



**Supplementary Agreement relating to the  
New Zealand International Convention  
Centre Project and Licensing Agreement**

Between

**Her Majesty the Queen in Right of New Zealand  
acting by and through the Minister for Economic  
Development**

And

**SKYCITY Entertainment Group Limited**

26 May 2015



Agreement dated 26 May 2015

## Parties

- 1 Her Majesty the Queen in Right of New Zealand acting by and through the Minister for Economic Development ('**Crown**')
- 2 SKYCITY Entertainment Group Limited ('**SKYCITY**')

## Background

- A The Crown and SKYCITY are parties to the New Zealand International Convention Centre Project and Licensing Agreement dated 5 July 2013 relating to the design, construction and operation of the NZICC ('**Original Agreement**').
- B SKYCITY has presented to the Crown for approval a Preliminary Design which the parties acknowledge offers a more efficient use of the overall development of land owned by SKYCITY and results in a proposal which aligns with the Crown's Objectives. This design will require a greater investment by SKYCITY than was originally contemplated under the Original Agreement. SKYCITY agrees that the Crown is not making any further contribution to that investment beyond that contemplated in the Original Agreement.
- C This Agreement accordingly records the Crown's approval of the Preliminary Design submitted by SKYCITY. A copy of that Preliminary Design is attached as Schedule 1 to this Agreement.
- D Approval of the Preliminary Design requires various modifications to be made to the Original Agreement on account of the Preliminary Design providing that:
  - i. the land on which the NZICC will be built includes the SKYCITY owned land defined in the Original Agreement as the 'Future Development Unit', and that the land which SKYCITY will now develop for purposes other than the NZICC needs to be redefined and made subject to the Original Agreement as if it were the Future Development Unit;
  - ii. separate spaces will be created for retail, food and beverage and carparking purposes within the overall footprint of the NZICC but which will nevertheless not form part of the NZICC; and
  - iii. a range of plant and equipment owned by the NZICC but servicing both the NZICC and the Future Development Unit will be located both inside the NZICC and outside of the NZICC structure within a strata title owned by the same entity as the NZICC.
- E Approval of the Preliminary Design also means that the Design Brief has been superseded for the purposes of the Original Agreement, and it is desirable in the interests of certainty and transparency that the parties formally record in this Agreement that the Preliminary Design replaces the Design Brief as the document against which SKYCITY's obligations under the Original Agreement are to be measured.

- F Approval of the Preliminary Design also requires the additional value derived by SKYCITY from these changes to be reflected in an increased capital commitment by SKYCITY. Accordingly SKYCITY agrees that its minimum capital expenditure in respect of all of the matters contained within the definition of 'Total Project Cost' will aggregate to not less than \$430 million.
- G Having regard to the parties' shared objective that Completion of the NZICC should be expedited, and SKYCITY's desire that a design and construction process should be adopted which will best manage costs and other risks, the Crown has agreed to allow SKYCITY greater control of the design and construction processes through to Completion of the NZICC.
- H Notwithstanding the changes to the design and construction processes, SKYCITY has agreed that the Crown will continue to be kept informed and (as referred to in clause 7.2 of this Agreement) mechanisms will be adopted to ensure that SKYCITY will construct and complete the NZICC in a manner which is compliant with its Fundamental Design and Construction Obligations (as defined below).
- I This Agreement records these matters and operates to supplement and modify the Original Agreement in the manner set out, but otherwise the Original Agreement remains in full force and effect.

## Agreement

### 1 Definitions and construction

- 1.1 In this Agreement all the defined terms of the Original Agreement have the same meaning except as provided below, and the terms below are inserted in the Original Agreement (to the extent necessary).

