

Undertaking to the Australian Competition and Consumer Commission

Given under section 87B of the *Competition and Consumer Act 2010* (Cth) by The Trust Company (Australia) Limited (ACN 000 000 993) as trustee of C Roads Asset Trust, The Trust Company (Australia) Limited (ACN 000 000 993) as trustee of C Roads Project Trust and Caisse de dépôt et placement du Québec

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1 Person giving the Undertaking

1.1 This Undertaking is given to the Australian Competition and Consumer Commission (**ACCC**) by the following entities:

The Trust Company (Australia) Limited (ACN 000 000 993) as trustee of the C Roads Asset Trust;

The Trust Company (Australia) Limited (ACN 000 000 993) as trustee of the C Roads Project Trust; and

Caisse de dépôt et placement du Québec,

(together, the “**Undertaking Signatories**”).

1.2 A reference in this Undertaking to the “Undertaking Signatories” refers to each of them jointly and severally.

1.3 The Trust Company (Australia) Limited, as an Undertaking Signatory, represents and warrants to the ACCC that it has the power and legal capacity (including under the documents that govern the C Roads Asset Trust and the C Roads Project Trust) to enter into this Undertaking, and is the sole trustee of the C Roads Asset Trust and the C Roads Project Trust.

2 Background

Background to this undertaking

2.1 Sydney Transport Partners consortium is a consortium presently comprising Transurban Group, AustralianSuper, CPPIB and Tawreed (**Current STP Consortium**).

2.2 On 20 September 2021, the Current STP Consortium was announced as the successful bidder to acquire the WestConnex Sale Interest. As a consequence, CDPQ will become a member of the Current STP Consortium, which will be comprised of Transurban Group, AustralianSuper, CPPIB, Tawreed and CDPQ (**Proposed STP Consortium**).

2.3 The C Roads Asset Trust and the C Roads Project Trust have been established by CDPQ to hold the interests of CDPQ in the Proposed STP Consortium by acquiring interests in STP AT Pty Ltd (ACN 626 630 144), STP Asset Trust, STP PT Pty Ltd (ACN 626 630 153) and STP Project Trust, the entities which hold the Current STP Consortium’s interests in WestConnex and the WestConnex group. CDPQ is the ultimate beneficial owner of the C Roads Asset Trust and the C Roads Project Trust.

2.4 The Trust Company (Australia) Limited is an independent third party trustee that has been appointed to act on the instructions and at the direction of CDPQ.

2.5 On 8 September 2021, CDPQ gave a section 87B undertaking to the ACCC (**CDPQ Undertaking**). As part of the CDPQ Undertaking, CDPQ agreed to procure that The Trust Company (Australia) Limited as trustee of the C Roads Asset Trust and The Trust Company (Australia) Limited as trustee of the C Roads Project Trust give a section 87B undertaking to the ACCC that is on terms

that are substantially similar to the CDPQ Undertaking, or that are otherwise acceptable to the ACCC.

- 2.6 CDPQ undertakes to direct, and to procure that CDP Groupe Infrastructures II Inc. and CDP Groupe Infrastructures Inc. (which, together with CDPQ, own all of the units of the C Roads Asset Hold Trust and the C Roads Project Hold Trust) (as applicable), direct:
- (a) Perpetual Corporate Trust Limited (ACN 000 341 533) as trustee of C Roads Asset Hold Trust (which owns all of the units of the C Roads Asset Trust) to direct The Trust Company (Australia) Limited as trustee of C Roads Asset Trust; and
 - (b) Perpetual Corporate Trust Limited (ACN 000 341 533) as trustee of C Roads Project Hold Trust (which owns all of the units in the C Roads Project Trust) to direct The Trust Company (Australia) Limited as trustee of C Roads Project Trust,

to comply with the terms of this Undertaking.

