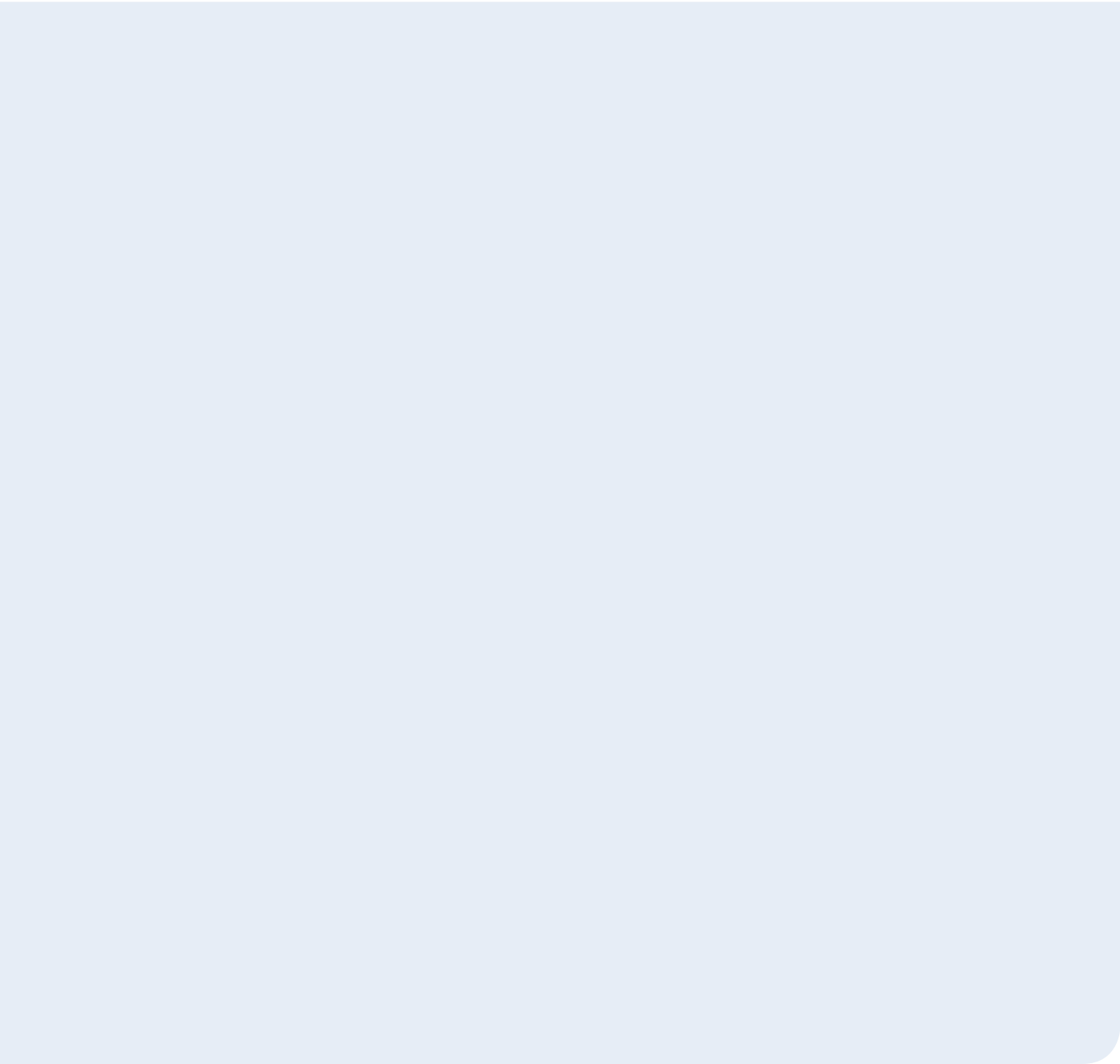


## Project Summary





Project Summary | WestConnex

RMS.18.1158

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This summary should not be relied upon for legal advice and is not intended for use as a substitute for the contracts.

Cover image: **WestConnex M4 Widening (Granville-Rosehill)**

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Image: **WestConnex M4 Widening (Rosehill)**

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## Glossary

Unless otherwise defined in this Glossary or elsewhere in this *WestConnex Project Summary*, capitalised terms used in this document have the meaning given to those terms in the applicable New M4, New M5 and M4-M5 Link Project Deeds, which are available for download at: [www.rms.nsw.gov.au/business-industry/partners-suppliers/tenders-contracts/contracts-awarded/class-3-contract-documents.html](http://www.rms.nsw.gov.au/business-industry/partners-suppliers/tenders-contracts/contracts-awarded/class-3-contract-documents.html).

For ease of drafting, certain terms are used generically in this document but they will have specific and various meanings in each of the applicable Project Deeds, for example 'Completion', 'Trustees', and 'Project Works'.

The *Government Sector Finance Act 2018* commenced on 1 December 2018, replacing part of the *Public Authorities (Financial Arrangements) Act 1987*.

Term / Acronym	Definition
<b>Completion</b>	Used generically in this <i>WestConnex Project Summary</i> in respect of a stage of a Motorway or Motorway, being the time when Opening Completion has been achieved and all conditions precedent to completion set out in the applicable Project Deed have been satisfied.
<b>D&amp;C</b>	Design and Construction
<b>Expiry Date</b>	31 December 2060, or earlier if the relevant Project Deed is terminated.
<b>Iron Cove Link</b>	An underground bypass of Victoria Road between Iron Cove Bridge and Anzac Bridge with links to the future Western Harbour Tunnel. Included as works within the Rozelle Interchange as defined in scope of works and technical criteria of the M4-M5 Link Project Deed, and outlined in <i>Section 2.1</i> of this <i>WestConnex Project Summary</i> .
<b>JV</b>	Joint Venture
<b>King Georges Road Interchange Upgrade</b>	Upgrade of the King Georges Road Interchange between the M5 West and the M5 East at Beverly Hills. The King Georges Road Interchange Upgrade opened to traffic in December 2016.
<b>M4 Trustees</b>	The Trustees defined in <i>Section 6.1</i> of this <i>WestConnex Project Summary</i> which are also parties to the New M4 Project Deed
<b>M4 Widening</b>	The Project Works relating to the M4 Widening (also referred to as the M4 West in the contractual documentation), as defined in the Project Deed and summarised in <i>Section 2.1</i> of this <i>WestConnex Project Summary</i> .
<b>M4-M5 Link</b>	M4-M5 Link Tunnels and Rozelle Interchange
<b>M4-M5 Link Trustees</b>	The Trustees defined in <i>Section 6.3</i> of this <i>WestConnex Project Summary</i> which are also parties to the M4-M5 Link Project Deed
<b>M4-M5 Link Tunnels</b>	Referred to in the M4-M5 Link documents as the Main Tunnel and being the roads, tunnels and other physical works, facilities, systems and utility services on the Main Tunnel motorway stratum described in the M4-M5 Link Project Deed.
<b>M5 East</b>	A 10 kilometre motorway running in both directions between General Holmes Drive, Mascot and the M5 West at Beverly Hills. The M5 East includes two four kilometre tunnels (between Kingsgrove and Arncliffe) and the Cooks River Tunnel.
<b>M5 West</b>	A 22 kilometre surface motorway from Prestons to Beverly Hills. Also known as the M5 South-West.



<b>MAE</b>	Material Adverse Effect
<b>Motorway</b>	Any or all of the New M4, New M5 or M4-M5 Link, or their component parts as outlined in <i>Section 2.1</i> of this <i>WestConnex Project Summary</i> .
<b>New M4</b>	M4 Widening and New M4 Tunnels
<b>New M4 Tunnels</b>	The Project Works relating to the M4 East Motorway (also referred to as the M4 East in the contractual documentation) as described in the New M4 Project Deed and summarised in <i>Section 2.1</i> of this <i>WestConnex Project Summary</i>
<b>New M5</b>	New M5 Tunnels and King Georges Road Interchange Upgrade
<b>New M5 Trustees</b>	The Trustees defined in <i>Section 6.2</i> of this <i>WestConnex Project Summary</i> which are also parties to the New M5 Project Deed
<b>New M5 Tunnels</b>	The Project Works relating to the New M5 Motorway (also referred to as the New M5 in the contractual documentation) as described in the New M5 Project Deed and summarised in <i>Section 2.1</i> of this <i>WestConnex Project Summary</i>
<b>O&amp;M</b>	Operations and Maintenance
<b>Opening Completion</b>	Used generically in this <i>WestConnex Project Summary</i> in respect of when a Motorway or component stage of a Motorway is complete (except for minor defects) and capable of being opened to the public for the safe, efficient and continuous passage of vehicles in accordance with the requirements of the applicable Project Deed.
<b>Project Deed</b>	Used generically in this <i>WestConnex Project Summary</i> , and meaning any or all of the New M4 Project Deed, New M5 Project Deed, or M4-M5 Link Project Deed.
<b>Project Works</b>	Used generically in this <i>WestConnex Project Summary</i> and meaning physical works of roads, any tunnels and other physical works, facilities, systems and utility services to be designed, constructed and completed by the applicable Trustees in accordance and as defined in the applicable Project Deed.
<b>ROCA</b>	The Road Operators Coordination Agreement
<b>Rozelle Interchange</b>	The roads, tunnels and other physical works, facilities, systems and utility services for the Rozelle Interchange and Iron Cove Link on the Rozelle Interchange motorway stratum described in the M4-M5 Link Project Deed, and as summarised in <i>Section 2.1</i> of this <i>WestConnex Project Summary</i> .
<b>Rozelle Interface Works</b>	The enabling works for the Rozelle Interchange, to be designed, constructed and completed by the M4-M5 Link Trustees as part of the Project Works defined in the M4-M5 Link Project Deed.
<b>SPI</b>	St Peters Interchange
<b>State Works</b>	The Project Works carried out by the SWC under the State Works Deed for the M4-M5 Link project
<b>SWC</b>	The State Works Contractor under the State Works Deed for the M4-M5 Link Tunnels. The SWC is a subsidiary of WCX M4-M5 Link Project Trust.
<b>Trustees</b>	For ease of reference, a reference to 'Trustees' means any or all of the M4 Trustees, New M5 Trustees and M4-M5 Link Trustees.
<b>WestConnex Motorway</b>	Any or all of the New M4, New M5, and M4-M5 Link Motorways.
<b>WestConnex Sale</b>	The sale of a 51% interest in the New M4, New M5 and M4-M5 Link to Sydney Transport Partners.

## 1. Introduction and purpose

### 1.1 Introduction

This summary of the WestConnex Public Private Partnership (PPP) Project (referred to as the *WestConnex Project Summary*) provides an overview of the project, its history, and contractual parties. It also provides a high level summary of key commercial terms of the three concessions for the New M4, New M5 and the M4-M5 Link.

This *WestConnex Project Summary* is structured as set out below:

- **Part I: Project Overview**  
Project Description, funding sources, history and procurement
- **Part II: Contract Overview**  
New M4, New M5, M4-M5 Link
- **Part III: Commercial and Contractual Features**
- **Part IV: Specific Key Commercial and Contractual Features**  
Including Rozelle Interchange.

### 1.2 Purpose and scope of the WestConnex Project Summary

This document has been prepared by the State in accordance with the public disclosure requirements of the *NSW PPP Guidelines 2017*, in order to provide a high level, plain English summary of the WestConnex Project and the key commercial terms underpinning the Project Deeds. This *WestConnex Project Summary* notes the related D&C and O&M Deeds, and other supporting contracts. However, this document does not provide details of these related contracts.

The scope of this *WestConnex Project Summary* does not include contractual details of the WestConnex Sale. An overview of the pre- and post- WestConnex Sale governance structure is provided in *Section 5*.

This summary should not be relied upon for legal advice and is not intended for use as a substitute for the Project Deeds.

The Project Deeds (excluding any commercial-in-confidence material) have been published on the Roads and Maritime Services website in accordance with Government policy and the *Government Information (Public Access) Act 2009* (NSW).

The *WestConnex Project Summary* is based upon the form of contracts as at 18 December 2018. Subsequent amendments or additions to these contracts, if any, are not reflected in this document.

Unless otherwise defined in the Glossary or elsewhere in this *WestConnex Project Summary*, capitalised terms used in this summary have the meaning given to those terms in the Project Deeds.

## 2. WestConnex project description

### 2.1 WestConnex infrastructure

WestConnex will provide high quality, motorway standard connections linking Sydney's west and southwest to the city, airport and port, with more than 30 kilometres of continuous motorway. The project will transform urban travel by providing enhanced connectivity between key employment hubs and local communities.

WestConnex is being delivered in the following three stages.

#### Stage 1: New M4 (Parramatta to Haberfield):

**M4 Widening (Parramatta to Homebush):** widening the existing M4 Motorway from Parramatta to Homebush.

**New M4 Tunnels (Homebush to Haberfield):** extending the M4 Motorway in tunnels between Homebush and Haberfield via Concord. Includes provision for the connection to the M4-M5 Link.

#### Stage 2: New M5 (Beverly Hills to St Peters):

**New M5 Tunnels (Beverly Hills to St Peters):** duplicating the M5 East from King Georges Road in Beverly Hills with tunnels from Kingsgrove to a new interchange at St Peters. The St Peters Interchange will provide motorists with connections to Alexandria and Mascot. The New M5 Tunnels also include connections to the Sydney Gateway motorway and M4-M5 Link, together with stubs for a potential future connection to the F6 Extension Stage 1.

**King Georges Road Interchange Upgrade (Beverly Hills):** upgrade of the King Georges Road Interchange between the widened M5 West and the M5 East at Beverly Hills, in preparation for the New M5 Tunnels.

The existing M5 East will be included as part of the New M5 concession at the opening of the New M5 Tunnels. The existing M5 West will be included as part of the New M5 concession from December 2026.

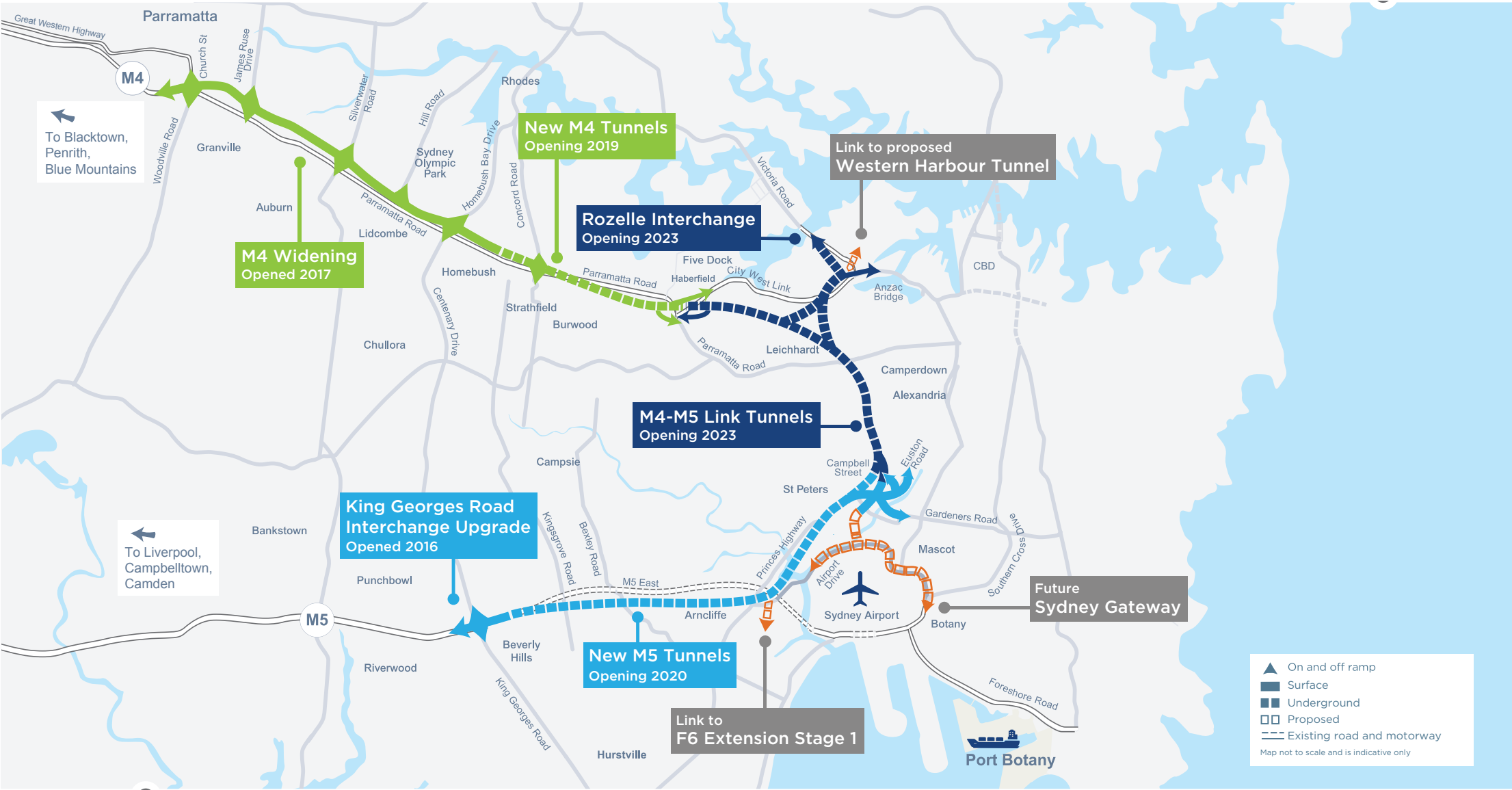
#### Stage 3: M4-M5 Link (Haberfield to St Peters) will be delivered in two stages:

**M4-M5 Link Tunnels:** connection of the New M4 in Haberfield and the New M5 in St Peters via two tunnels.

**Rozelle Interchange:** is a new underground motorway interchange which provides connectivity to the M4-M5 Link Tunnels and the City West Link, and an underground bypass of Victoria Road between Iron Cove Bridge and Anzac Bridge. The Rozelle Interchange also provides a connection to the future Western Harbour Tunnel.