'**Airbridges**' means the airbridges identified as such and outlined in blue in the plan called '*Preliminary Design – Location of NZICC Space, Laneway, Hotel Space and Airbridges*' in Appendix A of the Preliminary Design (as varied during the design and construction process of the NZICC in a manner permitted by this Agreement or as agreed between the parties) and subject to final survey and subdivision in accordance with Schedule 3 (one of which is the Link-Way Bridge as defined in the Original Agreement);

'**Balance Land**' means all the land comprised in Schedule 2 except for the land which will comprise the NZICC Space and the Services Space, such residual land including the Carpark Levels, the Food, Beverage and Retail Space, the Laneway, the Hotel Space and Airbridges following the subdivision referred to in clause 4.3;

'**Carpark Levels**' means levels B4 to B1 (as shown on drawing numbers A01-020, A01-030, A01-040 and A01-050), and those parts of levels 01 and level 02 comprising carparking (as shown on drawing numbers A01-060 and A01-070), in Appendix A of the Preliminary Design (as varied during the design and construction process of the NZICC in a manner permitted by this Agreement or as agreed between the parties) and subject to final survey and subdivision in accordance with Schedule 3;

'**Food, Beverage and Retail Space**' means the area shaded blue and identified in the legend as 'Retail/F&B' on level 01, level 02 and level 03 (on drawing numbers A01-060, A01-070 and A01-080) in Appendix A of the Preliminary Design (as varied during the design and construction process of the NZICC in a manner permitted by this Agreement or as agreed

between the parties) and subject to final survey and subdivision in accordance with Schedule 3;

**'Fundamental Design and Construction Obligations'** are the combined obligations of SKYCITY set out in clauses 3.2 and 4.2;

**'Hotel Space'** means the space identified as such and coloured green in the plan called *'Preliminary Design – Location of NZICC Space, Laneway, Hotel Space and Airbridges'* in Appendix A of the Preliminary Design (as varied during the design and construction process of the NZICC in a manner permitted by this Agreement or as agreed between the parties), subject to final survey and subdivision in accordance with Schedule 3;

**'Laneway'** means the space identified as such and coloured orange in the plan called *'Preliminary Design – Location of NZICC Space, Laneway, Hotel Space and Airbridges'* in Appendix A of the Preliminary Design (as varied during the design and construction process of the NZICC in a manner permitted by this Agreement or as agreed between the parties) and subject to final survey and subdivision in accordance with Schedule 3;

**'NZICC Space'** means the space within the dashed red line identified as such on the drawings for levels B1, B2, B3, B4, B5, 01, 02, 03, 04, 04M, 05, 05M, 06, Roof Plan, in drawings A01-050, A01-040, A01-030, A01-020, A01-010, A01-060, A01-070, A01-080, A01-90, A01-100, A01-110, A01-120, A01-130 and A01-140 in Appendix A of the Preliminary Design, but excluding the Food, Beverage and Retail Space, the Carpark Levels and the Laneway (as such space and/or the Food, Beverage and Retail Space and/or the Carpark Levels and/or the Laneway are varied during the design and construction process of the NZICC in a manner permitted by this Agreement or as agreed between the parties), subject to final survey and subdivision in accordance with Schedule 3;

**'Preliminary Design'** means the parties' preliminary design for the construction of the NZICC as set out in Schedule 1 to this Agreement (including for the avoidance of doubt the specifications included at Schedule 1);

**'Services Space'** means the space within the Hotel Space where those items of Shared Plant not located within the NZICC Space will be located (as varied during the design and construction process of the NZICC in a manner permitted by this Agreement or as agreed between the parties), subject to final survey and subdivision in accordance with Schedule 3;

**'Shared Plant'** means the plant to be owned by the same entity that owns the NZICC and located in the NZICC Space and in the Services Space (but also intended to be used for the spaces to be developed on the Balance Land), including:

- a central heating plant;
- b central cooling plant;
- c HV transformers;
- d main incoming power, transformers and main switchboard;
- e generator plant; and
- f diesel storage,

as shown outlined in red in the plans called '*Preliminary Design – Location of Shared Plant*' in respect of levels B1, 01, 02, 04M, and 05M in Appendix A of the Preliminary Design in so far as such plant is located in the NZICC Space (as varied during the design and construction process of the NZICC in a manner permitted by this Agreement or as agreed between the parties) and will include such other plant as may be designed and built to service each of the NZICC and such other buildings; and

'**Supplementary Agreement**' means the agreement entitled 'Supplementary Agreement relating to the New Zealand International Convention Centre and Licensing Agreement' entered into between SKYCITY and the Crown in May 2015.

- 1.2 Words in *italics* beneath the headings to clauses 4 – 7 shall be considered part of the heading.