STP Consortium Members

- 2.7 Transurban Group is listed on the Australian Securities Exchange (**ASX**), and is Australia's largest toll road operator. Transurban Group's operations include the development, ownership, management and operation of toll roads in Australia and North America. Transurban holds at least a 50 per cent interest in 15 of 19 toll road concessions in Australia and seven of nine concessions in NSW.
- 2.8 AustralianSuper acts solely as the corporate trustee for AustralianSuper industry superannuation fund. The trustee company is owned equally by ACTU Super Shareholding Pty Ltd and Australian Industry Group.
- 2.9 CPPIB is a Canadian federal crown corporation established pursuant to the Canada Pension Plan Investment Board Act.
- 2.10 Tawreed is a wholly owned subsidiary of the Abu Dhabi Investment Authority.
- 2.11 CDPQ was established by an act of the Québec government, and manages the funds of the Québec Pension Plan, which is a public pension plan.

The Proposed Acquisition

- 2.12 WestConnex is a partially completed motorway development in Sydney, NSW. WestConnex comprises approximately 33 kilometres of interconnected motorways and road upgrades, which will improve and extend the M4 motorway from Parramatta to Sydney Airport and duplicate the M5 East corridor.
- 2.13 Following the completion of the NSW Government's competitive tender process for WestConnex, on 27 September 2018 the Current STP Consortium acquired a 51 per cent interest in WestConnex (the **Original Acquisition**).
- 2.14 In 2021, the NSW Government conducted a further competitive tender process for the remaining interests in WestConnex in which the Current STP Consortium was successful in its bid to acquire the WestConnex Sale Interest (the **Proposed Acquisition**).

The ACCC's review

- 2.15 On 30 August 2018, the ACCC announced that it would not oppose the Original Acquisition, subject to the provision of section 87B undertakings to the ACCC.
- 2.16 In light of the fact that CDPQ will become a member of the Proposed STP Consortium upon completion of the Proposed Acquisition, CDPQ offered to enter into the CDPQ Undertaking, and to procure the entry by The Trust Company (Australia) Limited as trustee of C Roads Asset Trust and The Trust Company (Australia) Limited as trustee of C Roads Project Trust into this Undertaking, consistent with the section 87B undertakings offered by AustralianSuper, CPPIB and Tawreed in support of the Principal Undertaking.

The ACCC's competition concerns

- 2.17 In its review of the Original Acquisition, the ACCC concluded that, in the absence of the Principal Undertaking given by Transurban, the Original Acquisition raised competition concerns that may have the effect, or be likely to have the effect, of substantially lessening competition in the market for acquiring future new toll road concessions in NSW.
- 2.18 The ACCC's concerns were that:
- (a) Transurban Group, through its interests across an extensive network of toll road concessions in NSW, has competitive advantages compared with firms without an established network who face barriers to competing successfully for future NSW toll road concessions. These competitive advantages would be enhanced through the Original Acquisition;
 - (b) those competitive advantages include:
 - (i) access to traffic data not generally available;
 - (ii) significant traffic modelling and forecasting capability; and
 - (iii) an enhanced ability to satisfy the NSW Government's uniqueness criterion for assessing unsolicited proposals that, provides Transurban with an enhanced ability to be successful with unsolicited proposals for new toll road concessions; and
 - (c) in the absence of the Original Acquisition, an alternative acquirer of WestConnex would establish a significant presence in NSW for the operation of toll roads, with comparable competitive advantages to Transurban Group, and would have the ability to compete aggressively against Transurban for Future NSW Toll Road Concessions.

The Principal Undertaking and this Undertaking

- 2.19 The objective of the Principal Undertaking is to address the ACCC's competition concerns as set out above that would otherwise arise as a consequence of the Original Acquisition. In particular, the objective of the Principal Undertaking is to provide other bidders who compete for future toll road concessions in NSW with access to traffic count data that Transurban Group has as a result of its extensive interests in toll road concessions by ensuring that any entity which is a potential bidder or bidder for a Future NSW Toll Road Concession (including its advisors and consultants) has free and timely access to, and a right to use, Specified Traffic Data collected by Transurban Group from the Transurban NSW Toll Roads sufficient to support the development and operation of a model for forecasting future traffic and revenue in respect of that Future NSW Toll Road Concession.

