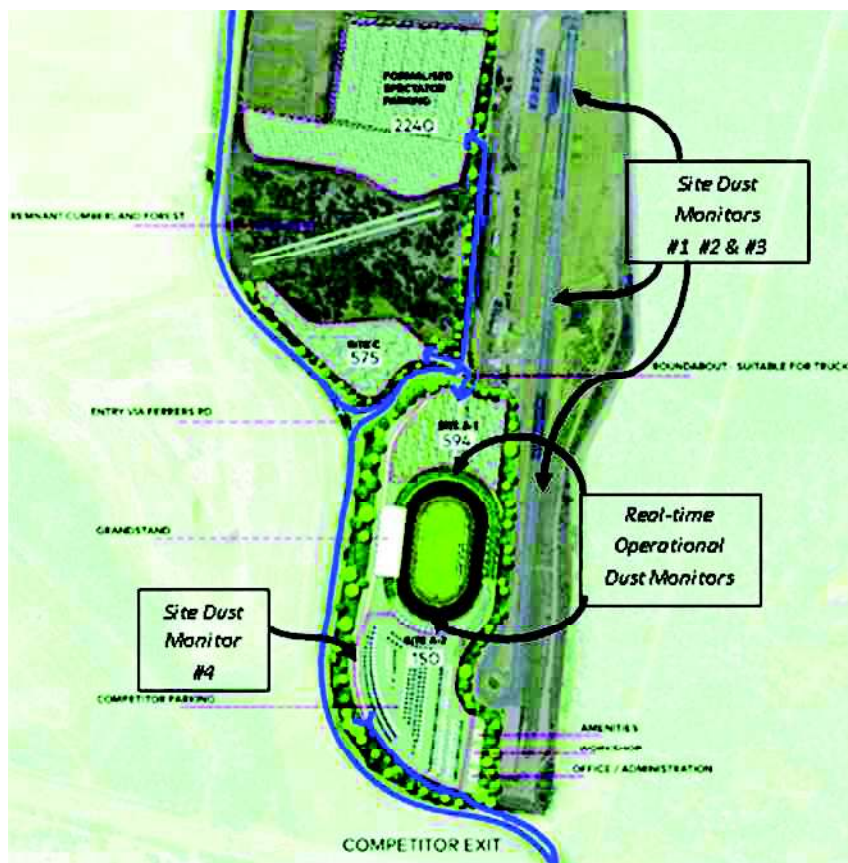
Remedies

Should the SDTL2 be exceeded on three (3) consecutive 15 minute readings, then the speedway must cease to operate until the Speedway Lessee completes all necessary action to rectify the breach and perform a test that it can comply with its dust control obligations under the Lease.

If during a speedway event, there have been three (3) consecutive 15 minute readings above SDTL2 and the Speedway Lessee has not ceased speedway operations and the breach impacts Dragway's dragstrip safety whereby it needs to stop competition, then the Speedway Lessee will make a payment to Sydney Dragway of up to \$25,000.

If the Speedway Lessee does not comply with the Dust Mitigation and Control Measures contained in the Lease, then the speedway will not be permitted to operate. If the breach is not remedied within 90 days, then the Lessor would have the right to terminate the Lease.

Dust Monitor Location Plan



Schedule 5
RECIPROCAL CAR PARKING AGREEMENT

Reciprocal Car Parking Agreement

Western Sydney International Dragway Limited
ACN 104 459 912

["details of Speedway Operator to be inserted"]
ACN []

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Date 2020

Parties

Dragway Operator Western Sydney International Dragway Limited (ACN 104 459 912) ("Dragway Operator")
Address Berkshire Park, New South Wales, 2765
Attention
Email for notices

Speedway Operator [insert details] ("Speedway Operator")
Address
Attention
Email for notices

Background

- A. The Dragway Operator operates the Western Sydney International Dragway within the Motorsports Precinct and leases the Dragway Area under the Dragway Lease.
- B. The Speedway Operator operates the adjacent Speedway Facility within the Motorsports Precinct and leases the Speedway Area under the Speedway Lease.
- C. The Speedway Operator and the Dragway Operator have agreed to allow each other use of the Speedway Area and the Dragway Area respectively for the purposes of shared car parking within the Motorsports Precinct, at certain times and on certain conditions as set out in this document.