## **2 Conditions**

- 2.1 The parties acknowledge that the following conditions subsequent in clause 4.1 of the Original Agreement have been satisfied:
- a Clause 4.1a (Treaty of Waitangi);
  - b Clause 4.1b (Overseas Investment Act);
  - c Clause 4.1c (Concept Design);
  - d Clause 4.1j (NZICC Act); and
  - e Clause 4.1l (Intellectual Property).
- 2.2 The parties acknowledge that Option 9 referred to in clause 4.5 of the Original Agreement was adopted and Option 10 can be considered irrelevant for future purposes.
- 2.3 As a consequence of the Option 9 Satisfaction Date now being known, the relevant date for satisfaction of the conditions in clause 4.1f (NZICC Resource Consents) and 4.1g (Casino Alteration Consents) is 1 March 2016 (subject to extension, in the case of clause 4.1f and 4.1g, in accordance with clause 4.7 of the Original Agreement, and in the case of clause 4.1f only, also subject to extension in accordance with clause 4.8d of the Original Agreement).
- 2.4 The parties agree that references in the Original Agreement to 'the target date for Completion' shall be amended to be construed as the date agreed by the parties under clause 8.3 of the Original Agreement and all references in clauses 2.2 and 8.1 – 8.6 of the Original Agreement shall be modified accordingly.

## **3 Approval of Preliminary Design**

- 3.1 As set out in Recitals B and C, the Crown approves the Preliminary Design for the purposes of clause 4.1d of the Original Agreement and this condition subsequent is agreed by the parties to be satisfied. The parties agree that the Preliminary Design is consistent with paragraph a of the definition of 'Objectives' in the Original Agreement (as modified by this Agreement).
- 3.2 The parties agree that the Preliminary Design is substituted from the date of this Agreement for the Design Brief as the standard against which SKYCITY's obligations under the Original

Agreement are to be measured and SKYCITY agrees that its obligation is to design and construct the NZICC in a manner which is consistent in all material respects with the Preliminary Design, except to the extent that the parties agree otherwise during the design or construction of the NZICC (a '**Fundamental Design and Construction Obligation**').

- 3.3 For the purposes of assessing SKYCITY's compliance with the Fundamental Design and Construction Obligation in clause 3.2, the parties acknowledge and agree that certain aspects of the Preliminary Design (the 'General Intent' sections identified below in clause 3.5):
- a reflect the present design stage and progress and accordingly that there may be general arrangement, internal massing, and other changes as the design is further developed and coordinated, and as construction progresses, including so as to achieve a best fit arrangement for all aspects of the NZICC facility; or
  - b convey statements of intent and purpose.
- 3.4 Accordingly, SKYCITY's Fundamental Design and Construction Obligation in clause 3.2 in respect of the General Intent sections is to be construed having regard to the principle that they convey the general intent of the parties as to content and quality (rather than the specific intent evident in other aspects of the Preliminary Design).
- 3.5 The General Intent sections of the Preliminary Design for the purposes of the preceding clause are:
- a section 2 - Design Philosophy;
  - b section 3 – Project Aspirations;
  - c section 4 – Design Principles;
  - d section 5 – Design Description (but excluding section 5.6 – Key Metrics);
  - e section 6 – General Arrangement;
  - f section 7 – Façade and Roof Design Intent;
  - g section 8 – Operational Design Objectives; and
  - h the architectural drawings and outline specifications in Appendix A: Architectural Drawings and Outline Specifications.
- 3.6 The Crown acknowledges that SKYCITY is to apply for certain resource consents pursuant to clause 4.1f of the Original Agreement. Where the obtaining of such consents or the obtaining of building consents and approvals requires a design change, that design change will be assessed against SKYCITY's Fundamental Design and Construction Obligation and the consent of the Crown will be required to the extent that any design change would result in the design of the NZICC not being consistent in all material respects with the Preliminary Design.
- 3.7 The parties agree that the Original Agreement must be read subject to clauses 3.1 to 3.6 and acknowledge, without limiting that general principle, that the following consequential amendments to the Original Agreement are made:
- a The definition of 'Preliminary Design' in the Original Agreement is deleted and any subsequent reference in the Original Agreement to 'Preliminary Design' shall have the meaning set out in this Agreement;