- 2.20 The Principal Undertaking aims to achieve this objective by placing obligations on Transurban to:
- (a) publish Specified Traffic Data on a quarterly basis;
 - (b) update the Specified Traffic Data, in the event the NSW Government announces a toll road concession sale process six or more weeks before Specified Traffic Data is due to be published under the quarterly process;
 - (c) correct any identified errors in the published Specified Traffic Data;
 - (d) provide for the effective oversight of Transurban's compliance with the Principal Undertaking; and
 - (e) provide for regular reviews of the Principal Undertaking to ensure that the Principal Undertaking continues to meet its objectives as described above.
- 2.21 The consent of the Undertaking Signatories is needed in order for Transurban to access, use and publish the Specified Traffic Data for WestConnex.
- 2.22 The objective of this Undertaking is to support the operation of the Principal Undertaking, by ensuring the Undertaking Signatories enable and facilitate, and do not hinder or prevent Transurban's compliance with the Principal Undertaking.
- 2.23 This Undertaking achieves this objective by placing obligations on the Undertaking Signatories to:
- (a) consent to Transurban accessing and using Specified Traffic Data for WestConnex in accordance with the Principal Undertaking;
 - (b) consent to Transurban publishing Specified Traffic Data for WestConnex in accordance with the Principal Undertaking;
 - (c) not prevent or hinder Transurban accessing and using Specified Traffic Data for WestConnex in accordance with the Principal Undertaking;
 - (d) not prevent or hinder Transurban publishing Specified Traffic Data for WestConnex in accordance with the Principal Undertaking; and
 - (e) provide for the effective oversight of the Undertaking Signatories compliance with this Undertaking.

3 Commencement of this Undertaking

- 3.1 This Undertaking comes into effect when it:
- (a) is executed by each Undertaking Signatory; and
 - (b) so executed is accepted by the ACCC,
- (the "**Commencement Date**").

Note: The timing of operative provisions are linked to the **Control Date**. **Control Date** is defined in the Dictionary in Part 1 of Schedule 1.

4 Cessation of Ongoing Obligations

Withdrawal

- 4.1 This Undertaking is taken to be withdrawn on the date the ACCC consents in writing to the withdrawal of this Undertaking in accordance with section 87B of the Act.

Revocation

- 4.2 The ACCC may, at any time, revoke its acceptance of this Undertaking if the ACCC becomes aware that any information provided to it was incorrect, inaccurate or misleading.

Waiver

- 4.3 The ACCC may, at any time, expressly waive in writing any of the obligations contained in this Undertaking or extend the date by which any such obligation is to be satisfied.

5 Consents

- 5.1 With effect as from the Control Date, and for so long as an Undertaking Signatory holds an ownership interest (whether directly or indirectly) in WestConnex, that Undertaking Signatory:
- (a) Consents to access by Transurban to, and use by Transurban of, the Specified Traffic Data for WestConnex in accordance with the Principal Undertaking.
 - (b) Consents to the publication by Transurban of the Specified Traffic Data for WestConnex in accordance with the Principal Undertaking.
 - (c) Shall not prevent or hinder access by Transurban to, and use by Transurban of, the Specified Traffic Data for WestConnex for the purpose of the publication by Transurban of that Specified Traffic Data in accordance with the Principal Undertaking.
 - (d) Shall not prevent or hinder the publication by Transurban of the Specified Traffic Data for WestConnex in accordance with the Principal Undertaking.
- 5.2 With effect as from the Control Date, each Undertaking Signatory shall not revoke, withdraw, suspend, qualify or impose a condition upon the Consents given by that Undertaking Signatory in accordance with clause 5.1 of this Undertaking for so long as:
- (a) that Undertaking Signatory holds an ownership interest (whether directly or indirectly) in WestConnex; and
 - (b) the Principal Undertaking remains in force and has not been withdrawn with the consent in writing of the ACCC in accordance with section 87B of the Act.

6 Independent Audit of the Principal Undertaking

The Undertaking Signatories' obligations in relation to the Approved Independent Auditor

6.1 The Undertaking Signatories must:

- (a) not interfere with, or otherwise hinder, the Approved Independent Auditor's ability to carry out his or her functions as the Approved Independent Auditor under the Principal Undertaking, including:
 - (i) to the extent within the control, power and authority of the Undertaking Signatories, providing access to the facilities, sites or operations of WestConnex as required by the Approved Independent Auditor; and
 - (ii) giving their Consent to Transurban providing to the Approved Independent Auditor under and in accordance with the Principal Undertaking, any information or documents,

insofar as they relate to WestConnex, he or she requests from Transurban under the Principal Undertaking and considers necessary for carrying out his or her functions as the Approved Independent Auditor or for reporting to or otherwise advising the ACCC under the Principal Undertaking.