Operative Provisions

1 Definitions and interpretation

1.1 Definitions

The following words have these meanings in this deed:

Annual Event Calendar means the annual event calendar prepared in accordance with clauses 4.2 and 4.3 of this deed.

Authorised Times means the times during which the User is authorised to use either of the Car Parking Facilities in accordance with clause 4 of this deed.

Car Parking Facilities means the Speedway Area and the Dragway Area or either of them as the case may be.

Dragway means the Western Sydney International Dragway.

Dragway Area means the designated car parking area defined as:

- (a) The southern car parking area within the Dragway Lease located off the Spectator Access Road, comprising approximately 460 spaces; and
- (b) The Zone 12 grassed car parking area within the Dragway Lease to the south of Ferrers Road;

shown on the plan marked "B" attached to this deed.

Dragway Lease means the lease of the Western Sydney International Dragway, Lease Registered No. [] from Western Sydney Parklands Trust (as lessor) to Western Sydney International Dragway Limited (ACN 104 459 912) (as lessee).

Dragway Operator means the operator of the Western Sydney International Dragway.

Event Coordination Agreement means an event coordination agreement entered into (or to be entered into) between all motorsport operators within the Motorsport Precinct for the purpose of:

- (a) enhancing the management and operation of the Motorsport Precinct as a whole and for the benefit of all operators, competitors, spectators and the general public; and
- (b) minimising conflicts between operators with respect to dust pollution, noise pollution, traffic management, car parking and other operational issues.

Major Event means in relation to the Dragway, an event nominated by the Dragway Operator where spectators exceed 3,500; in relation to the Speedway, an event nominated by the Speedway Operator, where spectators exceed 2,500 and in relation to the Raceway an event nominated by the Raceway Operator where spectators exceed 10,000.

Minister means the Minister of Tourism, Sport and Recreation for the State of New South Wales or his successors.

Motorsports Precinct means the Eastern Creek Motorsport Precinct at Ferrers Road, Eastern Creek.

Operator means in relation to the Speedway Area, the Speedway Operator and in relation to the Dragway Area, the Dragway Operator.

Permitted Use means the parking of motor vehicles by members of the public who attend an event at the Western Sydney International Dragway or the Speedway Facility, as the case may be (but excluding the parking of trucks and buses which are prohibited for the purposes of this agreement).

Person Under the User's Control means the User's employees, agents and contractors and any sublessee, licensee and other occupier claiming by through or under the User and any other person in or about the Car Parking

Facilities at any time at the request or invitation of or under the control or direction of the User or the employees, agents or contractors of the User and where the context admits, any of them.

Raceway means Sydney Motorsport Park.

Raceway Operator means the operator of the Sydney Motorsport Park.

Speedway Area means the designated car parking area defined as:

- (a) The public car parking area within the Speedway Lease, comprising approximately 584 spaces; and
- (b) The pit area within the Speedway Lease, comprising approximately 200 spaces.

and shown on the plan marked "A" attached to this Deed.

Speedway means the speedway facility constructed adjacent to the Western Sydney International Dragway.

Speedway Lease means the lease of the Speedway Facility (including the Speedway Area) from Western Sydney Parklands Trust (as lessor) to the Speedway Operator (as lessee).

User means in relation to the Speedway Area, the Dragway Operator and in relation to the Dragway Area, the Speedway Operator.

WSPT means Western Sydney Parklands Trust ABN 85 202 544 800.

1.2 Interpretation

In interpreting this deed:

- 1.2.1 the singular includes the plural and conversely;
- 1.2.2 word of one gender includes each other gender;
- 1.2.3 a different part of speech or grammatical form of a defined word or expression has a corresponding meaning;
- 1.2.4 a heading must be disregarded even when used for identification or reference purposes;
- 1.2.5 where the day or last day for paying money under this deed is not a business day at the place where the payment must be made, the relevant day is the next business day at that place;
- 1.2.6 a reference to this deed includes each annexure, exhibit and schedule to this document;
- 1.2.7 a reference to a particular provision of an Act that has been repealed and re-enacted with a corresponding provision, includes a reference to the corresponding provision;

- 1.2.8 if a body or institution named in this deed changes its name or if its function is taken over by another body or institution, this deed should be read as though it referred to the new or newly named body or institution;
- 1.2.9 a promise made to or by more than one person is made to or by those persons separately, all together or in any combination;
- 1.2.10 a reference to a dollar amount is to that amount in Australian dollars unless otherwise indicated;
- 1.2.11 a reference to a business day means' a day when banks are open for general banking business in New South Wales; and
- 1.2.12 a specific provision of the deed does not limit the meaning or operation of a more general provision except to the extent this deed expressly states to the contrary.