The Rozelle Interchange will be delivered by the NSW Government through Roads and Maritime and included as part of the M4-M5 Link concession when completed.

Figure 1: **WestConnex network**





### 3. History of the WestConnex project and strategic need

#### 3.1 NSW Government transport strategy and WestConnex benefits

By 2056, NSW is expected to have more than 12 million residents and Sydney will become a global city of around eight million people, similar in size to London or New York. The NSW Government's *Future Transport 2056* is an overarching strategy supported by a suite of plans to achieve a 40 year vision for our transport system.

As part of the Movement and Place Framework outlined in *Future Transport 2056*, Motorways are identified as strategically significant roads that move people quickly and efficiently. That's why the NSW Government is investing in Sydney's road infrastructure and closing gaps in the motorway network. WestConnex is part of this integrated transport plan to keep Sydney moving by easing congestion, creating jobs and connecting communities.

WestConnex was a recommendation of the Infrastructure NSW 2012 *State Infrastructure Strategy* and identified in the *NSW Long Term Transport Master Plan*. This was followed by the development of a business case, which was approved by the NSW Government in August 2013. The 2015 WestConnex Updated Strategic Business Case then consolidated work undertaken in the original business case, with significant modelling, analysis and scope enhancements.

WestConnex responds to forecast growth in heavy vehicle movement across Sydney and population and employment growth along the M4 and M5 corridors. As one of Australia's largest transport infrastructure projects, WestConnex seeks to address the challenges that road users and the community encounter on a daily basis.

At more than 30 kilometres in length, including 22 kilometres of tunnels, WestConnex will connect Sydney by creating a free-flowing integrated motorway system ultimately connecting Parramatta, Homebush, Haberfield, Rozelle, St Peters and Beverly Hills. It will also provide links for connecting Sydney Airport via the future Sydney Gateway Motorway and links for the future Western Harbour Tunnel and F6 Extension Stage 1.

The \$16.8 billion WestConnex project will provide a number of economic and community benefits, including:

- supporting Sydney's long-term economic growth with improved motorway access and connections to western Sydney and key employment hubs across the city
- delivering more than \$20 billion in economic benefits to NSW
- supporting 10,000 jobs during construction – direct and indirect
- shifting through traffic and heavy vehicles to the underground Motorways, returning local streets to local communities
- allowing motorists using WestConnex to avoid 52 sets of traffic lights
- significantly reducing congestion at a number of bottlenecks, including on Victoria Road between Iron Cove Bridge and Anzac Bridge
- improving the speed, reliability and safety of travel across the city
- delivering more than 18 hectares of open space for local communities in the inner west and around 23 kilometres of new and improved cycleways and walkways.

### 3.2 WestConnex project objectives

In 2012, Infrastructure NSW proposed the following objectives for WestConnex:

- support Sydney's long-term economic growth through improved motorway access and connections linking Sydney's international gateways, western Sydney and key places of business across the city
- relieve road congestion so as to improve the speed, reliability and safety of travel in the M4 and M5 corridors, including parallel arterial roads
- cater for the diverse travel demands along these corridors that are best met by road infrastructure
- create opportunities for urban renewal, improved liveability and public and active transport improvements along and around Parramatta Road
- enhance the productivity of commercial and freight-generating land uses strategically located along the corridor
- fit within the financial capacity of the State and Federal governments, in partnership with the private sector
- optimise user-pays contributions to support funding in a way that is affordable, equitable and fair.

### 3.3 Business case

The WestConnex business case was approved by the NSW Government in August 2013. The 2015 WestConnex Updated Strategic Business Case then consolidated work undertaken in the original business case, with significant modelling, analysis and scope enhancements.

The 2015 WestConnex Updated Strategic Business Case is publicly available online:

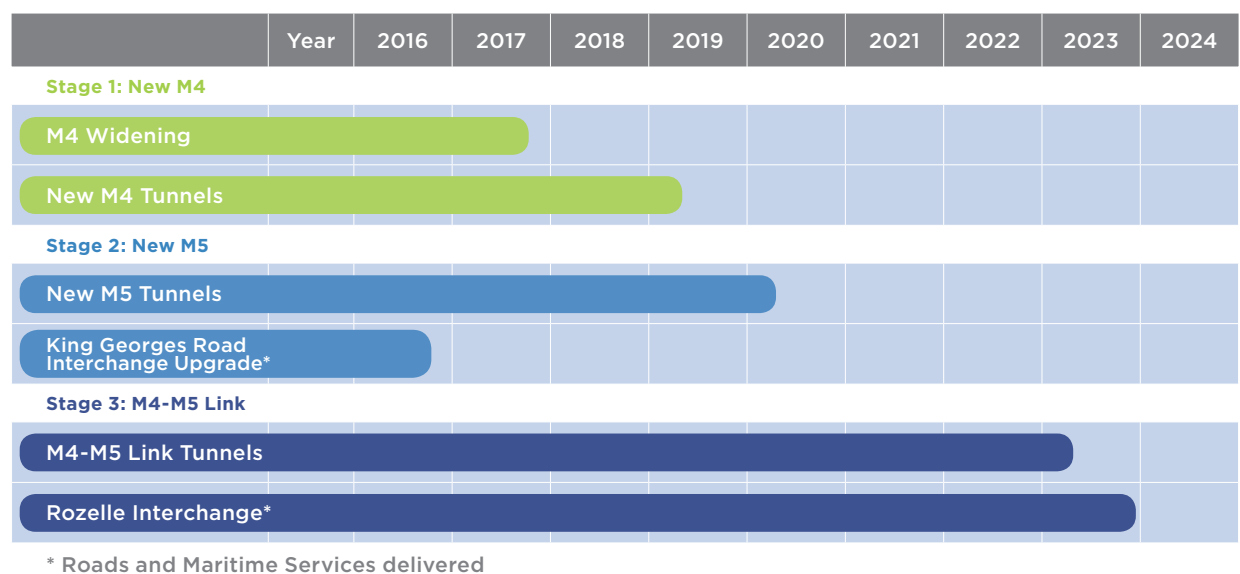


[www.westconnex.com.au/sites/default/files/WestConnex%20Updated%20Strategic%20Business%20Case%20-%20November%202015.pdf](http://www.westconnex.com.au/sites/default/files/WestConnex%20Updated%20Strategic%20Business%20Case%20-%20November%202015.pdf)

### 3.4 Project timetable and planning approvals achieved

The diagram below outlines the WestConnex project timetable until expected Opening Completion.

Figure 2: **WestConnex project timetable**



Planning Approvals were granted under the *Environmental Planning and Assessment Act 1979* (NSW) in relation to:

- M4 Widening on 21 December 2014, and modified on 30 July 2015
- New M4 Tunnels on 11 February 2016, with five modifications including most recently on 4 July 2018
- New M5 on 20 April 2016, with six modifications, most recently on 20 August 2018
- King Georges Road Interchange Upgrade on 3 March 2015
- M4-M5 Link on 17 April 2018.

For the New M5, approval was granted under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) on 11 July 2016.

## 4. The concessions and funding sources

### 4.1 Description of the concessions

Toll road operation in NSW is generally governed through the granting of concessions by Roads and Maritime on behalf of the NSW Government which set out the commercial arrangements for delivery, operation and the right to toll specific sections of the motorway.

WestConnex is being delivered in three main stages and comprising three concessions, each of which includes various motorway assets:

- **New M4 concession** - obligation to build, operate, maintain, finance and right to toll the M4 Widening and New M4 Tunnels
- **New M5 concession** - obligation to build and finance the New M5 Tunnels and obligation to operate, maintain and right to toll the New M5 Tunnels, the M5 East (from opening of the New M5 Tunnels) and the M5 West (from December 2026)
- **M4-M5 Link concession** - obligation to build and finance the M4-M5 Link Tunnels, obligation to operate and maintain and the right to toll the M4-M5 Link Tunnels and the Rozelle Interchange. The Iron Cove Link will not be tolled.

## 4.2 Parties to the Project Deeds

The public sector party to the Project Deeds is Roads and Maritime (ABN 76 236 371 088), a NSW Government agency constituted by *Section 46* of the *Transport Administration Act 1988* (NSW).

The WestConnex concession counterparties are detailed in the following table.

Table 1: **WestConnex concession private counterparties**

WestConnex concession	Private counterparties
New M4 concession Stage 1 - WestConnex New M4	WCX M4 AT Pty Ltd (ABN 61 614 741 445) as trustee of the WCX M4 Asset Trust (ABN 30 972 117 496)  WCX M4 PT Pty Ltd (ABN 59 614 741 436) as trustee of the WCX M4 Project Trust (ABN 31 878 147 068)
New M5 concession Stage 2 - WestConnex New M5	WCX M5 AT Pty Ltd (ABN 49 608 798 081) as trustee of the WCX M5 Asset Trust (ABN 23 365 031 283)  WCX M5 PT Pty Ltd (ABN 36 608 798 465) as trustee of the WCX M5 Project Trust (ABN 73 899 615 977)
M4-M5 Link concession Stage 3 - WestConnex M4-M5 Link	WCX M4-M5 Link AT Pty Ltd (ABN 85 624 153 742) as trustee of the WCX M4-M5 Link Asset Trust (ABN 18 934 919 866)  WCX M4-M5 Link PT Pty Ltd (ABN 81 624 153 788) as trustee of the WCX M4-M5 Link Project Trust (ABN 67 667 191 375)

For each WestConnex concession:

- the Asset Trustees are primarily responsible for the financing, design, and construction activities, including lifecycle capital expenditures associated with the replacement and refurbishments of assets
- the Project Trustees are primarily responsible for the tolling, operation, maintenance and repair activities.

Details of the parties to the other Project Documents are set out in *Part II* of this *WestConnex Project Summary*.

## 4.3 Term of WestConnex concessions

Each WestConnex concession commences on the date of Opening Completion of each Motorway, except for the M5 West which will be transferred to the New M5 concessionaire in December 2026.

The respective terms of all WestConnex concessions expire on 31 December 2060 (or such later date determined in accordance with the applicable Project Deed or earlier if terminated).



## 4.4 Funding and financing

WestConnex is funded through tolls and government contributions.

### Funding and financing

The funding and financing of WestConnex comprises a mix of:

- tolls on each of the Motorways as described below
- equity contributions from Sydney Transport Partners (51%)
- equity contributions from the State through Roads Retained Interest Pty Ltd (49%)
- Commonwealth grant funding of \$1.5 billion
- NSW Government funds from the Restart NSW Fund and the State Consolidated Fund
- Commonwealth subordinated loan (New M5) of \$2 billion
- private debt, reducing the equity contributions required to finance construction costs.

## 4.5 Toll Charges

The WestConnex tolling strategy is based on distance-based tolling subject to minimum and maximum limits, with heavy vehicles paying more than passenger vehicles. Most Sydney toll roads charge heavy vehicles a multiple of two to three times the charge for light vehicles. This reflects the additional wear and tear caused by heavy vehicles and the fact that freight transport is a significant driver for the WestConnex project itself.

The tolling scheme comprises a flagfall amount and a distance-based toll which is charged per kilometre of travel and is subject to a scheme-wide toll cap. The scheme-wide cap is the maximum toll that can be charged per trip.

The M5 West, included in the New M5 concession from December 2026, operates under a separate tolling scheme comprising a point toll that is not included in the WestConnex scheme-wide toll cap. The Iron Cove Link will not be tolled.

Below is an overview of the WestConnex tolling regime, with tolls as at 1 January 2019.

Table 2: **WestConnex tolls**

WestConnex (excl. M5 West)	2019 \$
Current toll flagfall	\$1.32
Current toll rate	\$0.49 per kilometre
Current toll cap	\$9.30
Truck multiplier	3x
Escalation — at any time prior to 31 December 2040	Greater of CPI or 4% per annum (escalated on 1 January each year)
Escalation — post 31 December 2040	Greater of CPI or 0% per annum
Concession term expiry	31 December 2060
M5 West (from December 2026)	
Current toll rate (each direction)	\$4.74 (as at 1 January 2019)
Truck multiplier	3x
Escalation	Greater of CPI or 0% per quarter
Concession term expiry	31 December 2060

Note that the per kilometre toll rate is levied on a “Tollable Section” basis with each “Tollable Section” specified in each of the applicable Project Deeds.

Tolling on WestConnex is fully electronic, multi-lane free flow using tag and video recognition technology.

## 5. Procurement

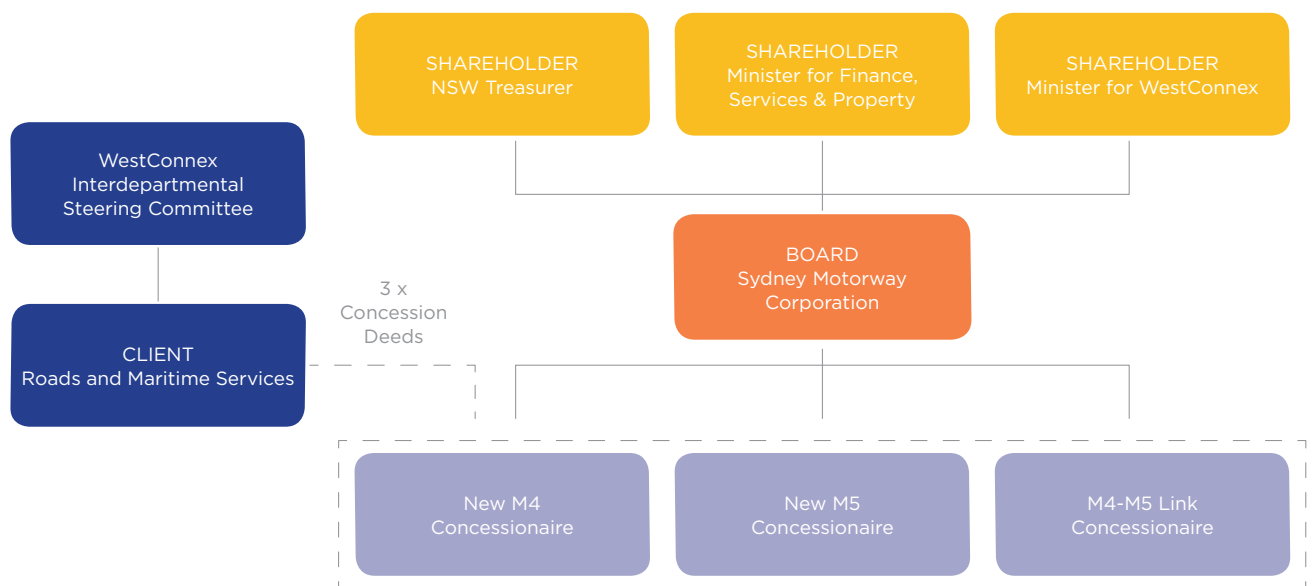
### 5.1 Overview

To procure and deliver WestConnex, Roads and Maritime granted three separate concessions to special purpose vehicles (as shown below in Figure 3).

The WestConnex program is an integrated scheme, relying on toll revenues to enable raising of private sector debt and the subsequent recycling of the Government’s initial equity contribution.

The WestConnex Motorway follows similar commercial principles as other privately operated Motorways in NSW. Roads and Maritime grants a concession to a concessionaire to build, finance, operate and maintain the motorway for a certain period before handing the motorway back to Roads and Maritime in the required condition. In return for these services, the concessionaire may collect tolls on a contractually agreed basis. Roads and Maritime remains at all times the owner of the motorway.

Figure 3: *Pre-WestConnex Sale governance model*

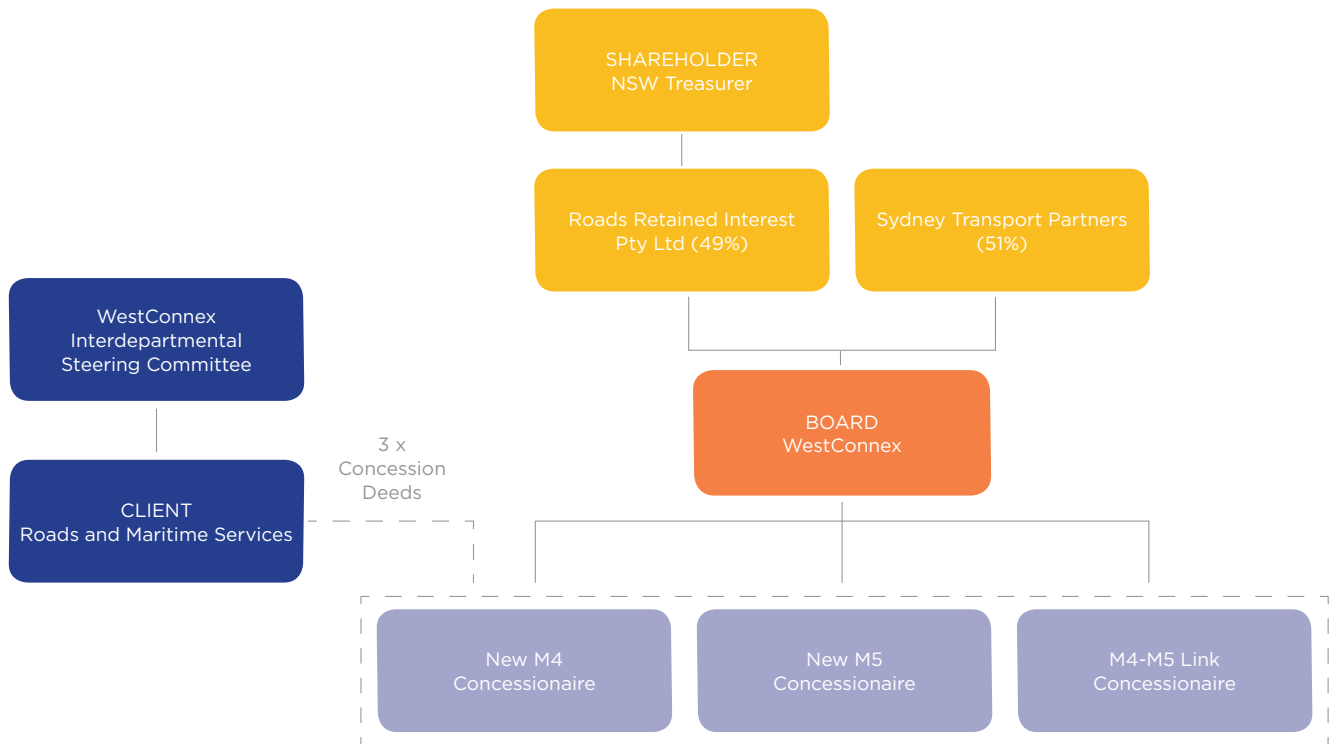


### 5.2 The WestConnex Sale

Following a competitive sale process, the NSW Government announced on 31 August 2018, the sale of 51% of the NSW Government’s equity stake in Sydney Motorway Corporation to the Sydney Transport Partners (STP) consortium. Financial close was achieved on 27 September 2018.