7 ACCC requests for information

7.1 The ACCC may direct an Undertaking Signatory in respect of its compliance with this Undertaking to, and that Undertaking Signatory must:

- (a) furnish information to the ACCC in the time and in the form requested by the ACCC;
- (b) produce documents and materials to the ACCC within that Undertaking Signatory's custody, power or control in the time and in the form requested by the ACCC; and/or
- (c) attend the ACCC at a time and place appointed by the ACCC to answer any questions the ACCC (its Commissioners, its staff or its agents) may have.

7.2 Any direction made by the ACCC under clause 7.1 will be notified to the Undertaking Signatory, in accordance with clause 13.2.

7.3 The information furnished, documents and material produced or information given in response to any request or direction from the ACCC under this clause 7 that an Undertaking Signatory marks or otherwise identifies as confidential, will remain confidential. Nothing in this clause prevents the ACCC from disclosing such information as is:

- (a) required by law;
- (b) permitted by section 155AAA of the Act; or
- (c) necessary for the purpose of enforcement action under section 87B of the Act.

- 7.4 Information furnished, documents and material produced or information given in response to any request or direction from the ACCC under this clause 7 may be used by the ACCC for any purpose consistent with the exercise of its statutory duties.
- 7.5 Nothing in this clause 7 requires the provision of information or documents in respect of which an Undertaking Signatory has a claim of legal professional or other privilege.

8 Disclosure of this Undertaking

- 8.1 The Undertaking Signatories acknowledge that the ACCC may:
- (a) make this Undertaking publicly available;
 - (b) publish this Undertaking on its Public Section 87B Undertakings Register and Public Mergers Register; and
 - (c) from time to time publicly refer to this Undertaking.

9 No Derogation

- 9.1 This Undertaking does not prevent the ACCC from taking enforcement action at any time whether during or after the period of this Undertaking in respect of any breach by an Undertaking Signatory of any term of this Undertaking.
- 9.2 Nothing in this Undertaking is intended to restrict the right of the ACCC to take action under the Act for penalties or other remedies in the event that an Undertaking Signatory does not fully implement and/or perform its obligations under this Undertaking or in any other event where the ACCC decides to take action under the Act for penalties or other remedies.

10 Change of Control

- 10.1 In the event that a Change of Control is reasonably expected to occur, the Undertaking Signatories must:
- (a) notify the ACCC of this expectation as soon as practicable; and
 - (b) only implement a Change of Control to another person or entity if that other person or entity has given a section 87B undertaking to the ACCC that requires it to comply with the same obligations as are imposed on the Undertaking Signatories pursuant to this Undertaking, or on terms that are otherwise acceptable to the ACCC, unless the ACCC has notified the Undertaking Signatories in writing that a section 87B Undertaking under this clause is not required.

11 Costs

- 11.1 The Undertaking Signatories must pay all of their own costs incurred in relation to this Undertaking.

12 Governing law and jurisdiction

- 12.1 CDPQ irrevocably submits to the jurisdiction of the Federal Court of Australia in relation to this Undertaking.
- 12.2 Unless and until notified in writing by CDPQ to the ACCC of the appointment of another person as agent within Australia, CDPQ appoints the person with particulars as set out in clause 12.3, as its agent for the purposes of service of process in relation to this Undertaking.
- 12.3 The address for service for CDPQ in relation to this Undertaking is:

CDPQ Sydney Pty Limited (ACN 605 117 842)
Deutsche Bank Place, Suite 2201
126 Phillip Street
SYDNEY NSW 2000
Australia
Attention: Charles-Edouard Mariolle and Affaires Juridiques

13 Notices

Giving Notices

- 13.1 Any notice or communication to the ACCC pursuant to this Undertaking must be sent to:

Email address: mergers@acc.gov.au
Attention: Executive General Manager
Mergers, Exemptions & Digital

With a copy sent to: mergersru@acc.gov.au
Attention: Director, Remedies Unit
Mergers, Exemptions & Digital

- 13.2 Any notice or communication to an Undertaking Signatory pursuant to this Undertaking must be sent to:

Name The Trust Company (Australia) Limited (ACN 000 000 993) as trustee of the C Roads Asset Trust; and

The Trust Company (Australia) Limited (ACN 000 000 993) as trustee of the C Roads Project Trust

Address Level 18, 123 Pitt Street
Sydney NSW 2000

Email Richard.tran@perpetual.com.sg

Attention Richard Tran

and

Name Caisse de dépôt et placement du Québec

Address Édifice Jacques-Parizeau 1000, place Jean-Paul-Riopelle
Montréal, Québec H2Z 2B3

Email cemariolle@cdpq.com, syang@cdpq.com and affairesjuridiques@cdpq.com

Attention Charles-Edouard Mariolle, Sewok Yang and Affaires Juridiques

With a copy to:

Name Baker McKenzie

Address Level 46, 100 Barangaroo Avenue
Sydney NSW 2000

Email Michael.Kunstler@bakermckenzie.com,
Lynsey.Edgar@bakermckenzie.com and
Eric.Thianpiriya@bakermckenzie.com

Attention Michael Kunstler, Lynsey Edgar and Eric Thianpiriya

- 13.3 If sent by post, notices are taken to be received three Business Days after posting (or seven Business Days after posting if sent to or from a place outside Australia).
- 13.4 If sent by email, notices are taken to be received at the time shown in the email as the time the email was sent.

Change of contact details

- 13.5 An Undertaking Signatory must notify the ACCC of a change to its contact details within three Business Days.
- 13.6 Any notice or communication will be sent to the most recently advised contact details and subject to clauses 13.3 and 13.4, will be taken to be received.

14 Defined terms and interpretation

Definitions in the Dictionary

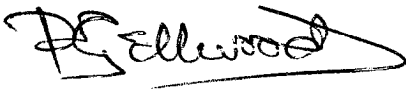
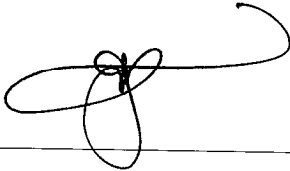
- 14.1 A term or expression starting with a capital letter:
- (a) which is defined in the Dictionary in Part 1 of Schedule 1 (Dictionary), has the meaning given to it in the Dictionary; or
 - (b) which is defined in the Corporations Act, but is not defined in the Dictionary, has the meaning given to it in the Corporations Act.

Interpretation

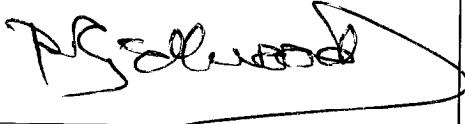
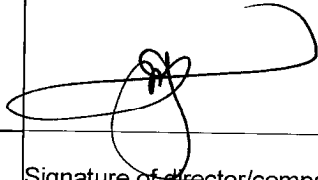
- 14.2 Part 2 of Schedule 1 sets out rules of interpretation for this Undertaking.

Executed as an Undertaking



Executed by The Trust Company (Australia) Limited (ACN 000 000 993) as trustee of the C Roads Asset Trust pursuant to section 127(1) of the Corporations Act 2001 (Cth) by:

	
Signature of director	Signature of director /company secretary
RODNEY ELLWOOD	GANANATHA MINITHANTRI
Name of director (print)	Name of director /company secretary (print)
21/10/21	22/10/2021
Date	Date

Executed by The Trust Company (Australia) Limited (ACN 000 000 993) as trustee of the C Roads Project Trust pursuant to section 127(1) of the Corporations Act 2001 (Cth) by:

	
Signature of director	Signature of director company secretary
RODNEY ELLWOOD	GANAPATHA MINITHANTRI
Name of director (print)	Name of director company secretary (print)
21/10/21	22/10/2021
Date	Date

Executed by Caisse de dépôt et placement du Québec by its duly authorised representatives:

	
Signature of authorised representative	Signature of authorised representative
Renaud Faucher Managing Director, Infrastructure	Antoine Rezé Senior Director, Infrastructure
Name of authorised representative (print)	Name of authorised representative (print)
October 20, 2021	October 20, 2021
Date	Date

Accepted by the Australian Competition and Consumer Commission pursuant to section 87B of the *Competition and Consumer Act 2010* (Cth) on:

25 October 2021

Date

and signed on behalf of the Commission:



Chair

Date

Schedule 1 Dictionary and interpretation

1. Dictionary

ACCC means the Australian Competition and Consumer Commission.