2 Agreement to Grant Reciprocal Parking Rights

- 2.1 The Speedway Operator agrees to make available to the Dragway Operator the Speedway Area for the Permitted Use during Authorised Times subject to the terms of this deed.
- 2.2 The Dragway Operator agrees to make available to the Speedway Operator the Dragway Area for the Permitted Use during Authorised Times subject to the terms of this deed.

3 Commencement & Term

3.1 Commencement and term

- (a) This deed commences on the date of commencement of the Speedway Lease.
- (b) This deed will remain in effect until the expiry or earlier determination of either the Speedway Lease or the Dragway Lease.

3.2 Assignment

If either party assigns its leasehold interest or subleases the whole of the leased-premises under the Speedway Lease or the Dragway Lease (as the case may be), the party which is the assignor or the sublessor must procure the execution of a deed of novation between itself, the assignee or sublessee and the other party to this deed under which the assignee or sublessee covenants to perform and observe the obligations of the assignor or sublessor under this deed, the other party to this deed covenants to perform and observe its obligations for the benefit of the assignee or sublessee and which includes a clause in the same terms as this clause 3.2.

4 Authorised Times and fees

4.1 Proposed calendar of Events

On or before 31 March in each year, the Dragway Operator and the Speedway Operator together with the Raceway Operator will each provide the other with a calendar showing its major events to be held at the Dragway, the Raceway and the Speedway respectively.

4.2 Major Events to be agreed

On or before 30 April in each year, the Dragway Operator and the Speedway Operator will together meet with the Raceway Operator to agree the dates of the motorsport events for all motorsport operators in the Motorsports Precinct in accordance with the Event Coordination Agreement.

4.3 Annual Event Calendar

On or before 30 June in each year, the Dragway Operator and the Speedway Operator will together with the Raceway Operator prepare a co-ordinated Annual Event Calendar for the following year which will set out the events and Major Events of the Dragway Operator, the Raceway Operator and the Speedway Operator.

4.4 Copy of Annual Event Calendar to be given to WSPT

On or before 30 June in each year, the Dragway Operator, the Raceway Operator and/or the Speedway Operator must ensure a copy of the Annual Event Calendar is given to WSPT.

4.5 Major Events

- (a) The Dragway Operator will have the first right to nominate up to five (5) Dragway Major Events (7-13 days) per annum where the Dragway Operator will have exclusive use of the Speedway Area.
- (b) The Speedway Operator will have the right to hold speedway events during the period from 26 December to the third Saturday in January of each year and will have exclusive use of the Dragway Area.
- (c) Other than in 4.5 (a) and (b), other Major Events can only be held by agreement between the Dragway and Speedway Operators.

4.6 Authorised use of the Speedway Area by Dragway Operator

On the dates agreed in the Annual Event Calendar as being dates on which the Dragway Operator has nominated a Major Event, the Dragway Operator is entitled to use the Speedway Area for the Permitted use, , and subject to the Dragway Operator complying with the Event Coordination Agreement:

- (a) for five (5) events per year (totalling 7-13 days per year) at no charge; and
- (b) at other times with the prior written consent of the Speedway Operator (such consent may be given or withheld in accordance with the provisions of the Event Coordination Agreement) at a cost to be determined between the parties.

4.7 Authorised use of the Dragway Area by the Speedway Operator

The Speedway Operator is entitled to use the Dragway Area for the Permitted Use, subject to the Speedway Operator complying with the Event Coordination Agreement:

- (a) during the period from 26 December to the third Saturday in January of each year at no charge; and
- (b) at other times with the prior written consent of the Dragway Operator (such consent may be given or withheld in accordance with the provisions of the Event Coordination Agreement) at a cost to be determined between the parties.