The sale price was \$9.26 billion. Sale proceeds enable the investments already made in Stages 1 and 2 to be recycled toward the cost of Stage 3 of WestConnex, as well as to fund other future infrastructure projects.

Figure 4: *Post-WestConnex Sale governance model*



STP now has operational control of the WestConnex concessionaires.

The State retains a passive investment role through a special purpose vehicle, Roads Retained Interest Pty Ltd (RRIPL), holding the remaining 49% equity interest in WestConnex.

The State retains oversight through the role of Roads and Maritime as the client and through the terms of an investor agreement entered into as part of the WestConnex Sale.

### 5.3 D&C procurement

WestConnex is comprised of six construction packages, which were competitively procured. The sixth package, being the Rozelle Interchange, was recently procured via the competitive Collaborative Contractor Client (CCC) procurement process.

The CCC procurement process is a highly collaborative approach during the procurement phase of the project (it is not a contract form). The process allows for the intensive sharing of knowledge between the shortlisted parties and the State in order to identify opportunities and risks and promote the submission of optimised tender solutions. The result is better value for money and improved outcomes for the people of NSW.

Table 3: **WestConnex D&C contracts**

D&C package	D&C principal(s)	D&C Contractor
<b>Stage 1</b>		
M4 Widening (Complete)	WCX M4 AT Pty Ltd	Rizzani De Eccher & CPB JV
New M4 Tunnels	WCX M4 AT Pty Ltd	CPB Contractors, Samsung, John Holland JV
<b>Stage 2</b>		
King Georges Road Interchange Upgrade (Complete)	Roads and Maritime Services	Fulton Hogan
New M5 Tunnels	WCX M5 AT Pty Ltd	CPB Contractors, Dragados, Samsung JV
<b>Stage 3</b>		
M4-M5 Link Tunnels	WCX M4-M5 Link AT Pty Ltd WCX SWC Pty Ltd	Lendlease, Samsung, Bouygues JV
Rozelle Interchange	Roads and Maritime Services	CPB Contractors, John Holland JV

## 5.4 Value for money

WestConnex provides significant economic and community benefits (outlined in *Section 3.1* of this *WestConnex Project Summary*), optimising value for money for the State by:

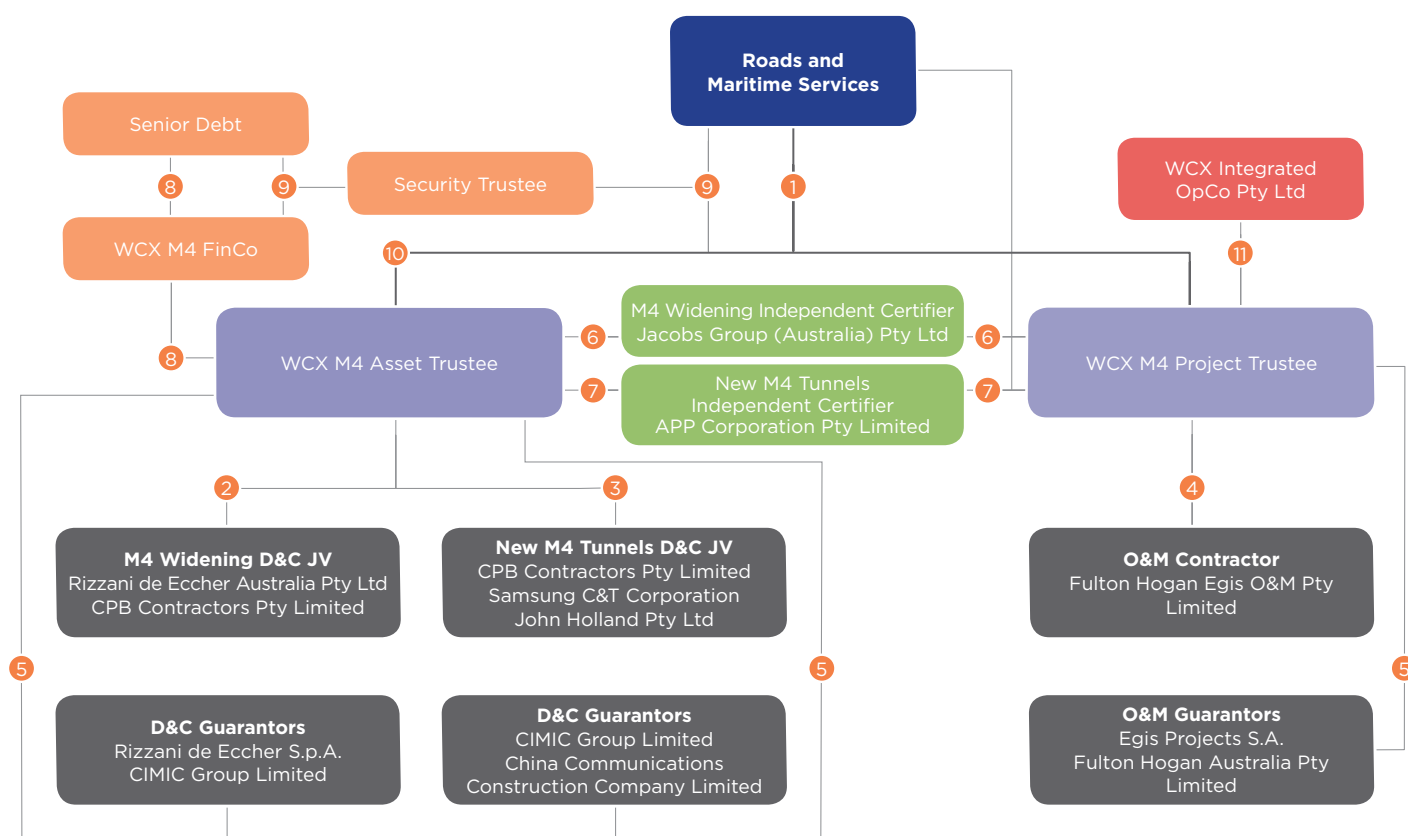
- adopting an appropriate risk allocation under each of the Project Deeds, with each of the New M4, New M5 and M4-M5 Link concessions separable to enable future flexibility
- recycling of the State's initial capital contribution by progressive timely introduction of debt and sell down of equity in the project at the appropriate point in time, to optimise value
- competitive tendering of each D&C contract
- a contractually based and integrated single tolling scheme with caps to optimise value to users
- ensuring benefit from any upside in revenue collections is shared with the Government
- a competitive sale of 51% of the ownership of WestConnex, yielding \$9.26 billion.



## 6. Key contracts and parties

### 6.1 New M4

Figure 5: **New M4 simplified contract structure**



- |   |                            |   |                                |
|---|----------------------------|---|--------------------------------|
| # | 1. Project Deed            | 5. Parent Guarantee Deeds (in favour of the Trustees) | 8. Finance Documents           |
|   | 2. M4 Widening D&C Deed    | 6. M4 Widening Independent Certifier Deed             | 9. Financiers Tripartite Deed  |
|   | 3. New M4 Tunnels D&C Deed | 7. New M4 Tunnels Independent Certifier Deed          | 10. Leases (to be granted)     |
|   | 4. O&M Deed                |   | 11. Integrated Operations Deed |

#### New M4 Project Deed and M4 Leases

The principal contract for the New M4 is the Project Deed (referred to as the 'New M4 Project Deed'). The New M4 Project Deed sets out the rights and obligations of the parties to fund, design, construct and commission the Project Works and operate, maintain and toll the New M4.

The parties to the New M4 Project Deed are Roads and Maritime and the 'M4 Trustees' being:

- WCX M4 AT Pty Ltd (ABN 61 614 741 445) in its personal capacity and in its capacity as trustee of the WCX M4 Asset Trust (ABN 30 972 117 496)
- WCX M4 PT Pty Ltd (ABN 59 614 741 436) in its personal capacity and in its capacity as trustee of the WCX M4 Project Trust (ABN 31 878 147 068).

In addition, WCX M4 FinCo Pty Ltd (ABN 63 614 741 454) (referred to as: 'WCX M4 FinCo') is wholly owned by M4 Asset Trust. WCX M4 FinCo is responsible for raising all project level external debt finance and swaps associated with the New M4 (i.e. the Senior Debt), and on-providing that finance through a loan and swaps to M4 Asset Trust on broadly back-to-back terms.

## Leases

Roads and Maritime will grant the Trustees the 'New M4 Leases' on the date of Opening Completion of the relevant motorway stage, being:

- the M4 East Motorway Stratum Lease
- M4 Widening Motorway Stratum Lease, subject to finalisation of registration of Roads and Maritime proprietorship to certain parcels of land.

From the date on which Roads and Maritime grants each lease until the date on which that lease is registered, the parties are bound by the provisions of the draft leases as exhibited in the Project Deed.

## Key subcontracts

The Trustees have entered into key subcontracts, including those detailed in the following table.

Table 4: **New M4 Subcontracts**

Subcontract	Contractor	Other relevant details
M4 Widening D&C Deed	Rizzani de Eccher Australia Pty Ltd (ABN 80 147 862 897)  CPB Contractors Pty Limited (ABN 98 000 893 667)  (‘M4 Widening D&C Contractor’)	Parent Guarantor Deeds for Trustee benefit:  Rizzani de Eccher S.p.A.  CIMIC Group Limited  (‘M4 Widening D&C Guarantor’)
New M4 Tunnels D&C Deed	CPB Contractors Pty Limited (ABN 98 000 893 667)  Samsung C&T Corporation (ABN 49 160 079 470)  John Holland Pty Ltd (ABN 11 004 282 268)  (‘New M4 Tunnels D&C Contractors’)	Parent Guarantee Deeds for Trustee benefit:  CIMIC Group Limited and  China Communications Construction Company Limited  (‘New M4 Tunnels D&C Guarantor’)
O&M Deed	Fulton Hogan Egis O&M Pty Limited (ABN 37 609 764 730)  (‘O&M Contractor’)	Parent Guarantor Deed for Trustee benefit:  Egis Projects S.A.  Fulton Hogan Australia Pty Limited (‘M4 O&M Guarantors’)
Tolling Services Agreement	Roads and Maritime Services	For the provision of back office tolling services

## Other related contracts

Additionally, the deeds and deed polls detailed in the following table form part of the suite of the New M4 Project Documents, which serve a number of purposes. These purposes include engaging third parties to provide certain services, providing protections for Roads and Maritime, the M4 Trustees and the financiers, and helping to facilitate co-operation by clarifying rights and obligations between the parties.

Table 5: **New M4 other contracts**

Contract	Parties	Other relevant details
M4 Widening Independent Certifier Deed	Roads and Maritime Services M4 Trustees Jacobs Group (Australia) Pty Ltd (ABN 37 001 024 095)	To carry out independent certification services under the New M4 Project Deed
New M4 Tunnels Independent Certifier Deed	Roads and Maritime Services M4 Trustees APP Corporation Pty Limited (ABN 29 003 764 770)	To carry out independent certification services under the New M4 Project Deed
M4 Widening Deed of Appointment of Environmental Representative	M4 Trustees GHD Pty Ltd (ABN 39 008 488 373)	This Deed appoints the Environmental Representative for the project. Roads and Maritime is not a party to the Deed but is a beneficiary to the Deed Poll executed by GHD.
New M4 Tunnels Deed of Appointment of Environmental Representative	Roads and Maritime Services M4 Trustees MCW Environmental Consulting Pty Ltd (ABN 31 155 105 552)	This Deed appoints the Environmental Representative for the project. Roads and Maritime must cooperate with and provide the Environmental Representative with all information and documents necessary (and not obtainable from the other parties).
New M4 Tunnels Contractor's Side Deed	Roads and Maritime Services M4 Trustees New M4 Tunnels D&C Contractor New M4 Tunnels D&C Guarantor APP Corporation Pty Limited	Roads and Maritime may step-in and assume M4 Trustees rights and obligations under the D&C Deed and the D&C Parent Guarantee Deeds, if the Trustees are in default of the D&C Deed, or to novate the D&C Deed if the Project Deed is terminated.  Additionally, Roads and Maritime is provided certain rights against the: <ul style="list-style-type: none"> <li>• M4 Widening D&amp;C Contractor under the M4 Widening Contractor's Side Deed Poll</li> <li>• New M4 Tunnels D&amp;C Contractor under the New M4 Tunnels Contractor's Side Deed Poll.</li> </ul>
Operator's side deed	Roads and Maritime Services M4 Trustees M4 O&M Contractor M4 O&M Guarantors	Roads and Maritime may step-in and assume M4 Trustees' rights and obligations under the O&M Deed and the O&M Parent Guarantee Deeds, if the Trustees are in default of the O&M Deed, or to novate the O&M Deed if the Project Deed is terminated.
Principal Contractor Deed	Roads and Maritime Services M4 Trustees CPB Contractors	Engages CPB Contractors as the principal contractor for construction and to authorise them to have management and control of the relevant workplaces

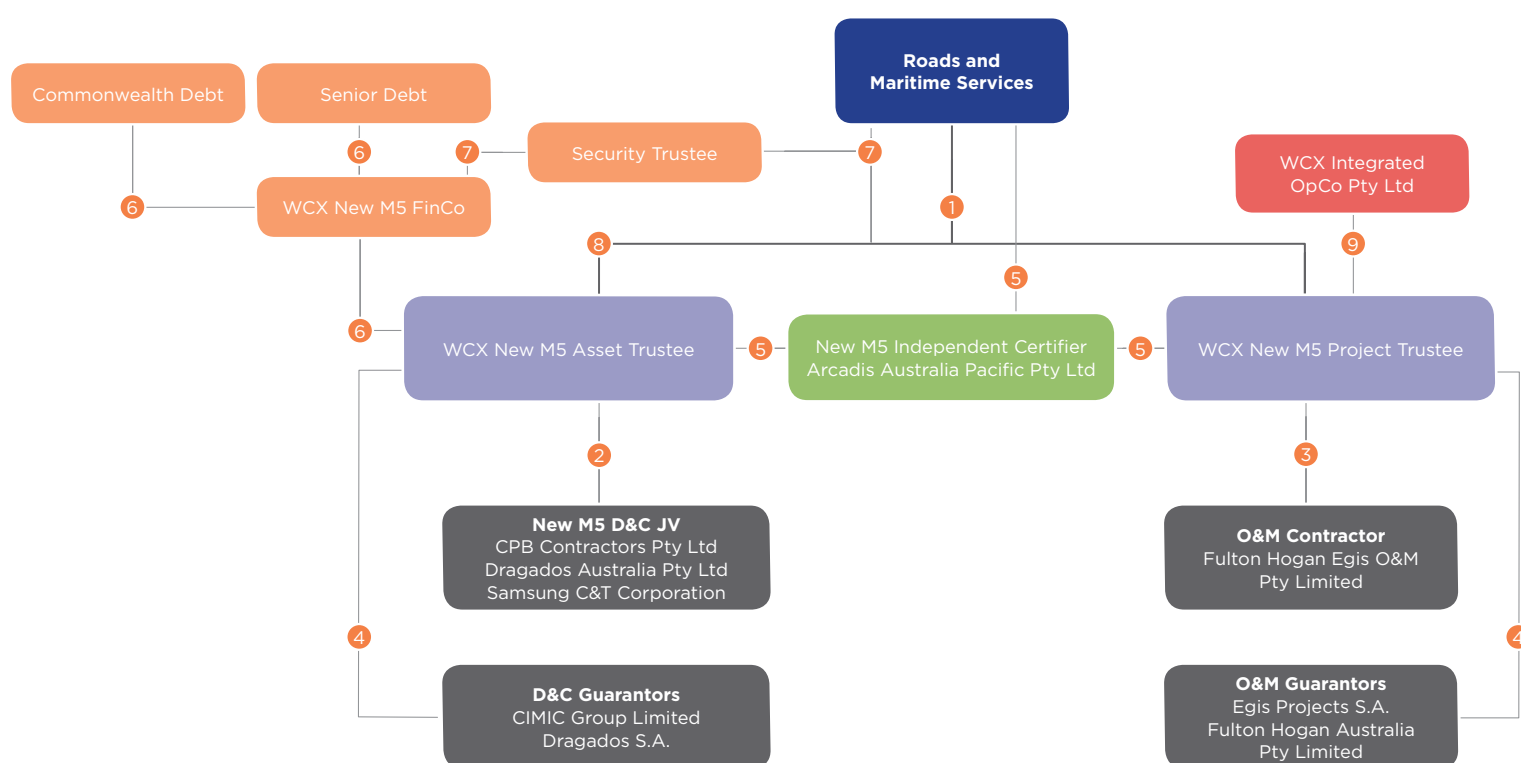
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Contract	Parties	Other relevant details
Account Bank Deed Poll (Roads and Maritime Services Security)	Deed Poll provided by CBA (ABN 33 007 457 141) ('M4 Account Bank') in favour of Roads and Maritime Services	M4 Account Bank acknowledges Roads and Maritime's rights under the Roads and Maritime Security in respect of certain bank accounts held by WCX M4 FinCo Pty Ltd (ABN 63 614 741 454) and the Trustees.
Financiers Tripartite Deed	Roads and Maritime Services M4 Trustees WCX M4 FinCo Pty Ltd (ABN 63 614 741 454) CBA Corporate Services (NSW) Pty Limited (ABN 25 072 765 434) ('M4 Security Trustee')	The Deed sets out the rights and obligations of the parties in respect of: <ul style="list-style-type: none"> <li>the securities granted by the Trustees and WCX M4 FinCo, including the priority of moneys owed to Roads and Maritime if Roads and Maritime takes urgent action under the Project Deed</li> <li>M4 Security Trustee's right to remedy M4 Trustee default</li> <li>termination of the Project Deed</li> <li>application of insurance proceeds</li> <li>restrictions on amending Project Documents</li> <li>restrictions on financier and other party assignment.</li> </ul>
Cash Management Priority Deed	Roads and Maritime Services M4, New M5 and M4-M5 Link Trustees M4 Security Trustee M5 Security Trustee	The parties agree to enforce the securities listed in accordance with the agreed terms and the priority of these securities.
Integrated Operations Deed	M4, New M5, M4-M5 Link Project Trustees WCX Integrated OpCo Pty Ltd (ABN 25 626 696 106)	WCX Integrated OpCo is to perform certain activities to ensure the integrated operation of the New M4, New M5, and the M4-M5 Link. WCX Integrated OpCo is to engage a service provider in accordance with the IO Services Provider Deed.
ROCA	Roads and Maritime Services M4, New M5, M4-M5 Link Trustees WCX Integrated OpCo Pty Ltd (ABN 25 626 696 106)	Terms of cooperation and coordination of the WestConnex Motorway, and toll collection.