Act means the *Competition and Consumer Act 2010* (Cth).

Approved Independent Auditor means the person approved by the ACCC and appointed as the Approved Independent Auditor under the Principal Undertaking.

AustralianSuper means AustralianSuper Pty Ltd (ACN 006 457 987) acting solely as the corporate trustee for AustralianSuper (ABN 65 714 394 898) industry superannuation fund.

Business Day means a day other than a Saturday or Sunday on which banks are open for business generally in the Australian Capital Territory.

CDPQ means Caisse de dépôt et Placement du Québec, a Canadian institutional pension fund investor established and regulated under Canadian legislation, being *An Act respecting the Caisse de dépôt et placement du Québec, SQ 1965 (1st Sess)*, c C-2 (which has been amended and replaced from time to time).

CDPQ Undertaking has the meaning given in clause 2.5 of this Undertaking.

Change of Control means the assignment or other transfer of the legal or beneficial ownership of some or all of any direct or indirect ownership interest held by an Undertaking Signatory in WestConnex to any other person or entity that may impact compliance with this Undertaking in its entirety. For the avoidance of doubt and the purposes of this Undertaking, a direct or indirect ownership interest held by CDPQ in WestConnex includes any direct or indirect ownership interest of CDPQ in CDP Groupe Infrastructures II Inc. (so long as it has any direct or indirect ownership interest in WestConnex), CDP Groupe Infrastructures Inc. (so long as it has any direct or indirect ownership interest in WestConnex) and any direct or indirect ownership interest in any trust identified in clause 2.6 (so long as it has any direct or indirect ownership interest in WestConnex).

Commencement Date has the meaning given in clause 3.1 of this Undertaking.

Consents means an unconditional consent, approval, release, discharge, waiver or authorisation.

Control Date means the date on which the WestConnex Sale Interest is transferred to the Proposed STP Consortium.

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

CPPIB means Canada Pension Plan Investment Board a Canadian federal crown corporation established pursuant to the Canada Pension Plan Investment Board Act.

Current STP Consortium has the meaning given to it in clause 2.1 of this Undertaking.

Future NSW Toll Road Concession has the meaning given to the term in the Principal Undertaking.

Original Acquisition has the meaning given to it in clause 2.13.

Principal Undertaking means the section 87B undertaking proffered by Transurban and accepted by the ACCC in respect of the Original Acquisition pursuant to section 87B of the Act on 29 August 2018. A non-confidential copy of the Principal Undertaking accepted by the ACCC in respect of the Original Acquisition is on the Public Mergers Register and Public Section 87B Undertakings Register.

Proposed Acquisition has the meaning given to it in clause 2.14.

Proposed STP Consortium means the Sydney Transport Partners consortium that will comprise of Transurban Group, AustralianSuper, CPPIB, Tawreed and CDPQ.

Public Mergers Register means the ACCC's public register of merger clearances, available at www.accc.gov.au.

Public Section 87B Undertakings Register means the ACCC's public register of section 87B undertakings, available at www.accc.gov.au.

Related Bodies Corporate has the meaning given to it by section 50 of the *Corporations Act 2001* (Cth).

Specified Traffic Data has the meaning given to the term in the Principal Undertaking.

Tawreed means Tawreed Investments Limited (Cayman Islands company registration number 243195) a wholly owned subsidiary of the Abu Dhabi Investment Authority.

The Trust Company (Australia) Limited means The Trust Company (Australia) Limited (ACN 000 000 993).

Transurban means Transurban Limited (ABN 96 098 143 410).

Transurban Group means Transurban, Transurban Holdings, Transurban International and Transurban Infrastructure, and any Related Body Corporate.