4.8 No Concurrent Major Events

With the exception of clause 4.9, the Operator will not hold a concurrent major event on any day on which the User has notified the Operator of its intention to use the Car Parking Facilities.

4.9 Trial Period

For the period of 12 months from the commencement date of the Speedway Lease, the Dragway Operator and the Speedway Operator may hold Major Events concurrently with each other but only if both parties agree.

5 Obligations regarding use of Car Parking Facilities

- 5.1 Any portable or temporary fencing or other control measures which are considered necessary by the Operator, acting reasonably, in respect of any use of the Car Parking Facilities, must be installed and removed by the relevant User, at its cost.
- 5.2 Any security staff considered necessary by the Operator, acting reasonably, in respect of any use of the Car Parking Facilities, must be provided by the relevant User, at its cost.
- 5.3 Customers, clients and staff of the User must obey any reasonable instructions given by the relevant Operator.
- 5.4 The Operator may set any other reasonable conditions on the use of the Car Parking Facilities, including placing a limit on the number of cars that may be parked within the Car Parking Facilities during Authorised Times.
- 5.5 The User is entitled to collect parking fees from its customers using the Car Parking Facilities.

6 Insurance

- 6.1 Each User of the Car Parking Facilities must take out and hold public risk insurance which notes the interest of the Operator, in the amount of \$20,000,000.00 (being the amount which may be paid out arising out of any one single accident or event), or such other amount as the Operator reasonably requires, in respect of the Car Parking Facilities while all or any part of the Car Parking Facilities are in use by the User.
- 6.2 The User must provide to the Operator evidence satisfactory to the Operator, of the insurance required under clause 7.1 prior to using any of the Car Parking Facilities.

7 Access

- 7.1 Notwithstanding anything else contained in this deed, nothing in this deed authorises customers, clients or staff of the Dragway Operator to access any part of the Speedway Facility other than the Speedway Area.
- 7.2 Notwithstanding anything else contained in this deed, nothing in this deed authorises customers, clients or staff of the Speedway Operator to access the Dragway drag strip, roadways, buildings, spectator areas or other assets of the Dragway site other than the Dragway Area, except as is reasonably necessary for access to and from the Dragway Area.
- 7.3 The Dragway Operator must only access the Speedway Area through such point as notified from time to time by the Speedway Operator to the Dragway Operator.
- 7.4 The Speedway Operator must access the Dragway Area through such point as is notified by from time to time by the Dragway Operator to the Speedway Operator.

8 Dispute Resolution

- 8.1 If there is any dispute between the Speedway Operator and the Dragway Operator arising out of this deed, either party may give the other notice of the dispute. The notice must.
 - 8.1.2 identify the subject matter of the dispute
 - 8.1.3 identify the relevant provisions of this deed
 - 8.1.4 annex copies of any correspondence or background material and information relevant to the dispute; and
 - 8.1.5 contain any particulars of the quantification of the dispute.
- 8.2 The parties must negotiate with each other in good faith with a view to resolving the dispute within a reasonable time.
- 8.3 If the dispute has not been settled within 30 days of service of the notice referred to in clause 10.1, either party may give notice of the dispute to WSPT for determination. WSPT must either determine the dispute or decline to make a determination within a reasonable time from being requested to do so.
- 8.4 In determining a dispute, WSPT will act in the capacity of umpire (but not as an arbitrator) between the Speedway Operator and the Dragway Operator.
- 8.5 WSPT is entitled to use its absolute discretion in determining a dispute and its determination will be final and binding on the Speedway Operator and the Dragway Operator. WSPT is not required to provide reasons for its determination.
- 8.6 The Speedway Operator and the Dragway Operator must provide any information reasonably requested by WSPT to enable it to determine the dispute
- 8.7 The Speedway Operator and the Dragway Operator must pay WSPT's reasonable costs for determining the dispute.