## 6.2 New M5

Figure 6: *New M5 simplified contract structure*



- |   |                    |   |                               |
|---|--------------------|---|-------------------------------|
| # | 1. Project Deed    | 4. Parent Guarantee Deeds (in favour of the Trustees) | 7. Financiers Tripartite Deed |
|   | 2. New M5 D&C Deed | 5. Independent Certifier Deed                         | 8. Leases (to be granted)     |
|   | 3. O&M Deed        | 6. Finance Documents                                  | 9. Integrated Operations Deed |

### Project Deed

The principal contract for the New M5 is the Project Deed (referred to as the 'New M5 Project Deed'). The New M5 Project Deed became effective on 20 November 2015.

Roads and Maritime entered into the New M5 Project Deed with the 'New M5 Trustees' being:

- WCX M5 PT Pty Ltd (ACN 608 798 465) in its personal capacity and in its capacity as trustee of the WCX M5 Project Trust (ABN 73 899 615 977) and
- WCX M5 AT Pty Ltd (ACN 608 798 081) in its personal capacity and in its capacity as trustee of the WCX M5 Asset Trust (ABN 23 365 031 283).

In addition, WCX M5 FinCo Pty Ltd (ABN 65 606 993 462) (referred to as 'WCX New M5 FinCo') is wholly owned by New M5 Asset Trust. WCX New M5 FinCo is responsible for raising all project level external debt finance and swaps associated with the New M5 (i.e. the Senior Debt), and on-providing that finance through a loan and swaps to New M5 Asset Trust on broadly back-to-back terms.

The New M5 Project Deed sets out:

- the rights and obligations of Roads and Maritime and the New M5 Trustees to fund, design, construct and commission the Project Works and operate, maintain and toll the Motorway
- the terms on which Roads and Maritime will transfer the existing M5 East and M5 West to the Trustees.

## Leases

Roads and Maritime will grant the Trustees the New M5 Leases comprising:

- for the New M5 Tunnels, the 'New M5 Main Works Lease', on the date of Opening Completion
- for the M5 East, the 'M5 East New Lease', on the date the M5 East Motorway is transferred to the Trustees, being the Opening Completion of the New M5
- for the M5 West, the 'M5 West New Lease' on the date the M5 West Motorway is transferred to the Trustees (being 11 December 2026).

From the date on which Roads and Maritime grants each lease until the date on which that lease is registered, the parties are bound by the provisions of the draft leases as exhibited in the New M5 Project Deed.

## Key subcontracts

The New M5 Trustees have entered into key subcontracts, including those detailed in the following table.

Table 6: **New M5 subcontracts**

Subcontract	Contractor	Other relevant details
D&C Deed	CPB Contractors Pty Ltd (ABN 98 000 893 667)  Dragados Australia Pty Ltd (ABN 20 151 632 665)  Samsung C&T Corporation (ABN 49 160 079 470) (‘New M5 D&C Contractor’)	Parent Guarantor Deeds for Trustee benefit:  CIMIC Group Limited  Dragados S.A.  (‘New M5 D&C Guarantors’)
O&M Deed	Fulton Hogan Egis O&M Pty Limited (ABN 37 609 764 730) (‘New M5 O&M Contractor’)	Parent Guarantor Deed for Trustee benefit:  Egis Projects S.A. and Fulton Hogan Australia Pty Limited (‘New M5 O&M Guarantors’)  New M5 Trustees to appoint an M5 West operator on transfer of the M5 West on terms acceptable to Roads and Maritime, or may appoint the New M5 O&M Contractor by as a change under the O&M Deed.
Tolling Services Agreement	Roads and Maritime Services	For the provision of back office tolling services

## Other related contracts

Additionally, the deeds and deed polls detailed in the following table form part of the suite of the New M5 Project Documents, which serve a number of purposes. These purposes include engaging third parties to provide certain services, providing protections for Roads and Maritime, the New M5 Trustees and the financiers, and helping to facilitate co-operation by clarifying rights and obligations between the parties.

Table 7: **New M5 other contracts**

Contract	Parties	Other relevant details
Independent Certifier Deed	Roads and Maritime Services New M5 Trustees Arcadis Australia Pacific Pty Ltd (ABN 76 104 485 289)	To carry out independent certification services under the New M5 Project Deed
Deed of Appointment of Environmental Representative	Roads and Maritime Services New M5 Asset Trustee Wolfpeak Pty Ltd (ABN 52 152 940 586) New M5 D&C Contractor	This Deed appoints the Environmental Representative for the project. Roads and Maritime must cooperate with and provide the environmental representative with all information and documents necessary (and not obtainable from the other parties).
D&C Side Deed	Roads and Maritime Services New M5 Trustees New M5 D&C Contractor New M5 D&C Guarantors	Roads and Maritime may step-in and assume New M5 Trustees' rights and obligations under the D&C Deed and the D&C Parent Guarantee Deed, if the Trustees' are in default of the D&C Deed, or to novate the D&C Deed if the Project Deed is terminated.
O&M Contractor's Side Deed	Roads and Maritime Services New M5 Trustees New M5 O&M Contractor New M5 O&M Guarantors	Roads and Maritime may step-in and assume New M5 Trustees' rights and obligations under the O&M Deed and the O&M Parent Guarantee Deeds if Trustees' default under the O&M Deed, or to novate the O&M Deed if the Project Deed is terminated.
Principal Contractor Deed	Roads and Maritime Services New M5 Trustees New M5 D&C Contractor CPB Contractors	Engages CPB Contractors as the principal contractor for construction and to authorise them to have management and control of the relevant workplaces
Account Bank Deed Poll (Roads and Maritime Services Security)	Deed poll provided by National Australia Bank Limited (ABN 12 004 044 937) ('New M5 Account Bank') in favour of Roads and Maritime Services	New M5 Account Bank acknowledges Roads and Maritime's rights under the Roads and Maritime Security in respect of certain bank accounts held by WCX New M5 FinCo and the New M5 Trustees
Financiers Tripartite Deed	Roads and Maritime Services New M5 Trustees WCX New M5 FinCo Pty Ltd (ABN 65 606 993 462) National Australia Bank Limited (ABN 12 004 044 937) ('New M5 Security Trustee')	The Deed sets out the rights and obligations of the parties in respect of: <ul style="list-style-type: none"> <li>the securities granted by the New M5 Trustees and WCX New M5 FinCo, including the priority of moneys owed to Roads and Maritime if Roads and Maritime takes urgent action under the Project Deed</li> <li>New M5 Security Trustee's right to remedy New M5 Trustee's default</li> <li>termination of the Project Deed</li> <li>application of insurance proceeds</li> <li>restrictions on amending Project Documents</li> <li>restrictions on financier and other party assignment.</li> </ul>
Cash Management Priority Deed	Roads and Maritime Services M4, New M5, M4-M5 Link Trustees M4 Security Trustee New M5 Security Trustee	The parties agree to enforce the securities listed in accordance with the agreed terms and the priority of these securities
Interlink Interface Agreement	Minister for Roads, Maritime and Freight Roads and Maritime Services Interlink Roads Pty Limited (ABN 53 003 845 430)	Set out the terms for the interface between the New M5 works and the M5 West Motorway operated by Interlink Roads Pty Limited

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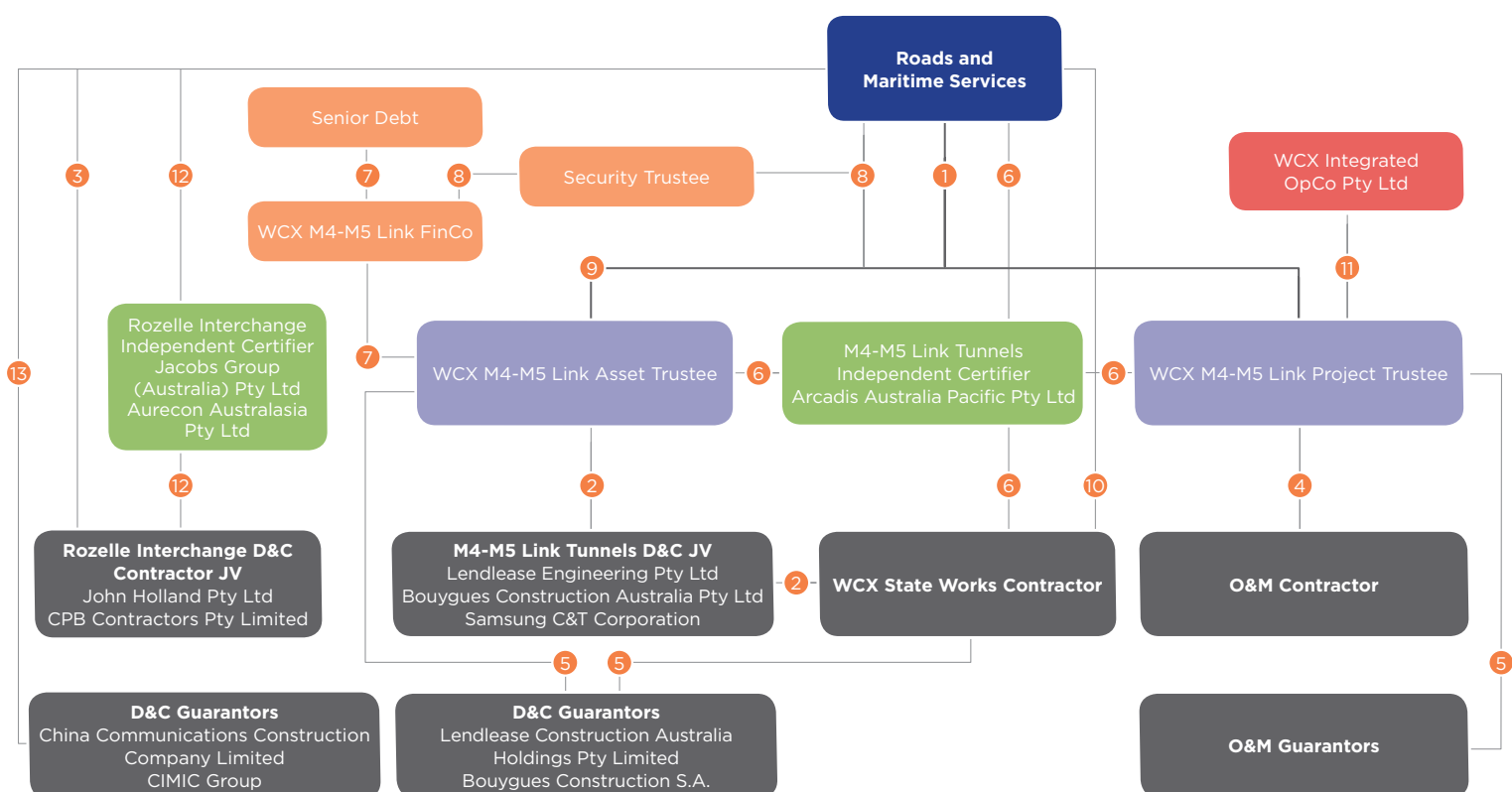
Contract	Parties	Other relevant details
Integrated Operations Deed	M4, New M5, M4-M5 Link Project Trustees WCX Integrated OpCo Pty Ltd (ABN 25 626 696 106)	WCX Integrated OpCo is to perform certain activities to ensure the integrated operation of the New M4, New M5, and the M4-M5 Link. WCX Integrated OpCo is to engage a service provider in accordance with the IO Services Provider Deed.
ROCA	Roads and Maritime Services M4, New M5, M4-M5 Link Trustees WCX Integrated OpCo Pty Ltd (ABN 25 626 696 106)	Terms of cooperation and coordination of the WestConnex Motorway, and toll collection.

## 6.3 M4-M5 Link

### M4-M5 Link Project Deed

The principal contract for the M4-M5 Link is the Project Deed 'WestConnex M4-M5 Link Project Deed' (referred to as the 'M4-M5 Link Project Deed') dated 12 June 2018. The Project Deed became effective on 27 September 2018.

Figure 7: M4-M5 Link simplified contract structure



- |   |   |   |  |
|---|---|---|--|
| # | 1. Project Deed   | 5. Parent Guarantee Deeds (in favour of the Trustees and SWC) | 10. State Works Deed   |
|   | 2. M4-M5 Link Tunnels D&C Deed  | 6. M4-M5 Link Tunnels Independent Certifier Deed              | 11. Integrated Operations Deed   |
|   | 3. Rozelle Interchange and Western Harbour Tunnel Enabling Works D&C Deed   | 7. Finance Documents  | 12. Rozelle Interchange Independent Certifier Deed                                       |
|   | 4. O&M Deed (excluding Rozelle Interchange, subject to Trustees discretion) | 8. Financiers Tripartite Deed                                 | 13. Parent Guarantee Deeds for Rozelle Interchange D&C (in favour of Roads and Maritime) |
|   |   | 9. Leases (to be granted)                                     |  |

Roads and Maritime entered into the M4-M5 Link Project Deed with 'M4-M5 Link Trustees' being:

- WCX M4-M5 Link PT Pty Limited (ABN 81 624 153 788) in its personal capacity and in its capacity as trustee of the WCX M4-M5 Link Project Trust (ABN 67 667 191 375)
- WCX M4-M5 Link AT Pty Limited (ABN 85 624 153 742) in its personal capacity and in its capacity as trustee of the WCX M4-M5 Link Asset Trust (ABN 18 934 919 866).

In addition WCX M4-M5 Link FinCo Pty Ltd (ABN 89 624 153 760) ('M4-M5 Link FinCo') is wholly owned by M4-M5 Link Asset Trust. M4-M5 Link FinCo is responsible for raising all project level external debt finance and swaps associated with the M4-M5 Link (i.e. the Senior Debt), and on-providing that finance through a loan and swaps to M4-M5 Link Asset Trust on broadly back-to-back terms.

The Project Deed sets out the terms on which, among other things, the Trustees will fund, design and construct the M4-M5 Link Tunnels and operate, maintain and toll the Motorway.

Under the Project Deed, Roads and Maritime agrees, among other things, to:

- enter into the 'State Works Deed' with the Trustees, under which the SWC must procure and manage the D&C of the State Works
- procure the investigation, funding, planning, D&C and commissioning of the Rozelle Interchange
- handover the Rozelle Interchange to the Trustees to operate, maintain and toll.

### **State Works Deed**

Roads and Maritime and WCX State Works Contractor Pty Limited (ABN 65 624 154 089) ('SWC') are party to the 'State Works Deed', which sets out the terms on which:

- the SWC will procure the D&C of the State Works, which form part of the Project Works
- Roads and Maritime will pay the SWC, up to the maximum amounts specified in the State Works Deed, for the delivery of the State Works
- the SWC will be entitled to draw against funding provided by Roads and Maritime to meet its financial obligations to the M4-M5 Link Tunnels D&C Contractor.

### **Rozelle Interchange contract**

The M4-M5 Link Project Deed contemplates that Roads and Maritime will separately enter into a contract under which Roads and Maritime will engage a contractor to design and construct the Rozelle Interchange Works.

On 14 December 2018, Roads and Maritime entered into the Rozelle Interchange and Western Harbour Tunnel Enabling Works D&C Deed ('Rozelle Interchange D&C Deed') with the CPB Contractors and John Holland JV (Rozelle Interchange Contractor).

The Rozelle Interchange will be transferred to the Trustees on the Rozelle Interchange Transfer Date as described in *Section 19.4* of this *WestConnex Project Summary*.