Transurban Holdings means Transurban Holdings Limited (ABN 86 098 143 429).

Transurban Infrastructure means Transurban Infrastructure Management Limited (ABN 27 098 147 678) as responsible entity of the Transurban Holding Trust, and its controlled entities.

Transurban International means Transurban International Limited (ABN 90 121 746 825).

Transurban NSW Toll Road has the meaning given to the term in the Principal Undertaking.

Undertaking is a reference to all provisions of this document, including its schedules and as varied from time to time under section 87B of the Act.

Undertaking Signatories has the meaning given to it in clause 1.1 of this Undertaking.

WestConnex means the WestConnex concessions and toll roads for all the WestConnex Stages.

WestConnex Sale Interest means a further 49 per cent in the ultimate holding entities of the WestConnex group, being WCX Asset Hold Trust and WCX Project Hold Trust (and shares in their trustees), as well as all associated entities.

WestConnex Stage means any of:

- (a) the concession rights in respect of WestConnex M4, comprising the M4 West/Widening and M4 East;
- (b) the concession rights in respect of WestConnex M5, including the New M5 motorway, the M5 East and the M5 West from 11 December 2026 along with any other motorways specified in the WestConnex M5 Project Deed from time to time; and
- (c) the concession rights in respect of WestConnex M4 – M5 Link, involving the construction of tunnels connecting the M4 East and the M5, and the Iron Cove Link and Rozelle Interchange including provision for a future connection to the Western Harbour Tunnel,

and **WestConnex Stages** means all of them.

2. Interpretation

- 2.1 In the interpretation of this Undertaking, the following provisions apply unless the context otherwise requires:
- (a) a reference to this Undertaking includes all of the provisions of this document including its schedules;
 - (b) headings are inserted for convenience only and do not affect the interpretation of this Undertaking;
 - (c) if the day on which any act, matter or thing is to be done under this Undertaking is not a Business Day, the act, matter or thing must be done on the next Business Day;
 - (d) a reference in this Undertaking to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;
 - (e) a reference in this Undertaking to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced;
 - (f) a reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Undertaking;
 - (g) an expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency;
 - (h) where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;

- (i) a word which denotes the singular also denotes the plural, a word which denotes the plural also denotes the singular, and a reference to any gender also denotes the other genders;
- (j) a reference to the words 'such as', 'including', 'particularly' and similar expressions is to be construed without limitation;
- (k) a construction that would promote the purpose - or object - underlying the Undertaking (whether expressly stated or not) will be preferred to a construction that would not promote that purpose or object;
- (l) material not forming part of this Undertaking may be considered to:
 - (i) confirm the meaning of a clause is the ordinary meaning conveyed by the text of the clause, taking into account its context in the Undertaking and the competition concerns intended to be addressed by the Undertaking and the clause in question; or
 - (ii) determine the meaning of the clause when the ordinary meaning conveyed by the text of the clause, taking into account its context in the Undertaking and the purpose or object underlying the Undertaking, leads to a result that does not promote the purpose or object underlying the Undertaking;
- (m) in determining whether consideration should be given to any material in accordance with paragraph (l), or in considering any weight to be given to any such material, regard must be had, in addition to any other relevant matters, to the:
 - (i) effect that reliance on the ordinary meaning conveyed by the text of the clause would, have (taking into account its context in the Undertaking and whether that meaning promotes the purpose or object of the Undertaking); and
 - (ii) need to ensure that the result of the Undertaking is to completely address any ACCC competition concerns;
- (n) the ACCC may authorise the ACCC Mergers Review Committee, a member of the ACCC or a member of the ACCC staff, to exercise a decision making function under this Undertaking on its behalf and that authorisation may be subject to any conditions which the ACCC may impose;
- (o) in performing its obligations under this Undertaking, each Undertaking Signatory will do everything reasonably within its power to ensure that its performance of those obligations is done in a manner which is consistent with promoting the purpose and object of this Undertaking;
- (p) a reference to:
 - (i) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing;
 - (ii) a party includes its successors and permitted assigns; and
 - (iii) a monetary amount is in Australian dollars.