- 8.8 The Speedway Operator and the Dragway Operator release WSPT to the fullest extent permitted by law from and against all claims and demands of any kind arising out of the operation of this clause 10 and this clause may be pleaded as a bar to action commenced or to be commenced by the Speedway Operator or the Dragway Operator against WSPT or the Government of New South Wales concerning or arising out of or in any way related, directly or indirectly to the operation of this clause 10.
- 8.9 If WSPT fails to determine the dispute within a reasonable period or declines to determine the dispute then the dispute must be the subject of a mediation administered by the Australian Commercial Disputes Centre (ACDC) (or its successor from time to time) conducted and held in accordance with the mediation rules of ACDC (or its successor) in force at the time of the appointment of a mediator.
- 8.10 Neither the Speedway Operator nor the Dragway Operator may commence proceedings in court to resolve a dispute arising out of this deed unless the dispute resolution process in this clause 10 has been undertaken and WSPT fails to make a determination within a reasonable time or declines to make a determination and the mediation referred to in clause 10.9 fails to settle the dispute.

9 Repairs and Maintenance

- 9.1 If the Car Parking Facilities or any of the Operator's property is damaged by the User, its customers, clients or staff, the User must make good the damage within a reasonable time.
- 9.2 If the User does not make good the damage referred to in clause 11.1, the Operator is entitled to carry out any repairs it considers necessary and the User must reimburse the Operator for the cost of carrying out the repairs, on demand.
- 9.3 Within a reasonable period after the expiration of each Authorised Time, the User must clean the Car Parking Facilities of rubbish and remove any abandoned vehicles or contaminants from the Car Parking Facilities.

10 Release/Indemnities

- 10.1 Each User occupies and uses the Car Parking Facilities at the User's sole risk and releases the Operator to the full extent permitted by law from and against all claims and demands of any kind and from all liability which may arise in respect of any accident, damage, injury or death occurring to any person or property in or about the Car Parking Facilities used by the User, except to the extent that the accident, damage, injury or death arises as a direct result of the negligence or wilful act or default of the Operator.
- 10.2 Each User must keep the Operator indemnified from and against all claims, demands, actions, liabilities, losses, damages, costs, charges and expenses of any nature which the Operator may suffer or incur or for which the Operator may become liable in respect of or arising out of (except to the extent caused or contributed to by the negligence of the Operator):
- 10.2.2 the negligent use or misuse by the User and Persons Under the User's Control of the Car Parking Facilities;

- 10.2.3 any accident or damage to or loss of property or injury or death suffered by any person arising from any occurrence in or near the Car Parking Facilities, to any person or property using or near the Car Parking Facilities arising wholly or in part by reason of any act or omission by the User or Persons Under the User's Control;
- 10.2.4 any accident or damage to or loss of property or injury or death suffered by any person from any cause whatever arising wholly or in part by reason of the use of the Car Parking Facilities by the User or Persons Under the User's Control; and
- 10.2.5 any breach by the User of any of the User's obligations under this deed.

11 Default

- 11.1 If either the Speedway Operator or the Dragway Operator defaults under this deed ("defaulting party"), the other party ("non-defaulting party") may serve a notice in writing on the defaulting party requiring it to remedy the default within a reasonable time specified in the notice.
- 11.2 If the defaulting party fails to rectify the default set out in the notice referred to in clause -13.1, the non-defaulting party will be entitled to rectify the default at the expense of the defaulting party and/or claim damages against the defaulting party.
- 11.3 The defaulting party must pay all costs, charges and expenses for which the non-defaulting party becomes liable in consequence of or in connection with any breach or default by the defaulting party, including all solicitors' and other consultants' fees on a full indemnity basis.

12 Costs & GST

- 12.1 Each party must pay its own costs in respect of the preparation and negotiation of this deed.
- 12.2 In this clause 14:
- "Act"** means "A New Tax System (Goods and Services Tax) Act 1999".
- "GST", "taxable supply", "input tax credit", "supply" and "tax invoice"** have the same meaning as in the Act.
- "GST rate"** means 10% or if the rate at which GST is calculated under the Act changes, the rate applicable at the relevant time
- "payment"** includes consideration in the form of money given or received and in a form other than money given or received
- 12.3 If GST is imposed on any supply made under this deed, the recipient must pay to the supplier, at the same time as the recipient must make payment of the taxable supply, an additional amount equal to the amount of the payment multiplied by the GST rate.
- 12.4 If this deed requires a party to reimburse or indemnify any other party for or against any cost, expense, loss or outgoing ("Reimbursable Expense") suffered or incurred or

to be suffered or incurred by the other party, the amount that must be reimbursed or paid by the first party is the sum of:

- (a) the amount of the Reimbursable Expense net of input tax credits (if any) to which the other party is entitled in respect of the Reimbursable Expense; and
- (b) if the payment of the Reimbursable Expense is consideration for a taxable supply, any GST payable in respect of the Reimbursable Expense.