The Rozelle Interchange Contractor and the Trustees will enter into a Collateral Warranty Deed. Under the Collateral Warranty Deed (amongst other things):

- the Trustees have the benefit of a 24 month defects liability period
- the Rozelle Interchange Contractor indemnifies the Trustees against certain loss
- the Rozelle Interchange Contractor must provide security bonds to the Trustees (to be returned upon expiry of the defects liability period)
- the Rozelle Interchange Contractor must provide a parent company guarantee in favour of the Trustees
- the Rozelle Interchange Contractor must give certain warranties in favour of the Trustees.

Roads and Maritime's obligations to the Trustees with respect to the Rozelle Interchange, under the M4-M5 Link Project Deed, are discussed further in *Section 19* of this *WestConnex Project Summary*.

### M4-M5 Link Leases

Roads and Maritime will grant the Trustees the 'M4-M5 Link Leases' being:

- the 'Main Tunnel Lease' on the date of Opening Completion
- the 'Rozelle Interchange Lease' on the date the Rozelle Interchange is transferred to the Trustees.

From the date on which Roads and Maritime grants each lease until the date on which that lease is registered, the parties are bound by the provisions of the draft leases as exhibited in the Project Deed.

### Key M4-M5 Link subcontracts

The M4-M5 Link Trustees have entered into key subcontracts, including those detailed in the following table.

Table 8: **M4-M5 Link subcontracts**

Subcontract	Contractor	Other relevant details
M4-M5 Link Tunnels D&C Deed  (Trustees have entered jointly with the SWC)	Lendlease Engineering Pty Ltd (ABN 40 000 201 516)  Bouygues Construction Australia Pty Ltd (ABN 37 144 013 801)  Samsung C&T Corporation (ABN 49 160 079 470)  (‘M4-M5 Link Tunnels D&C Contractor’)	Parent Guarantor Deeds for the benefit of the Trustee and SWC are given by:  • Lendlease Construction Australia Holdings Pty Limited  • Bouygues Construction S.A.  (‘M4-M5 Link Tunnels Guarantors’)
O&M Deed  (to be executed 18 months prior to expected Opening Completion under the Project Deed)	Fulton Hogan Egis O&M Pty Limited (ABN 37 609 764 730)  (‘M4-M5 Link O&M Contractor’) – under the terms of a Commitment Deed dated 17 December 2015	A Parent Company Guarantee for the Trustees' benefit will be executed when the O&M Deed is executed.  The O&M Deed does not automatically provide for the M4-M5 Link O&M Contractor to operate the Rozelle Interchange – this would need to be effected via a pre-agreed change under the O&M Deed. Alternatively, Trustees may appoint the Rozelle Interchange O&M Contractor as per the Project Deed, and on terms acceptable to Roads and Maritime, acting reasonably.



## Other related contracts

Additionally, the deeds detailed in the following table, provide Roads and Maritime, the M4-M5 Link Trustees, the SWC and financiers with certain protections, facilitate co-operation, and clarify rights and obligations between Roads and Maritime, the M4-M5 Link Trustees and other parties to undertake the project.

Table 9: **M4-M5 Link other contracts**

Contract	Parties	Other relevant details
Independent Certifier Deed	Roads and Maritime Services M4-M5 Link Trustees SWC Arcadis Australia Pacific Pty Ltd (ABN 76 104 485 289)	To carry out independent certification services under the M4-M5 Link Project Deed and the State Works Deed
Deed of Appointment of Environmental Representative	Roads and Maritime Services M4-M5 Link Trustees SWC M4-M5 Link Tunnels D&C Contractor Hutchison Weller Pty Ltd (ABN 34 603 174 518)	This Deed appoints the Environmental Representative for the project. Roads and Maritime must cooperate with and provide the Environmental Representative with all information and documents necessary (and not obtainable from the other parties).
D&C Side Deed	Roads and Maritime Services M4-M5 Link Trustees SWC M4-M5 Link Tunnels D&C Contractor M4-M5 Link Tunnels D&C Guarantors	Roads and Maritime may step-in and assume Trustees' rights and obligations under the M4-M5 Link Tunnels D&C Deed and the D&C Parent Guarantee Deeds, if the Trustees are in default of the M4-M5 Link Tunnels D&C Deed, or to novate the M4-M5 Link Tunnels D&C Deed if the Project Deed or State Works Deed is terminated.
Contractor Cooperation and Integration Deed	Roads and Maritime Services M4-M5 Link Asset Trustee Rozelle Interchange Contractor SWC M4-M5 Link Tunnels D&C Contractor	Agreement to cooperate to integrate the performance of the M4-M5 Link Tunnels and Rozelle Interchange
O&M Contractor's Side Deed	To be entered into when the O&M Deed and the Parent Guarantor Deed/s are entered	Roads and Maritime may step-in and assume M4-M5 Link Trustees' rights and obligations under the O&M Deed and the O&M Parent Guarantor Deeds if the Trustees are in default of the O&M Deed or to novate the O&M Deed if the Project Deed is terminated
Principal Contractor Deed	Roads and Maritime Services M4-M5 Link Asset Trustee SWC M4-M5 Link Tunnels D&C Contractor Lendlease Engineering Pty Ltd (ABN 40 000 201 516)	Engages Lendlease Engineering Pty Ltd as the principal contractor for construction and to authorise them to have management and control of the relevant workplaces
Account Bank Deed Poll (Roads and Maritime Services Security)	Deed poll provided by Westpac Banking Corporation (ABN 33 007 457 141) in favour of Roads and Maritime Services	Westpac Banking Corporation acknowledges Roads and Maritime's rights under the Roads and Maritime Security in respect of certain bank accounts held by M4-M5 Link FinCo and the M4-M5 Link Trustees
Account Bank Deed Poll (State Works Security)	Roads and Maritime Services SWC Westpac Banking Corporation	Westpac Banking Corporation acknowledges Roads and Maritime's rights under the State Works Security in respect of certain bank accounts held by the SWC

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Account Bank Deed Poll - CBA (Roads and Maritime Services Security)	Deed poll provided by Commonwealth Bank of Australia (ABN 48 123 123 124) in favour of Roads and Maritime Services	Commonwealth Bank of Australia acknowledges Roads and Maritime's rights in respect of certain bank accounts held by M4-M5 Link FinCo and the M4-M5 Link Trustees
Financiers Tripartite Deed	Roads and Maritime Services M4-M5 Link Trustees M4-M5 Link FinCo SWC CBA Corporate Services (NSW) Pty Limited (ABN 25 072 765 434) ('M4-M5 Link Security Trustee')	The Deed sets out the rights and obligations of the parties in respect of: <ul style="list-style-type: none"> <li>the securities granted by the Trustees, the SWC and M4-M5 Link FinCo, including the priority of moneys owed to Roads and Maritime if Roads and Maritime takes urgent action under the Project Deed</li> <li>M4-M5 Link Security Trustee's right to remedy Trustee's default</li> <li>termination of the Project Deed</li> <li>application of insurance proceeds</li> <li>restrictions on amending Project Documents</li> <li>restrictions on financier and other party assignment.</li> </ul>
Cash Management Priority Deed	Roads and Maritime Services M4, New M5, M4-M5 Link Trustees M4 Security Trustee New M5 Security Trustee	The parties agree to enforce the securities listed in accordance with the agreed terms and the priority of these securities
WestConnex M4-M5 Link Escrow Agreement (IOMCS and OMCS)	Roads and Maritime Services M4-M5 Link Trustees SWC M4-M5 Link Tunnels D&C Contractor Assurex Escrow Pty Ltd (ABN 64 008 611 578) SICE Pty Ltd (ABN 75 113 609 055)	The escrow facilitates Roads and Maritime to obtain the source code of various software used and developed by the Trustees and their subcontractors upon the occurrence of certain events
WestConnex M4-M5 Link Escrow Agreement (Tolling Roadside)	Roads and Maritime Services M4-M5 Link Trustees SWC M4-M5 Link Tunnels D&C Contractor Assurex Escrow Pty Ltd (ABN 64 008 611 578) Kapsch TrafficCom Australia Pty Ltd (ABN 84 081 653 429)	The escrow facilitates Roads and Maritime to obtain the source code of various software used and developed by the Trustees and their subcontractors upon the occurrence of certain events
Sydney Metro Interface Deed	Roads and Maritime Services Transport for NSW	Deed sets out the terms on which the interface between M4-M5 Link Project Works and the Sydney Metro City and Southwest Project will be managed. Under the M4-M5 Link Project Deed, any Roads and Maritime liabilities are generally passed through to the M4-M5 Link Trustees up to a cap.
Integrated Operations Deed	M4, New M5, M4-M5 Link Project Trustees WCX Integrated OpCo Pty Ltd (ABN 25 626 696 106)	WCX OpCo is to perform certain activities to ensure the integrated operation of the New M4, New M5, and the M4-M5 Link. WCX OpCo is to engage a service provider in accordance with the IO Services Provider Deed.
ROCA	Roads and Maritime Services M4, New M5, M4-M5 Link Trustees WCX Integrated OpCo Pty Ltd (ABN 25 626 696 106)	Terms of cooperation and coordination of the WestConnex Motorway, and toll collection.

## 7. Risk allocation of the New M4, New M5 and M4-M5 Link

The risk sharing arrangements for the New M4, New M5 and M4-M5 Link Project Deeds are summarised in the table below.

Table 10: **New M4, New M5 and M4-M5 Link risk allocation**

Type of risk	Description	Risk allocation	
		Roads and Maritime	Trustees
Land, site and planning			
Land acquisition and site access	Roads and Maritime is responsible for acquiring the agreed construction site and making it available to the Trustees (and SWC for M4-M5 Link)	✓	
Extra land	Trustees are responsible for acquiring rights to use land additional to that made available by the State		✓
Planning approvals	<p>Roads and Maritime is responsible for obtaining planning approvals and for risk associated with legal challenges.</p> <p>Trustees may claim compensation for delay costs and lost revenue for orders to cease work due to a planning approval challenge that delays completion.</p> <p>For modifications to approvals that require a change to the Project Works, operations or maintenance:</p> <ul style="list-style-type: none"><li>the change procedure applies prior to Completion</li><li>the MAE regime may apply after Completion.</li></ul> <p>Trustees are responsible for complying with most of the planning approval conditions other than those expressly allocated to Roads and Maritime.</p>	✓	✓
Artefacts	<p>Trustees are responsible for preventing removal/damage to artefacts.</p> <p>Trustees may claim compensation for lost revenue if completion is delayed due to a court order or Roads and Maritime directive to cease activities for more than 20 business days in aggregate (for each artefact discovery). Roads and Maritime has absolute ownership of artefacts.</p>	✓	✓
Native Title	<p>Roads and Maritime and Trustee activities to continue after native title claim until court order or Roads and Maritime direction.</p> <p>Trustees may seek compensation for delay costs and lost revenue if completion is delayed due to an order to cease work.</p> <p>The Trustees have no entitlement if there is no court order or directive from Roads and Maritime.</p>	✓	✓
Geotechnical	Subject to the risk allocation for Artefacts (above) and Contamination (below), Trustees bear the risk of site conditions encountered on the construction site and any extra land.		✓
Services/Utilities	<p>Trustees are responsible for obtaining any utility services and connections for utility services that they need to perform their obligations.</p> <p>Trustees bear the risk of the location of, disruptions and damage to existing utility services, which arise out of any act or omission of the Trustees.</p>		✓
Community, e.g. noise, disruption	<p>Trustees must do all things necessary to minimise disturbance, nuisance and inconvenience to adjoining property.</p> <p>Roads and Maritime is responsible for community involvement. However, the Trustees must participate in community relations and involvement programs as required by the applicable Project Deed or by Roads and Maritime from time to time.</p>	✓	✓

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Type of risk	Description	Risk allocation	
		Roads and Maritime	Trustees
Land, site and planning			
Contamination	<p>For the New M4 Tunnels, New M5 and the M4-M5 Link, Trustees (and SWC for M4-M5 Link) are generally responsible if their activities disturb or interfere with contamination on, or around the construction site or Trustees’ extra land, provided that the contamination:</p> <ul style="list-style-type: none"><li>• is ground water entering the Project Works; or</li><li>• must be remediated in order for the Project Works to comply with the Deed.</li></ul> <p>For the M4 Widening, Trustees are responsible for contamination in or around the construction site, or any extra Trustee land if it was not pre-existing (as at 4 December 2014) and was introduced by the Trustees, or is pre-existing and is either excavated by the Trustees or requires excavation to achieve Completion.</p> <p>Roads and Maritime will bear the risk of contamination which constitutes or involves a “M4 Widening Compensable Site Condition” (being certain site conditions which are pre-existing, unknown and which will necessitate a Change or will delay Completion).</p>	✓	✓
D&C			
Enabling Works	Roads and Maritime was responsible for carrying out enabling works to facilitate the New M4 Tunnels and for upgrading the King Georges Road Interchange between the M5 West and M5 East in preparation for the New M5 Tunnels	✓	
D&C	Trustees are responsible for ensuring Project Works are designed and constructed in accordance with the applicable Project Deed		✓
D&C – Rozelle Interchange	If the Rozelle Interchange is not designed and constructed in accordance with the scope of works and technical criteria and reference design attached to the M4-M5 Link Project Deed. Roads and Maritime may need to compensate the Trustees for lost revenue (and increased operating costs in the case of M4-M5 Link). This is subject to pre-agreed conditions and thresholds.	✓	
Rozelle Interchange interface and integration	For the M4-M5 Link, Roads and Maritime is responsible for the interface between the Rozelle Interchange and the M4-M5 Link Trustee’s activities, and integration of the Rozelle Interchange with the balance of the WestConnex network.	✓	
Fit for purpose	Trustees are responsible for ensuring that the Project Works are fit for purpose		✓
Fit for purpose – Rozelle Interchange	M4-M5 Link Trustees will be responsible for ensuring that Rozelle Interchange remains fit for purpose, subject to the Rozelle Interchange Contractor warranting that the Rozelle Interchange Works are, and are capable of remaining during the term, fit for purpose.	✓	✓

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Type of risk	Description	Risk allocation	
		Roads and Maritime	Trustees
Delays, cost overruns, environmental impacts			
Cost overruns	The Trustees are responsible if the cost of Project Works exceeds expectations		✓
Delay	The Trustees are responsible, subject to the compensation event regime, if they are delayed in achieving completion		✓
Delay – Rozelle Interchange	Roads and Maritime must pay the Trustees compensation if the Rozelle Interchange is not transferred to the Trustees by the target date	✓	
Environmental impacts	The Trustees are responsible for any negative environmental impacts associated with the project, and must comply with the environmental requirements in the Project Deed and the Planning Approval and prepare and comply with an environmental management plan.		✓
Testing, commissioning, defects			
Testing and commissioning	The Trustees are responsible for testing and commissioning the Project Works		✓
Testing and commissioning – Rozelle Interchange	Roads and Maritime is responsible for testing and commissioning Rozelle Interchange	✓	
Defects	The Trustees are responsible for defect rectification		✓
Defects – Rozelle Interchange and existing assets	Prior to handover, Roads and Maritime is responsible for defect rectification for the Rozelle Interchange	✓	
M5 East and M5 West	Roads and Maritime is responsible for ensuring that the M5 East and M5 West are handed over to the Trustees in the condition required by the New M5 Project Deed	✓	
Operational risks			
Operational and maintenance risk	<p>The Trustees are responsible for operating, maintaining and repairing the Motorways, including:</p> <ul style="list-style-type: none"><li>the existing M5 East from opening of New M5 Tunnels</li><li>the M5 West from December 2026</li><li>the Rozelle Interchange from the date of Roads and Maritime handover to the Trustees.</li></ul>		✓
Traffic risk	<p>Trustees take the risk that traffic (and revenue) is more or less than forecast.</p> <p>Trustees must share revenue upside with Roads and Maritime, where revenues exceed certain levels as specified in the applicable leases.</p>		✓
Connections to the Motorways	Roads and Maritime bears the risk under the MAE regime of certain connections to the Motorways being closed or materially reduced, with some exceptions including special events, material safety threats, maintenance or repairs.	✓	
Toll enforcement	Roads and Maritime bears the risk under the MAE regime that the offence of failing to pay tolls is not pursued in a manner which achieves the same outcome as the enforcement of comparable offences on other tollways	✓	

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Type of risk	Description	Risk allocation	
		Roads and Maritime	Trustees
Financing and taxes			
Inflation risk	The Trustees bear the risk that inflation is more or less than forecast and this impacts on toll escalation, or on operational and maintenance costs.		✓
Rates and taxes	The Trustees are responsible for any taxes and rates in respect of the land on which the project is located (other than stamp duty). The Trustees are responsible if actual income tax/rates and GST payable differ from the estimated costs.		✓
Refinancing	Roads and Maritime and the Trustees share refinancing gains. Trustees take the risk if refinancing results in losses.		✓
Change in law, MAE, insurance			
General Change in Law	Trustees bear the risk of changes in law		✓
Change in law (specifically impacting the project, including air filtration)	<p>Prior to completion, Roads and Maritime and the Trustees share in accordance with certain thresholds, the risk of a change or new law which is a:</p> <ul style="list-style-type: none"><li>• State law which specifically and only affects the WestConnex projects and other privately owned and operated tollroads; or</li><li>• Commonwealth law which requires air filtration or contamination control measures.</li></ul> <p>After completion, the MAE regime may apply if a change in law causes a net increase in the cost of carrying out Trustees' O&amp;M obligations.</p>	✓	✓
Force Majeure	Roads and Maritime and the Trustees share the risk of Force Majeure events. The MAE regime may apply for 'Uninsurable Force Majeure Events'.	✓	✓
Insurances	The Trustees are responsible for effecting and maintaining delivery and operations insurances		✓

## 8. Obligations of the Trustees

### 8.1 Fundamental obligations

The fundamental obligations of the Trustees under the Project Deeds (and associated Project Documents) are to:

- investigate, finance, fund, plan, design, construct and commission the Project Works
- undertake specified maintenance during the construction of the Project Works
- operate, maintain and repair the Motorways
- unless otherwise expressly permitted by the respective Project Deeds, keep all traffic lanes of the Motorways open to the public for the safe, efficient and continuous passage of vehicles at all times during the concession term
- handover the Motorways to Roads and Maritime at the Expiry Date
- for the New M5 only — undertake the replacement or renewal of certain specified assets
- for the M4-M5 Link only — integrate and co-ordinate the activities in relation to the M4-M5 Link Tunnels with the other elements of the WestConnex project.

The Trustees may levy and retain collected tolls for the use of the completed Motorways, subject to the revenue sharing arrangements specified in the applicable Leases. In relation to this entitlement, the Trustees must:

- only levy tolls, and no other charges, consistent with the applicable Project Deed
- only levy tolls by means of the toll collection system described in the Project Deed
- not (without the prior written approval of Roads and Maritime) use or permit the use of the Motorways for any business or revenue generating activity other than the collection of tolls by the Trustees
- comply with the *Roads Regulation 2018* (NSW).

### 8.2 Laws and approvals

In performing their activities, the Trustees must comply with all applicable laws, policies and approvals (including the Planning Approval) and:

- obtain from each relevant authority all approvals other than the Planning Approval, approval under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), and any approvals Roads and Maritime is required to obtain under the conditions of approval (which the Trustees are not required to satisfy under the Project Deed)
- comply with each authority's lawful requirements to permit proper consideration of the applications for approvals
- comply with all conditions of all approvals, other than those which Roads and Maritime has specifically agreed to comply with.

Whilst Roads and Maritime is responsible for obtaining Planning Approvals, the Trustee must assist Roads and Maritime and provide documentation, as reasonably required, to obtain Planning Approval.

### 8.3 Access

The Trustees must procure at their own cost and risk the occupation or use of any extra land (outside the specified construction site) or buildings, in addition, to the construction site which are necessary for their activities.



## 8.4 Finance obligations

Prior to Completion, the Trustees may only incur debt if Roads and Maritime consents to the finance or the debt is an Approved Financing Transaction. An Approved Financing Transaction includes Intercompany Loans (i.e. loans between the established project Trustees and their related parties, and the SWC in the case of the M4-M5 Link), or arrangements in the ordinary course of business (e.g. leases, hire purchase, credit) or unsecured debt up to a specified amount.

Other than above, the Trustees must not incur debt or enter into any financing agreements (including present or contingent indebtedness, deferred purchase or leasing arrangements or similar obligations), or undertake a Refinancing.

After Completion, the Trustees may undertake a Refinancing, provided that the Trustees comply with their obligations under the applicable Project Deed and that either:

- the Refinancing is a No Consent Refinancing; or
- Roads and Maritime has consented to the Refinancing if it is a Consent Refinancing.

A No Consent Refinancing is an arm's length, "vanilla" refinancing where there is no deferring of the timing of debt amortisation, does not increase the principal amount of debt outstanding beyond the current Base Case Financial Model, meets specified cover ratios, and is not undertaken to cure an event of default.

Trustees must share refinancing gain with Roads and Maritime.

## 8.5 Construction and completion process

The Trustees must:

- design and construct the Project Works to satisfy the requirements set out in the Project Deed, the final design documentation and any modifications directed or approved by Roads and Maritime
- ensure that the Project Works are fit for their intended purposes at Completion, and at all times during the concession term
- design, construct and commission the Project Works to meet the anticipated traffic volumes and data for the road detailed in the applicable Project Deed.

Opening Completion occurs when the road is, among other things, safe to open for use by the public.

Completion occurs when the relevant conditions precedent have been satisfied. This includes, for example, the Trustees passing operational acceptance tests for 30 consecutive days of live traffic and the Trustees providing the as-built drawings, as well as completion or rectification of any items to achieve Completion or Opening Completion.

The Trustees must notify Roads and Maritime and the Independent Certifier when the Trustees consider they have achieved Completion or Opening Completion.

The Independent Certifier will, following a joint inspection with Roads and Maritime and the Trustees, issue:

- a notice that Completion or Opening Completion (as the case may be) has been achieved; or
- if Completion or Opening Completion (as the case may be) has not been achieved:
  - a notice containing a list of items to be completed before Completion or Opening Completion (as the case may be) is achieved; or
  - a notice that Completion or Opening Completion (as the case may be) is so far from being achieved that it is not practicable to issue a list.

Notwithstanding that Completion may have occurred, the Trustees must as soon as practicable after Completion (and in any event within six months after the date of Completion), correct any defects which existed at the time of the issue of the notice of Completion.

## 8.6 Time

The Trustees are obliged to use their best endeavours to achieve Opening Completion and Completion by target dates set out in each Project Deed. The timeframes for this obligation are:

- M4 Widening – completed
- New M4 Tunnels – 2019
- New M5 Tunnels – 2020
- M4-M5 Link Tunnels – 2023

The Trustees' liability to Roads and Maritime for failing to comply with this obligation is capped (in circumstances where the Project Deed is not terminated for an Event of Default).

If the Trustees become aware of any matter which will, or is likely to, delay achieving Opening Completion or Completion, the Trustees must immediately notify Roads and Maritime in writing with details of the delay and an updated delivery program. Trustees may also be required to provide a corrective action plan to mitigate the effects of the delay.

Subject to the Compensation Events, the Trustees bear all financial and other risks associated with achieving Opening Completion and Completion.

## 8.7 Maintenance during construction

During construction, the Trustees will carry out certain maintenance work specified in the applicable Project Deeds on all roads within the construction site and the completed parts of the Project Works.

The Trustees must undertake all maintenance activities reasonably expected to provide for the safe and uninterrupted passage of road users. This includes repairs required as a result of damage by traffic incidents up to a specified amount per incident.

## 8.8 Operation and maintenance obligations

The Trustees, via the O&M Contractors, must operate, maintain and repair the Motorways, including all plant and equipment.

Minimum standards, tasks and obligations are detailed in the Project Deeds. Under the applicable Project Deed, the Trustees must:

- carry out maintenance during the concession period so that the Motorways satisfy the agreed specified condition of the asset at the Expiry Date
- ensure all traffic lanes remain open to the public for the safe, continuous and efficient passage of vehicles (except as expressly permitted under the applicable Project Deeds).

The Trustees' key O&M obligations include:

- complying with O&M best practices and developing, implementing and continuously improving maintenance standards and systems to reflect O&M best practices, including performance and intervention standards, appropriate response times and management and control systems
- keeping the Motorways clean and tidy and removing any waste from the Motorways
- acting in a timely and expeditious manner and proceeding with the O&M work without delay
- minimising any disruption to, or compromise to the safety of, the users of the Motorways
- minimising the impact of the performance of the O&M work on motorists and other users of the Motorway
- performing the O&M work using good workmanship and materials which are fit for their intended purposes

- replacing any worn, failed or defective parts, using replacement parts which are of equal quality to those required under the applicable Project Deed and fit for their intended purpose
- developing and implementing O&M manuals including operational plans and the policy, practices and procedures for the operation, maintenance and repair of the Motorways.

If the Trustees fail to comply with their O&M obligations, Roads and Maritime may notify the Trustees to rectify any specified non-conformances within 12 months. If the Trustees fail to remedy within the required period, the Trustees must provide Roads and Maritime an unconditional undertaking for a reasonable amount as determined by Roads and Maritime, up to an agreed (indexed) value.

## 8.9 Existing assets – defects

For the New M4 and New M5, the Trustees bear all risk associated with the functional performance of certain major defects in any man-made physical element of the existing viaducts, drainage lines or structures listed in the applicable Project Deed to the extent that they connect or interface with the applicable Project Works.

If Roads and Maritime requires the Trustees to correct such defects or upgrade any of these elements it may do so by directing a change (and paying change costs).

## 8.10 Contamination

For the New M4 Tunnels, New M5 and the M4-M5 Link, Trustees are generally responsible if their activities disturb or interfere with contamination on, or around the construction site or Trustees' extra land, provided that the contamination:

- is ground water entering the Project Works; or
- must be remediated in order for the Project Works to comply with the applicable Project Deed.

For the M4-M5 Link, there are certain situations where the Trustees and SWC are not responsible for the entire mass of the contamination. Trustees are also not responsible for contamination caused by the Trustees if there was no other way of undertaking their or the SWC's activities.

For the New M5, Trustees will only be responsible for contamination which migrates from the area comprising the Alexandria Landfill, the Roads and Maritime Canal Road Site, and the Bradshaw Mountain Site if it was caused or contributed to by Trustee breach, negligence, poor industry practice or could not have been prevented by different design or construction methodologies. Roads and Maritime bears the risk of any other contamination migrating from the area comprising the Alexandria Landfill, the Roads and Maritime Canal Road Site, and the Bradshaw Mountain Site, and must compensate the Trustees for loss.

For the M4 Widening, Trustees are responsible for contamination in or around the construction site, or any extra Trustee land if it was not pre-existing (as at 4 December 2014) and was introduced by the Trustees, or is pre-existing and is either excavated by the Trustees or requires excavation to achieve Completion.

Roads and Maritime will bear, for the M4 Widening, the risk of contamination which constitutes or involves a 'M4 Widening Compensable Site Condition' (being certain site conditions which are pre-existing, unknown and which will necessitate a Change or will delay Completion).

Roads and Maritime is responsible for any other contamination where a notice is issued under any law.

## 8.11 Reporting

The Trustees must immediately provide Roads and Maritime with any information relating to the Trustees' activities, except where the information is subject to legal professional privilege.

The Trustees must also:

- keep proper books of account and other records, with accounts audited annually
- make available their books of account and records to Roads and Maritime at all reasonable times for examination, audit, inspection, transcription and copying
- permit Roads and Maritime representatives to attend audits of Project Plans, and provide copies of the audit report to Roads and Maritime.

## 8.12 Intellectual property

The Trustees must grant Roads and Maritime a licence to use all intellectual property rights relating to certain project documentation and deliverables for the purpose of (excluding for the M4-M5 Link, certain tolling and integrated operations management controls system (IOMCS) software):

- completing the construction, commissioning and testing of the Project Works
- further development of the construction site or the WestConnex program of works
- for the M4-M5 Link, any other purpose associated with integrating and connecting roads with WestConnex (other than in respect of certain tolling documentation).

This licence includes, post termination or expiry of the Project Deed, licences for:

- commercially available off-the-shelf third party software, that can be legally licenced to Roads and Maritime (for M4-M5 Link, this is a best endeavours obligation only)
- customised third party software relating to tolling, customer management, operation or maintenance, as required at the time and extent by Roads and Maritime to operate, maintain and toll the Motorway unless the licence cannot be obtained for a reasonable cost.

The Trustees also:

- grant Roads and Maritime a licence to use and reproduce certain tolling software (and, upon termination or expiry of the Project Deed, to also modify that software)
- must procure that the owner or authorised licensor of certain third party tolling software grants Roads and Maritime a licence to use and reproduce that software (and, upon termination or expiry of the Project Deed, to also modify that software).

The Trustees will only be obliged to grant those licences to the extent that they obtain equivalent licences from their subcontractors.

Roads and Maritime will not be entitled to use IOMCS software for the operation of any New Network Project or the Rozelle Interchange.

## 8.13 Indemnity

The Trustees must indemnify Roads and Maritime and its related parties for events connected with the Trustee's activities, subject to the exclusions and limitations set out in the Project Deeds from and against:

- loss suffered by Roads and Maritime or its related parties in respect of injury, disease or death of persons, loss of, loss of use or access to or destruction or damage to property
- liability to or claims by any other person, and any loss suffered or incurred by Roads and Maritime, to the extent caused by or connected with the Trustees' breach of a term of a Project Document.

## 9. Obligations of Roads and Maritime

### 9.1 Key obligations

In general the key obligations of Roads and Maritime under each of the Project Deeds include:

- obtaining planning approvals, and where applicable, satisfying certain conditions of the planning approvals
- granting access to the construction sites to the Trustees, and in the case of the M4-M5 Link, the SWC
- granting the Trustees the applicable leases and a licence over the licensed maintenance areas
- recommending and ensuring that the Minister for Roads, Maritime and Freight makes certain statutory declarations and directions and they are effective until the Expiry Date
- compensating the Trustees where they are delayed due to a 'Compensation Event'
- granting relief to the Trustees if certain events have a MAE
- paying a termination amount to the Trustees in the event that the Project Deed is terminated (other than for the Trustees' default).

For the New M4 only:

- carry out specified enabling works
- pay a termination amount to the Trustees in the event that Roads and Maritime elects to abandon the New M4 Tunnels because the New M4 Tunnels Planning Approval includes conditions that are materially different to the baseline conditions specified in the New M4 Project Deed.

For the New M5 only:

- transfer the existing M5 East and M5 West to the Trustees in the required condition and in accordance with the process in the New M5 Project Deed
- pay a termination amount to the Trustees in the event that Roads and Maritime elects to abandon the New M5 because the New M5 Planning Approval includes conditions that are materially different to the baseline conditions specified in the New M5 Project Deed
- for SPI, compensate the Trustees if they are required to remediate certain contamination as outlined in *Section 8.10* of this *WestConnex Project Summary*.

For the M4-M5 Link only:

- procure the investigation, funding, planning, design, construction and commissioning of the Rozelle Interchange
- handover the Rozelle Interchange to the Trustees
- enter into the State Works Deed under which the SWC must procure the D&C of the State Works
- obtain an agreed Planning Approval modification.

### 9.2 New M5 only: Transfer of M5 East and M5 West

The existing M5 East is currently owned by Roads and Maritime and maintained by Ventia Pty Ltd.

Interlink holds a concession to operate, maintain and toll the existing M5 West until December 2026.

Roads and Maritime will transfer the M5 East to the Trustees on Opening Completion of the New M5 Tunnels (the 'M5E Transfer Date').

Roads and Maritime will transfer the M5 West to the Trustees on 11 December 2026 (the 'M5W Transfer Date'), following the expiry of the current M5 West concession granted to Interlink.

On the M5W Transfer Date and M5E Transfer Date, Roads and Maritime will:

- grant the Trustees the applicable leases
- transfer to the Trustees the relevant operational assets, plant and equipment and any intellectual property rights that are held by Roads and Maritime and are required for the operations, maintenance and repair of the Motorways.

The Trustees and Roads and Maritime are required to jointly engage an independent consultant to assess and report on whether the Motorways are in the condition required by the Project Deed. The independent consultant has been appointed for the M5 East and must be done for the M5 West no later than three years prior to the M5W Transfer Date.

Roads and Maritime must:

- carry out necessary work if the assets do not meet the specified conditions, to ensure that on the applicable transfer date, the assets meet the requirements
- carry out certain planned projects on the M5 East prior to the M5E Transfer Date provided that the cost of those projects do not exceed a specified threshold. Roads and Maritime is required to develop a detailed scope of works and submit to the Trustees for their review and comment. Each planned project is to be assessed by the M5 East consultant.

If Roads and Maritime does not carry out either of the above, then the Trustees must undertake the works as if Roads and Maritime had directed a change. Roads and Maritime must pay change costs and, if the works cannot be carried out during scheduled maintenance, lost toll revenue.

The Trustees may require Roads and Maritime to meet and discuss any actions the Trustees propose to take if a consultant identifies a defect in a M5 East or M5 West component resulting in:

- the asset not meeting the required condition specifications
- the Trustees determine they will have adverse financial and operational impacts for the New M5 concession.

### 9.3 New M4 enabling works

For the New M4, in order for Roads and Maritime to provide access to the Trustees in accordance with the Project Deed, Roads and Maritime carried out certain enabling works and the Trustees contributed towards the costs incurred by Roads and Maritime in carrying out those works.

### 9.4 Access

Roads and Maritime must ensure that the Trustees and, for the M4-M5 Link, the SWC, and their related parties and invitees have access to each area of the construction site specified in the Project Deeds by the specified dates.

If Roads and Maritime breaches this obligation, a 'Compensation Event' will arise and the Trustees may be entitled to claim compensation (and may also have termination rights).

In addition, Roads and Maritime must grant the Trustees the leases and a licence over the licensed maintenance areas set out in the applicable Project Deeds during the operations phase.

### 9.5 Planning approval

Roads and Maritime is responsible for:

- obtaining planning approvals for each of the Project Works, with reasonable assistance provided by the Trustees
- complying with the conditions of the planning approvals which Roads and Maritime has specifically agreed to comply with under the Project Deed

- dealing with a legal challenge in relation to the planning approval as it sees fit
- directing a change and paying the Trustees change costs if there are modifications to the Planning Approval which are made prior to Completion and do not result from the Trustees' breach, wrongful act or omission
- for the New M4 and New M5, compensating the Trustees if the Planning Approval is subject to a condition that is materially different to the baseline conditions specified in the Project Deed.

## 9.6 Roads Act declarations

Pursuant to the *Roads Act 1993* (NSW) (the 'Roads Act'), Roads and Maritime must ensure that the Minister for Roads, Maritime and Freight:

- declares that the Motorway is to be a tollway under *Section 52*
- directs that all of the functions of a road authority in respect of those parts of the Motorway are the responsibility of Roads and Maritime, in accordance with *Section 63*
- declares by order published in the Gazette that the Trustees are toll operators (as defined in the Roads Act) in respect of those parts of the Motorway.

Roads and Maritime must ensure that the declarations and directions are effective until the Expiry Date.

## 10. Tolls, fees, and revenue upside sharing

### 10.1 Tolls and fees

The Trustees may levy tolls for the use of the Motorways (or part of it) from the earlier of Opening Completion and Completion of each Stage until the Expiry Date in accordance with the 'Toll Calculation Schedule' attached to the applicable Project Deed.