12.5 If the supplier makes a taxable supply to the recipient under this deed, the supplier must provide a tax invoice to the recipient at or before the time of the payment of the taxable supply

13 Service of notices

13.1 Any notice, document or demand (called "notice") under this document may be served in accordance with this clause.

13.2 The notice shall be in writing, signed by the party giving it or by that party's solicitor and served on the other party at the address or email address specified in this deed.

13.3 Either party may by notice to the other party advise the other party of altered address details for the service of notices, which, in the case of any address, is within the State of NSW and is not a post office box, and such altered details will replace the details specified in this document.

13.4 A notice may be served:

- (a) by delivering it to the party at the address shown in this document (called "the party's address");
- (b) by sending it by pre-paid post, correctly addressed, to the party's address; or
- (c) by sending it on a Business Day by email to the party's email address (if any) indicated in this document.

13.5 A notice is considered to have been served:

- (a) at the time of delivery;
- (b) on the seventh Business Day after the day on which it is posted, the first Business Day being the day of posting;
- (c) on the Business Day on which the notice is sent by email, provided that the sender does not receive a failed email report.

14 Variations

14.1 This deed may only be varied by the agreement in writing of all parties and with the written consent of WSPT.

15 Governing Law

- 15.1 The law in force in the State of New South Wales, governs this deed. The parties irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of that state and the courts of appeal from them.

Signed as a deed

Executed for and on behalf of
**WESTERN SYDNEY INTERNATIONAL
DRAGWAY LIMITED** by its duly
authorised officers.

.....
Signature of Director:

.....
Signature of Director

.....
Print name

.....
Print name

Executed for and behalf of
[insert details] by its
duly authorised officers:

.....
Signature of Director:

.....
Signature of Director

.....
Print name

.....
Print name

ANNEXURE A – SPEEDWAY AREA

[attach plan]

ANNEXURE B – DRAGWAY AREA

[attach plan]

EXECUTED AS A DEED

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the body named below by the authorised delegate(s) whose signature(s) appear(s) below pursuant to the authority specified.

Body: Western Sydney Parklands Trust

Authority: s 8 of the Western Sydney Parklands Act 2006

Signature of witness:

Signature of delegate:

Name of witness (print):

Name of delegate: Suellen Fitzgerald

Occupation of witness (print):

Position: Director

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the corporation named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Corporation: Speedway Promotions Pty Ltd ABN 98 648 814 779

Authority: s 127 of the Corporations Act 2001

Signature of Director/Secretary:

Signature of Director:

Name of Director/Secretary:

Name of Director:

Office held:

Office held:

Schedule 2 – Draft Subdivision Plan



Schedule 3 – Speedway Works

The Speedway Works comprise:

1. Internal site works

The scope of the internal site works includes the following works to be constructed within the Speedway Construction Site on the Speedway land:

- (a) earthworks;
- (b) retaining walls;
- (c) underground utilities reticulation including water, sewer, electrical and communications;
- (d) fire services;
- (e) drainage;
- (f) internal site access roads and egress;
- (g) lighting;
- (h) car parking;
- (i) landscaping including a playground; and
- (j) internal wayfinding and signage.

2. Building works

The scope of Speedway building works includes:

- (a) track works including safety walls and fences;
- (b) car parking;
- (c) fencing, ticketing, security;
- (d) grandstand and roofing; and
- (e) buildings which may include office, storage and maintenance, amenities (competitor and spectator), medical, garages, commentator, corporate boxes, merchandise, catering, and ticketing and access control facilities, plant and control room and a fire services pump house.