The Trustees are not entitled to levy or impose any charge, toll or fee for or in connection with the use of the Iron Cove Link.

The Trustees may levy tolls for the use of the M5 East and M5 West from the dates that these Motorways are transferred to the Trustees until the Expiry Date.

Current tolls are set out in *Section 4.5* of this *WestConnex Project Summary*.

Each Project Deed sets out the arrangements for the allocation of tolls between the stages of the WestConnex scheme. The intention is that for each continuous WestConnex trip by a vehicle on more than one WestConnex Motorway, both the Flagfall Toll and, if applicable, the Toll Cap will be applied so that:

- a consistent Toll Rate, Flagfall Toll and Toll Cap is applied
- that vehicle only pays a Flagfall Toll once for that WestConnex trip
- the entire WestConnex trip is subject to the Toll Cap
- the Flagfall Toll will be allocated and, if applicable, the Toll Cap will be applied between each WestConnex Motorway on the basis of a pro rata allocation based on the distance travelled by the vehicle on each WestConnex Motorway during that WestConnex trip.

The applicable Project Deed also:

- permits the Trustees to levy an administration charge for providing a temporary tag or allowing a casual user of the Motorway to pay the toll as a deferred toll
- provides for Roads and Maritime to notify the Trustees of any proposed amendments to the toll charges set out in the Toll Calculation Schedule (in which case, the parties will promptly enter into good faith discussions on the proposal).



For the New M4 only: The Trustees are entitled to claim compensation if there is an adverse impact on the Trustees' ability to make the payments owing under the debt financing documents and to give the equity investors the projected equity return due to:

- the New M4 Project Deed toll provisions being inconsistent with the toll provisions in the New M5 Project Deed and M4-M5 Link Project Deed; or
- if the sum of the lengths of the Tollable Sections over the longest possible journey on the M4-M5 Link is greater than 9.2 kilometres.

For the M4-M5 Link only, the parties will amend the toll calculation if Roads and Maritime builds the Rozelle Interchange (excluding Iron Cove Link) differently to the scope of works and reference design in the Project Deed and it extends beyond the existing tollable sections.

The ROCA imposes certain obligations on each of the Trustees in connection with tolling. Roads and Maritime has undertaken not to amend the toll calculation provisions of any of the Project Deeds in a way that would have a material impact on the toll calculation provisions of the other Project Deeds.

## 10.2 Revenue upside sharing

The Motorway leases contain arrangements for Trustees to share upside in actual revenues compared with forecasts with Roads and Maritime.

# 11. Change and project modification procedures

## 11.1 Changes in codes and standards

If there is an unforeseeable change in the codes and standards referred to in the Project Deed, prior to completion, the Trustees must notify Roads and Maritime in writing of the details of the change. Roads and Maritime will either direct the Trustees to:

- disregard the change; or
- direct a change and pay change costs in respect of the change in codes and standards (in which case the Trustees will be entitled to change costs).

## 11.2 Roads and Maritime initiated changes

Roads and Maritime may direct a change to the scope of work which the Trustees are required to carry out in accordance with the change procedure set out in the applicable Project Deed.

Roads and Maritime must pay change costs to the Trustees (to the extent the change increases the costs of the Project Works). Roads and Maritime is entitled to 100% of the savings in the event that a change results in cost savings.

The Trustees are not obliged to carry out any change that would amend tolling and revenue provisions, would affect the Trustees' ability to levy or collect tolls, or would remove any tolling equipment.

## 11.3 Trustee initiated changes

A Trustee may propose a change to the scope of work which must be undertaken under the Project Deed in accordance with the procedure set out in the Project Deed. Roads and Maritime has absolute discretion to approve or reject the proposed change.

The Trustees bear all risks and costs associated with a change proposed by the Trustees (unless otherwise agreed by Roads and Maritime). Roads and Maritime is entitled to a share of the savings in the event that the proposed change results in cost savings.

## 11.4 Pre-agreed changes

Roads and Maritime may, in its absolute discretion, direct the Trustees to carry out a pre-agreed change, as outlined in the applicable Project Deed, including:

- for the New M4:
  - install fluorescent or high pressure sodium lighting in the New M4 Tunnels
  - duplicate the New M4 Tunnels OMCS operator's facilities
  - undertake additional work at the Concord Road ramp portals
  - provide additional ITS infrastructure to provision for Smart Motorways
  - remove the vehicle cross passage and smoke extraction point
  - construct an additional lane on the Wattle Street exit
  - increase the shotcrete toughness specified in the Project Deed to increase the minimum absorbed energy required
  - undertake certain works in connection with tolling
  - undertake works in connection with the Hills Road eastbound on-ramp.
- for the New M5:
  - undertake works to upgrade certain local roads.
- for the M4-M5 Link:
  - to the Rozelle Interchange stub extensions
  - incorporate and integrate extra over jet fans.

## 11.5 Smart Motorways

Smart Motorways is any system implemented by Roads and Maritime to use data generated by the Traffic Management Assets for the purposes of controlling, improving and managing the flow of traffic and congestion, and support the Trustees' response to incidents, on the Motorways and surrounding road network.

If Roads and Maritime elects to implement Smart Motorways the change procedure will apply and Roads and Maritime may be obliged to compensate the Trustees for change costs and revenue impacts.

## 11.6 New Network Projects

Roads and Maritime may implement "New Network Projects" which connect any new road or other motor vehicle access to the New M4, New M5 or the M4-M5 Link. For the New M4 and New M5, a New Network Project does not include the M4-M5 Link.

The State, Roads and Maritime, or its nominee, may carry out a New Network Project at any time without the Trustees' consent, provided that:

- the Trustees are not permanently prevented from performing their obligations to keep their applicable Motorway open or affects their rights to levy tolls and collect revenue
- Roads and Maritime compensates the Trustees for the delivery phase impacts of the New Network Project on the Motorways, and any MAE of the completed New Network Project on the Trustees' ability to make debt payments and to give the equity investors the projected equity return.

Roads and Maritime must coordinate all activities associated with the New Network Project and minimise any disruption to the Trustees' activities. The Trustees must cooperate with Roads and Maritime and mitigate any loss or adverse impacts of the New Network Project.

The Trustees may be entitled to relief under the MAE regime when Roads and Maritime opens future motorway projects which connect to the Motorway. The Trustees' entitlement to relief is capped either by an agreed equity return or by an agreed compensation cap. For the New M5 only, the Trustees are not entitled to relief on certain specified connections.

## 11.7 Rozelle Interchange

Roads and Maritime may be obliged to compensate the Trustees for any lost revenue, and increased operating costs in the case of the M4-M5 Link, if Roads and Maritime constructs the Rozelle Interchange differently to the scope of works and design exhibited in the M4-M5 Link Project Deed. Certain conditions and qualifying thresholds apply.

## 11.8 Change Obligations Under ROCA

The ROCA obliges each Trustee to give each other Trustee notice of any change that it proposes to initiate under the Project Documents to which it is party. Roads and Maritime is also to be notified if that change will give rise to a change under any other Project Deed (Joint Change).

If the Trustees identify a Joint Change, Roads and Maritime must either approve or reject the Joint Change but will not be liable for any change costs.

If Roads and Maritime wishes to direct a change, Roads and Maritime must give notice of its proposed change to the other Trustees. Each Trustee must notify Roads and Maritime of any impacts on operational equipment, including an estimate of costs. In this case, Roads and Maritime may not direct a change unless it directs all of the Trustees to implement an equivalent change.

If Roads and Maritime issues a notice to a Trustee directing them to implement a change, that Trustee must give a copy of that notice to each other Trustee.

## 12. Force Majeure

A 'Force Majeure' event will arise if it is beyond the reasonable control of the parties, prevents or delays the Trustees in performing their obligations and could not be mitigated or remedied, and is one of the following events:

- A. prior to the Date of Opening Completion:
  - i. earthquake, cyclone, fire, explosion or flood
  - ii. malicious damage, sabotage, act of a public enemy, terrorism or civil unrest taking place in Australia or any key plant and equipment place of manufacture
  - iii. war, invasion, hostility between nations, civil insurrection, military coup or act of a foreign enemy taking place in Australia
  - iv. ionising radiation or radioactive contamination from nuclear waste or the combustion of nuclear fuel taking place in Australia
  - v. confiscation, nationalisation, requisition or property damage under the order of any government taking place in Australia; or
- B. on or after the Date of Opening Completion:
  - i. the events referred to in paragraphs (a)(i) to (v) above; or
  - ii. the occurrence of any other event other than a breach by the Trustees, or an event not otherwise not otherwise specifically allocated.

If a Force Majeure event occurs, the parties must meet to determine the estimated length of time for which the Force Majeure will continue. Each Trustee must remedy and mitigate the effects of a Force Majeure event promptly in accordance with the applicable Project Deed.

The Trustees' obligations that are affected by the Force Majeure event will be suspended to the extent and for so long as they are affected by the event.

However, Trustees must continue to use best endeavours to achieve Completion and Opening Completion by the specified relevant dates.

Roads and Maritime will not be obliged to provide any financial relief to the Trustees during the period of suspension.

The Trustees' obligation to keep all traffic lanes of the Motorway open will only be suspended if the Force Majeure event affects the safe passage of vehicles.

Uninsurable Force Majeure events that cause physical loss or damage to the works or the Motorways, or prevent the Motorway being open to the public for the safe, continuous and efficient passage of vehicles may trigger the 'MAE' regime, and in certain circumstances, will give the Trustees a termination right.

## 13. Compensation and relief

### 13.1 Compensation Events

If the Trustees are, or will be, delayed in achieving Opening Completion or Completion (as applicable) by a 'Compensation Event', Roads and Maritime may be required to pay the Trustees' delay costs and compensation for lost revenue.

The Trustees must take all reasonable steps to mitigate the effects of any Compensation Event. The Trustees must continue to perform their obligations despite the Compensation Event to the extent the Trustees are not prevented from performing those obligations.

Compensation Events include:

- an Act of Prevention by Roads and Maritime
- a legal challenge
- a native title claim
- artefact discovery
- for the New M4 and New M5, Roads and Maritime not obtaining planning approvals by an agreed date
- for the New M5, a catastrophic structural failing of the M5 East or M5 West
- for the M4-M5 Link, Roads and Maritime not completing the Wattle Street Works by the Date for Opening Completion.

### 13.2 MAE

The Trustees may be entitled to claim relief from Roads and Maritime, if certain events occur and the Trustees believe that this has a 'MAE' on the Trustees' ability to pay the debt financiers amounts owing under the debt financing documents, or to give the equity investors the projected equity return.

The potential trigger events include:

- at any time:
  - an 'Uninsurable Force Majeure Event' occurs
  - a 'Smart Motorways Event' occurs; or
  - for the New M4 only, a change directed by Roads and Maritime in relation to an approval or determination (including any conditions) issued by any authority prior to the issuance of each applicable Planning Approval discovered after the New M4 Deed has been executed; or
  - New Network Projects.
- after the date of Completion of a Motorway or Stage:
  - modification or replacement of the Planning Approval causing a change to the Motorways or O&M work, except due to Trustee breach
  - certain connections to the Motorway are closed or materially reduced
  - a change in State law occurs which specifically and only affects the projects, together with other tollroads in NSW
  - a change in federal environmental law occurs which causes a net increase in the cost of carrying out O&M; or

- payment of tolls is not enforced or pursued by the State of NSW or its authorities.

If the Trustees are entitled to relief, the Trustees and Roads and Maritime must enter into negotiations in good faith to agree on a method of redress. The parties must take a flexible approach in conducting their negotiations, including by considering:

- amendments to the Project Documents
- variations to the term of the Project Deeds
- variations to the financial or other contributions of the parties
- adjustments to the toll calculation provisions in the Project Deeds; and/or
- any other appropriate actions.

Roads and Maritime will not be required to consider or provide any method of redress that would require Roads and Maritime to make an upfront payment to the Trustees.

Methods of redress involving payments of money by Roads and Maritime to the Trustees will be considered as a measure of last resort.

## **14. Default and termination arrangements**

### **14.1 Events of Default**

If an Event of Default occurs, then subject to Section 14.2 below, Roads and Maritime may notify the Trustees in writing to remedy the Event of Default within a remedy period specified by Roads and Maritime (which may be extended in certain circumstances).

Events of Default include:

- failure to progress
- unauthorised closure
- failure to comply with O&M obligations
- insolvency of a Trustee
- material default.

### **14.2 Integrated Operations Events of Default**

In limited circumstances, if an Event of Default involves the closure of a traffic lane and is caused by the Integrated Operations activities, Roads and Maritime may not issue a notice requiring the Trustees to remedy the Event of Default or take steps to terminate the Project Deed.

### **14.3 Termination for Events of Default**

Subject to Section 14.2 above, Roads and Maritime may give the Trustees 20 business days' prior written notice of its intention to terminate the Project Deed if:

- an Event of Default is not remedied within the remedy period; or
- at any time during the remedy period, the Trustees are not diligently pursuing a remedy of the Event of Default or the Motorway is not open to the public to the extent that it is safe to do so.

During this remedy period, the Trustees will have a right to remedy, or procure the remedy of, the Event of Default.

Roads and Maritime may terminate the Project Deed (subject to the Financiers Tripartite Deed), if after the expiration of the remedy period the Event of Default has not been remedied by the Trustees.

## 14.4 Other termination events

The Project Deed may also be terminated due to other events. In each case, Roads and Maritime must pay an early termination amount, irrespective of whether Roads and Maritime or the Trustees have the right to terminate.

Other termination events include:

- a native title claim and the Trustees are prevented from carrying out their activities for a continuous period of more than six months
- an Uninsurable Force Majeure Event or its consequences exist for continuous period of more than 12 months
- the planning approval conditions are materially different to the baseline conditions
- the Trustees are prevented or prohibited from undertaking the project due to:
  - the NSW Government enacting legislation
  - an authority resuming any part of the motorway stratum
  - a final court determination which Roads and Maritime fails to adequately address within 20 months; or
  - Roads and Maritime breaching its Project Deed obligations to provide access to land.

Table 11: **Termination events, rights and compensation**

Event	Party entitled to terminate
In the case of a <u>native title claim</u> , the Trustees are prevented from carrying out their activities for a six month continuous period due to a direction to suspend works	Roads and Maritime (and compensation is payable); or Trustees by giving Roads and Maritime 30 business days' notice.
A <u>court makes a final determination</u> that prevents the Trustees from undertaking the project and Roads and Maritime Services fails to address adequately the determination within 20 months	Roads and Maritime (and compensation is payable); or Trustees by giving Roads and Maritime 30 business days' notice.
An ' <u>Uninsurable Force Majeure Event</u> ' or its consequences exist for a period of more than 12 months	Roads and Maritime (and compensation is payable); or Trustees by giving Roads and Maritime 30 business days' notice.
The Planning Approval, and for the New M5, EPBC Act Approval, for the project is subject to conditions that are materially different to the baseline conditions specified in the Project Deed.	Roads and Maritime Services
The <u>NSW Government enacts legislation</u> (including any rules, regulations or by-laws under that legislation) which prohibits or has the effect of prohibiting the Trustees from undertaking the project substantially in accordance with the Project Documents	Trustees by giving Roads and Maritime 30 business days' notice
An <u>authority resumes</u> any part of the Motorway stratum and as a result the Trustees are prevented from undertaking the project substantially in accordance with the Project Documents	Trustees by giving Roads and Maritime 30 business days' notice
Roads and Maritime breaches its <u>access</u> obligations and this prevents the Trustees from undertaking project substantially in accordance with the Project Documents and is not remedied within 12 months	Trustees by giving Roads and Maritime 30 business days' notice

cont'd →

Event	Party entitled to terminate
M4-M5 Link only	
Another Concessionaire fails to grant the Trustees <u>access</u> to certain New M4 and New M5 lease areas within 60 days due to Concessionaire delay to complete and this is not remedied within 12 months due to the other	Trustees by giving Roads and Maritime 30 business days' notice
Roads and Maritime Services breaches its obligations under the State Works Deed to make payments to the SWC	Trustees by giving Roads and Maritime 30 business days' notice

## 14.5 Roads and Maritime suspension of Trustees' right to terminate

Roads and Maritime may suspend the Trustees' right to terminate. For the New M4 and New M5, this right excludes the termination for an Uninsurable Force Majeure Event, and excludes for the New M4 Tunnels, Planning Approval conditions being materially different to the Deed.

Roads and Maritime must notify the Trustees of this suspension within 25 business days of receiving the Trustees' notice.

If Roads and Maritime takes this action:

- the Trustees must continue to perform their obligations under the Project Deed during the suspension period, to the extent it is lawful and practicable to do so
- Roads and Maritime must pay the Trustees compensation for the period of suspension if the Trustee is unable to continue to perform its obligations.

The suspension of the Trustees' right to terminate the Project Deed will continue until (whichever is earlier):

- Roads and Maritime notifies the Trustees in writing that it is ending the suspension period
- 12 months after the Trustees' termination notice; or
- the relevant event is remedied by Roads and Maritime or no longer exists.

If a suspension ends for any reason other than the remedying of the relevant event the Project Deed will automatically terminate.

## 14.6 Consequences of termination or expiry

If the Project Deed is terminated or expires:

- Roads and Maritime:
  - will not be liable to pay the Trustees any amount by reason of that termination (including amounts payable to a subcontractor following termination of a subcontract where Roads and Maritime does not exercise its novation rights) if the Project Deed has been terminated for an Event of Default
  - may require the novation of:
    - D&C or other works subcontracts, as specified in the applicable Project Deed, where termination occurs prior to date of Completion; or
    - the applicable O&M Deed and any other subcontract agreed between Roads and Maritime and the Trustees (acting reasonably), where termination occurs after the date of Completion.
- the Trustees must, in relation to the applicable project:
  - execute all documentation required to effect a transfer to Roads and Maritime of their interests in the project



- hand over all documents and records, including books of account and all other records and the contract documentation and deliverables
- procure the assignment of the Trustees' rights under any insurance policies maintained by the Trustees
- hand over any other documentation that is within the custody or control of the Trustees or their subcontractors
- if the Project Deed is terminated prior to the date of Opening Completion, do all other acts and things to enable Roads and Maritime or any person engaged by Roads and Maritime to complete the Project Works and to operate, maintain and repair the Motorway
- surrender the construction site, any extra land and any other land upon which the Trustees' activities are being carried out (including any right, title or interest in them).