Schedule 4 – Milestone Dates

MILESTONE	Indicative Milestone Date
Indicative Completion Date for Milestone 2 Works	22 September 2021
Indicative Completion Date for the Speedway Works	17 December 2021

Schedule 5 – Deed Poll

THIS DEED POLL is made on 2021

BY: Speedway Promotions Pty Ltd ABN 98 648 814 779 (**Lessee**)

FOR THE BENEFIT OF:

Sydney Metro ABN 12 354 613 505, a NSW Government Agency constituted by section 38 of the *Transport Administration Act 1988* (NSW) and located at Level 43, 680 George Street, Sydney, NSW 2000 (**Sydney Metro**)

1. DEFINITIONS

The meanings of the terms used in this deed are set out below.

Consequential Loss means any loss of opportunity, profit, anticipated profit, business, business opportunities or revenue or any failure to realise anticipated savings, whether present or future, fixed or unascertained, actual or contingent.

Land means the land depicted as Lot 3 on the draft subdivision plan attached to this deed poll.

Speedway Delivery Agreement means the agreement between Western Sydney Parklands Trust and Sydney Metro dated 19 August 2020.

Sydney Metro Activities means all things which Sydney Metro is or may be required to do in relation to the delivery of the speedway, including the carrying out of the Sydney Metro Works and any other thing that Sydney Metro is required or permitted to do pursuant to the Speedway Delivery Agreement.

Sydney Metro Works includes the design and construction by Sydney Metro of a new speedway facility and any works ancillary to those works or otherwise necessary for the purposes of the construction of the new speedway facility.

Western Sydney Parklands Trust ABN 85 202 544 800, a NSW Government Agency located at Level 7, 10 Valentine Avenue, Parramatta NSW 2150.

2. release

2.1 Release by the Lessee

- (a) To the full extent permitted by law, the Lessee releases Sydney Metro from any liability which the Lessee or any party claiming through the Lessee incurs or is liable for, in relation to, in connection with or arising from either the Sydney Metro Works or the Sydney Metro Activities, including the failure of Sydney Metro to carry out or complete any of the Sydney Metro Activities or the Sydney Metro Works, and the occupation by Sydney Metro of the Land.
- (b) The Lessee must not bring or make any Claim against Sydney Metro in relation to, in connection with or arising from either the Sydney Metro Works or the Sydney Metro Activities, including the failure of Sydney Metro to carry out or complete any of the Sydney Metro Activities or the Sydney Metro Works, and the occupation by Sydney Metro of the Land.

- (c) Sydney Metro's negligence and breach of the planning approval in respect of the Sydney Metro Works during the construction of the Sydney Metro Works are excluded from clause 2.1(b).
- (d) Notwithstanding any other clause of this deed, the Lessee acknowledges and agrees that Sydney Metro will have no liability to the Lessee in respect of any Consequential Loss which arises out of or in any way in connection with the Sydney Metro Works or the Sydney Metro Activities, including the failure of Sydney Metro to carry out or complete any of the Sydney Metro Activities or the Sydney Metro Works, and the occupation by Sydney Metro of the Land.

2.2 Sydney Metro may enforce this deed

This deed is a deed poll intended to operate for the benefit of Sydney Metro and is enforceable by Sydney Metro.

3. general

3.1 Governing law

- (a) This deed is governed by the laws of the State of New South Wales.
- (b) The Lessee submits to the jurisdiction of the courts of that State, and of any court that may hear appeals from any of those courts, for any proceedings in connection with this deed.

EXECUTED as a deed poll.

signed, sealed and delivered by
Speedway Promotions Pty Ltd
(ABN 98 648 814 779). *in accordance with section 127 of the*
Corporations

Signature of Secretary/ Director

Name

Signature of Director

Name

Executed as a deed

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

Body: Western Sydney Parklands Trust

Authority: s 8 of the Western Sydney Parklands Act 2006

Signature of witness:

Signature of delegate:

Name of witness (print):

Name of delegate: Suellen
Fitzgerald

Occupation of witness (print):

Position: Director

Executed by Speedway Promotions Pty
Ltd in accordance with section 127 of the
Corporations Act 2001 (Cth) by its
authorised officers:

Signature of director

Signature of director/secretary

Name

Name