#### 14.7 Roads and Maritime step-in rights

Roads and Maritime may take any action necessary to remedy a Trustee failure, including entering and remaining on any land upon where the Trustee's activities are being carried out, if the Trustee:

- fails to perform an obligation under the applicable Project Deed, including rectifying defects
- has not taken steps to remedy the failure within a reasonable time after Roads and Maritime has notified the Trustees to remedy the failure.

Roads and Maritime may take any urgent action reasonably necessary, including entering and remaining on any land upon where the Trustee's activities are being carried out, to minimise the risk of harm to:

- the health or safety of persons
- the environment
- any property; or
- the safe operation of any road.

Any loss suffered or incurred by Roads and Maritime in taking action for a failure by the Trustees, or in taking urgent action required as a result of the wrongful act or omission of the Trustees, the SWC, or their related parties, will be a debt due and payable by the Trustees to Roads and Maritime.

#### 14.8 Step-in by financiers

Prior to Roads and Maritime issuing a notice to terminate the applicable Project Deed due to a Termination Event, Roads and Maritime is required under the relevant Financiers Tripartite Deed to notify the Security Trustee of any default under the Project Deed and issue a notice to the Security Trustee of its intention to terminate the Project Deed.

The Security Trustee may take steps to remedy or procure the remedy of any default notified to it by Roads and Maritime in conjunction with the Trustees' right to remedy that default under the Project Deed.

Roads and Maritime may not terminate the Project Deed unless it has notified the Security Trustee of its intention to terminate and the default giving rise to the entitlement to terminate has not been remediated within the period specified in the Financiers Tripartite Deed.

## 15. Change of control and assignment

The Project Deed places certain restrictions on Roads and Maritime and the Trustees in the event of an assignment or a change of control.

### 15.1 Entitlement to assign

Roads and Maritime's prior written consent is required for the Trustees to sell, transfer, assign, mortgage, charge or otherwise dispose of, deal with, or encumber its interest in the applicable Motorway or in any of the Project Documents.

Prior to Completion, Roads and Maritime may withhold its consent in its absolute discretion.

After Completion, Roads and Maritime must not unreasonably withhold its consent.

Roads and Maritime may sell, transfer or assign or otherwise dispose of its interest in the Project Documents without the prior written consent of the Trustees provided that either:

- the transferee is supported by a PAFA Act Guarantee on terms no less favourable than the current guarantee; or
- Roads and Maritime is assigning, transferring, sub-participating or otherwise dealing with all or any part of its rights and benefits under any Project Document in relation to its entitlement to any rent under the applicable Leases.

### 15.2 Change of control prior to Completion

The Trustees undertake that each project entity will remain unchanged until the Trustees achieve Completion (or Opening Completion in the case of the New M5 and M4-M5 Link) of each applicable Motorway or stage.

Prior to Completion the Trustees must not permit, without Roads and Maritime consent (which is not to be unreasonably withheld) any change of control of a project entity.

A change of control includes acquiring any shares, units or economic interests in any project entity (other than an ultimate shareholder).

Roads and Maritime will be deemed to be acting reasonably in withholding consent if the:

- Trustees have not provided full details of the proposed change and any further information reasonably requested by Roads and Maritime; or
- new entity does not comply with anti-money laundering laws or anti-terrorism laws, or does not demonstrate that it is a fit and proper person, and is of sufficient financial standing to meet its funding obligations for the project.

### 15.3 Change of control after Completion

After Completion, Roads and Maritime written consent is required for any change of control of a project entity. Such a change will be deemed to be an assignment by the Trustees of their interests in the Project Documents.

## 16. Handover obligations

Roads and Maritime and the Trustees will (if required by Roads and Maritime) carry out joint inspections of the Motorway three years prior to and 18 months prior to the Expiry Date and will agree:

- the maintenance and repair works required to achieve final handover of the Motorway to Roads and Maritime
- a program for carrying out those works
- the estimated cost of those works.

The Trustees must carry out those maintenance and repair works and either:

- progressively deposit an agreed percentage of all toll revenue collected into an account in Roads and Maritime's name until the balance of that account equals an agreed percentage of the estimated cost of the works; or
- provide Roads and Maritime with an unconditional undertaking for that amount, as security for the performance of those works.

At final handover:

- the Trustees must yield up to Roads and Maritime the Motorway in a fully functional condition that complies with the Project Deed and the O&M manuals
- there must be no immediate repair work required to, or defects in, the Motorway and the Trustees must transfer the then-current O&M manuals, and all furniture, fittings, plant and equipment required to operate, maintain and repair the Motorway, to Roads and Maritime
- the Trustees must also deliver to Roads and Maritime the then-current contract documentation and materials, licensed software and procured third party software (including software, source code and object code) to the extent held by the Trustees
- subject to the Financiers Tripartite Deed, the Trustees must pay Roads and Maritime any insurance proceeds for reinstatement or replacement of the Project Works or the Motorway if not already reinstated or replaced and assign to Roads and Maritime any Trustee rights under those insurances
- the Trustees must do all other reasonable acts and things necessary to enable Roads and Maritime to operate the Motorway at a level equal to that in effect immediately before termination with minimum disruption to its use as a toll road
- the Trustees must train Roads and Maritime's personnel in all aspects of the operation, maintenance and repair of the Motorway and ensure that their personnel are available to consult with Roads and Maritime on the operation, maintenance and repair of the Motorway for a period of 12 months after expiry of the Project Deed
- if Roads and Maritime believes that the Motorway will not be in a condition at least equal to the agreed condition of the asset specified in the Project Deed:
  - Roads and Maritime may give notice to this effect to the Trustees
  - the Trustees must carry out all necessary work to ensure that the Motorway will be in a condition at least equal to the condition specified in the Project Deed
  - if the Trustees fail to carry out that work, they must pay Roads and Maritime the cost of that work (as determined by Roads and Maritime).

## 17. Guarantees and security arrangements

### 17.1 State security agreements

In order to secure the State's rights relating to each of the New M4, New M5 and the M4-M5 Link, Roads and Maritime has entered into the 'Roads and Maritime Security' with the applicable Trustees (and SWC in the case of M4-M5 Link) and the applicable WCX FinCo to secure the performance of the Trustees' obligations to Roads and Maritime under the Project Documents.

### 17.2 Guarantees given by the Crown

For each of the New M4, New M5, and M4-M5 Link, the Treasurer (on behalf of the State of NSW) has executed the PAFA Act Deed Poll of Guarantee in favour of the Trustees and Security Trustee, in accordance with *Section 22B of the Public Authorities (Financial Arrangements) Act 1987* (NSW).

This guarantees the payment by Roads and Maritime of money to the Trustees and Security Trustee, and SWC in the case of the M4-M5 Link, under or by reason of any guaranteed document, which includes, amongst others, the Project Deed, the Leases, the Roads and Maritime Security and the Financiers Tripartite Deed.

### 17.3 Contractor and Trustee security

For each of the New M4, New M5 and M4-M5 Link, the D&C contractors have procured the issue to Roads and Maritime of unconditional undertakings on behalf of the applicable Trustees in respect of D&C of the applicable Motorways.

Roads and Maritime may have recourse to any security bonds provided under the applicable Project Deed (or the proceeds of any security bond, if it has been converted into cash) at any time to the extent that Roads and Maritime has a bona fide claim against the relevant Trustees.

The unconditional undertaking must have a value equal to an agreed percentage of the estimated cost of the works required to achieve final handover to be provided as security for performing these works.

Additionally, if the Trustees fail to comply with their O&M obligations Roads and Maritime may at any time notify the Trustees to rectify that non-conformance within 12 months. Where the Trustees fail to remedy, the Trustees must provide to Roads and Maritime an unconditional undertaking for an amount reasonably determined by Roads and Maritime, up to an agreed value.

## 18. Other key elements of the contractual arrangements

### 18.1 Insurance

#### **The Trustees' insurance requirements**

The Trustees must effect and maintain delivery and operations insurances for amounts and deductibles, and for the duration, as set out in the Project Deed.

#### **Review**

Roads and Maritime and the Trustees and SWC in the case of the M4-M5 Link, will periodically review the minimum limits, sub-limits and deductibles for all operations phase insurances to reach agreement on the limits, sub-limits and deductibles that will apply during the period following the review.

#### **Insurance proceeds**

Insurance proceeds received for physical loss or damage to the works or the Motorway must be applied to repair and reinstatement. Insurance proceeds must be deposited into a special purpose account in the joint names of the Trustees and Roads and Maritime with a financial institution approved by Roads and Maritime.

### 18.2 Dispute resolution

The Project Deed requires that all disputes that arise between Roads and Maritime and the Trustees be resolved in line with the dispute resolution procedure which includes three elements: negotiation, expert determination and arbitration.

Throughout these processes, the parties must continue to perform all of their obligations under the Project Deed.

## 19. M4-M5 Link

All references to the Project Deed and the Trustees in this *Section 19* of the *WestConnex Project Summary* relate to the M4-M5 Link.

### 19.1 Modification of the Planning Approval

Roads and Maritime is liable to pay the Trustees' delay costs and compensation for lost revenue if the Trustees are delayed in achieving Opening Completion or Completion or other milestones due to:

- Roads and Maritime not obtaining the Planning Approval modification as agreed; or
- the Planning Approval modification conditions being materially different to those contemplated under the Project Deed.

Roads and Maritime will also, for all modifications or conditions to the Planning Approval, not contemplated in the Project Deed:

- bear the risk of fees, costs and expenses
- prior to the date of Opening Completion, be deemed to have directed a change (and potentially pay change costs) if a change is required to the Project Works, Motorway or there is a reduction in the permitted working hours or permitted noise and vibration limits.

If Roads and Maritime is deemed to have directed a change, the Trustees must take all reasonable steps to mitigate the cost of any change and comply with all reasonable Roads and Maritime directions.

### 19.2 Wattle Street Works

Roads and Maritime must undertake certain enabling works outside of the construction site at Parramatta Road and Frederick Street legs and the middle of the intersection at Parramatta Road and Wattle Street at Haberfield necessary for the Trustees to comply with certain requirements in the Project Deed.

Roads and Maritime must complete these works prior to the completion of the M4-M5 Link Tunnels.

### 19.3 Rozelle Interchange D&C

Roads and Maritime is responsible for procuring the investigation, funding, planning, design, construction and commissioning of the Rozelle Interchange.

Roads and Maritime may need to compensate the Trustees for any lost revenue and increased operating costs, if Roads and Maritime does not deliver the Rozelle Interchange in accordance with the scope of works and technical criteria and reference design exhibited to the Project Deed.

Furthermore, the parties will amend the toll calculation if Roads and Maritime builds the Rozelle Interchange (excluding Iron Cove Link) differently to the scope of works in the Project Deed and it extends beyond the existing tollable sections.

Roads and Maritime must:

- provide the Trustees with an opportunity to attend design meetings and comment on design documentation for the Rozelle Interchange
- indemnify the Trustees against certain losses and claims arising from the Rozelle Interchange Contractor's activities and use of the Motorway stratum

- comply with, and ensure the Rozelle Interchange Contractor complies with, any access constraints that are imposed on the Trustees under the M4-M5 Link Project Deed or Leases and the project plans
- pay lane occupancy fees to the Trustees if:
  - a lane or ramp of the Motorway is closed or a speed limit restriction is implemented due to the Rozelle Interchange Contractor's activities (regardless of whether that closure is planned or unplanned); or
  - the Rozelle Interchange Contractor damages the Trustees' tolling system and this impacts the Trustees' ability to collect tolls.

## 19.4 Rozelle Interchange Transfer Date

The Project Deed requires Roads and Maritime to handover the Rozelle Interchange to the Trustees to operate, maintain and repair on the 'Rozelle Interchange Transfer Date', as defined below.

Roads and Maritime must compensate the Trustees if the Rozelle Interchange is not transferred to the Trustees by 31 December 2023 (or as extended in accordance with the Project Deed) or if Roads and Maritime displays an intention to permanently abandon the Rozelle Interchange.

Under the Project Deed, the 'Rozelle Interchange Transfer Date' is the later of the date on which:

- the Rozelle Interchange independent certifier issues a notice of opening completion with respect to the Rozelle Interchange
- Roads and Maritime delivers the final developed design for the Rozelle Interchange to the Trustees
- Roads and Maritime delivers the Rozelle Interchange O&M manuals to the Trustees
- the Minister makes a declaration under *Section 52* of the Roads Act that the Rozelle Interchange is a tollway
- the Minister makes a direction in accordance with *Section 63* of the Roads Act that all of the functions of a road authority in respect of those parts of the Rozelle Interchange declared to be a tollway are the responsibility of Roads and Maritime
- Roads and Maritime provides the Trustees with the project plans in respect of the Rozelle Interchange.

Roads and Maritime must give the Trustees six months', three months', one month's and one week's prior notice of the anticipated Rozelle Interchange Transfer Date.

Prior to the anticipated Rozelle Interchange Transfer Date, Roads and Maritime must:

- procure that the Rozelle Interchange Contractor executes a collateral warranty deed in favour of the Trustees which complies with the requirements of the Project Deed
- provide the Trustees with revised details of the connections, connectivity and traffic movements to the Rozelle Interchange
- provide Trustees with a plan of the Rozelle Interchange (excluding Iron Cove Link) indicating the part that is to be declared a tollway
- ensure that the Rozelle Interchange Contractor enters into escrow arrangements with the Trustees for all source code relating to or forming part of the Rozelle Interchange.

On and from the Rozelle Interchange Transfer Date:

- Roads and Maritime must:
  - lease the Rozelle Interchange to the Trustees
  - transfer all rights, title and interests in the operational assets, plant and equipment that are specified in the Rozelle Interchange scope of works

and are required for the operation, maintenance and repair of the Rozelle Interface as at the Rozelle Interchange Transfer Date, including all spares provided by the Rozelle Interchange Contractor to Roads and Maritime as a condition precedent to opening completion of the Rozelle Interchange

- diligently pursue the correction of all defects in the Rozelle Interchange that Roads and Maritime is aware of prior to completion and enforce any right Roads and Maritime has against the Rozelle Interchange Contractor
  - provide the Trustees with the benefit of any third party warranties relevant to the Rozelle Interchange
  - licence to the Trustees any intellectual property rights that the Rozelle Interchange Contractor has licensed to Roads and Maritime for the purposes of operating, maintaining, repairing and handing over the Rozelle Interchange and to comply with the Trustees' obligations under the Project Documents
- the Trustees accept all risks associated with the Rozelle Interchange (including the risk of loss or damage) and must operate, maintain and repair the Rozelle Interchange in accordance with the Project Deed.

## 19.5 Trustees to pay Roads and Maritime for early transfer of Rozelle Interchange

The Trustees must pay Roads and Maritime 75% of the revenue uplift generated in the case that Roads and Maritime transfers the Rozelle Interchange to the Trustees prior to the Rozelle Interchange Target Date for Opening Completion.

## 19.6 Rozelle Integration Works

Roads and Maritime must carry out works which are necessary to ensure the safe and efficient integration of the Rozelle Interchange with WestConnex, any future motorways and any corresponding local road networks so that:

- the Rozelle Interchange, M4-M5 Link Tunnels and other WestConnex Motorways will operate as a single, integrated tunnel asset
- the operation of that single, integrated tunnel asset will be able to accommodate one or more incidents within WestConnex such that the unaffected parts of WestConnex can continue to operate safely and efficiently with minimum impact on toll revenue and the operation of the road network.

## 19.7 Completion of the Rozelle Interchange

Roads and Maritime must give the Trustees one month's and one week's prior written notice of the estimated date of completion of the Rozelle Interchange.

Roads and Maritime must:

- notify the Trustees, within one business day, of the value of monetary claims made against the Rozelle Interchange Contractor which arose from the contractor's performance, including whether they have been paid or satisfied
- provide the Trustees with the "as built" drawings of the Rozelle Interchange Works as soon as practicable following completion of the Rozelle Interchange and within 12 months of the Rozelle Interchange Transfer Date.

Roads and Maritime is released from all obligations and liabilities in relation to the activities, D&C of the Rozelle Interchange from the date that completion of the Rozelle Interchange is certified and Roads and Maritime has provided the Trustees with an executed Collateral Warranty Deed.



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## 19.8 Rozelle Interchange Contractor delay costs

If Roads and Maritime grants the Rozelle Interchange Contractor an extension of time for a delay due to a defect in the Trustees' Project Works or due to the Trustees not completing the M4-M5 Link Tunnels or Rozelle Interface by the specified target dates, then the Trustees must:

- pay Roads and Maritime liquidated damages at an agreed rate
- indemnify Roads and Maritime against any claim or liability suffered by Roads and Maritime for any Rozelle Contractor delay costs up to an agreed amount.

This is provided that the Trustees can recover or have rights to recover those amounts from the M4-M5 Link Tunnels D&C Contractor or from their insurance policy.

The target Date for Opening Completion of the Rozelle Interchange will also be extended by the period of the extension of time granted to the Rozelle Interchange Contractor.

## 19.9 Pre-agreed changes

Roads and Maritime may, in its absolute discretion, direct the Trustees to carry out pre-agreed changes to:

- the Rozelle Interchange stub extensions
- incorporate and integrate extra over jet fans.