- b The essential commitment of SKYCITY in Clause 2.1b of the Original Agreement is replaced by clauses 3.2 to 3.6 of this Agreement, but otherwise the essential commitments of SKYCITY contained in clause 2.1 of the Original Agreement are confirmed;
- c Clause 9.1a and the definition of 'Objectives' in the Original Agreement are modified by substituting '3,150' in place of '3,500';
- d Clause 9.2b of the Original Agreement is deleted and replaced with the words "From the date of the Supplementary Agreement, no longer used";
- e In all clauses of the Original Agreement from and including clause 9.3 (other than clause 9.6di (see subclause f of this clause) and clause 20.7 (see clause 4.9 of this Agreement), references to the Design Brief or the requirement to design and construct the NZICC having regard to the content, quality and intent of the Design Brief shall be construed as references to the Preliminary Design (as amended by agreement by the parties during the design and construction of the NZICC), and, as the context requires, SKYCITY's Fundamental Design and Construction Obligations;
- f Clause 9.6di is deleted and replaced with the following:
  - d reflecting that for the Crown, the critical elements of the Detailed Design will be:
    - i that it is consistent with SKYCITY's Fundamental Design and Construction Obligation as set out in clause 3.2 of (and interpreted in accordance with) the Supplementary Agreement.
- g The Design Brief is deleted and replaced with the words "From the date of the Supplementary Agreement, no longer used".

#### **4 Land, Future Development Unit, and Shared Plant**

*As set out in Recital D, as a consequence of the approval of the Preliminary Design:*

- a *the NZICC now includes the land originally defined as the Future Development Unit, and the land which SKYCITY will now develop for purposes other than the NZICC needs to be redefined and made subject to the Original Agreement as if it were the Future Development Unit and not the Land;*
- b *separate spaces will be created for retail, food and beverage and carparking purposes within the overall footprint of the NZICC but which will nevertheless not form part of the NZICC; and*
- c *the Shared Plant will be located both inside the NZICC and outside of the NZICC structure and, to the extent it is outside the NZICC will be contained within a strata lot owned by the same entity as the NZICC.*

##### **4.1 The parties agree that:**

- a The definition of 'Future Development Unit' is amended to be:
  - i 367m<sup>2</sup> more or less of Lot 1 DP 67298, comprised in computer freehold register NA95C/235;

- ii 392m<sup>2</sup> more or less of Lot 1 DP 47977, comprised in computer freehold register NA2034/97;
- iii 1029m<sup>2</sup> being all of Lot 1 DP 39058, comprised in computer freehold register NA1041/140; and
- iv 1012m<sup>2</sup> being all of DP 1293, comprised in computer freehold register NA1874/26,

as shown in the diagram attached as part of Schedule 2 to this Agreement which schedule replaces Schedule 15 of the Original Agreement.

- b The definition of 'Land' in the Original Agreement is amended to comprise only the NZICC Space and the Services Space (notwithstanding that the Services Space is situated beneath land which, at grade, forms part of the redefined Future Development Unit).
- c For the purposes of:
  - i subclauses 4.1kii and iii and clause 14.1e of the Original Agreement; and
  - ii clause 4.1f of this Agreement,
 until completion of the subdivision referred to in clause 4.3 of this Agreement, the reference to 'Land' is deemed to be a reference to the area outlined in red on the plan in Schedule 2 of this Agreement.
- d The definition of 'Future Development Unit' in the Original Agreement is also amended to include the Food, Beverage and Retail Space notwithstanding that this land is situated within the footprint, at grade, of the NZICC.
- e The form of the Memorandum of Encumbrance and the Restrictive Covenant as set out in Schedule 10 of the Original Agreement shall be amended such that any reference to the Original Agreement shall include a reference to this Agreement and as follows:

**Memorandum of Encumbrance**

- i In the first line of paragraph C of the Background, delete the words "the Land" and replace with the words "the part of the Land not comprising the Laneway, inter alia,";
- ii In line four of paragraph D of the Background, delete the words "the land and all improvements on" and replace with "part of the Land not comprising the Laneway and all improvements on that part of the Land";
- iii In the first line of the definition of "NZICC" in clause 1.1 insert the words "that part of" before "the building" and delete the words "the Land" and replace with "the part of the Land not comprising the Laneway";
- iv Insert a new definition for "Laneway", (being a definition consistent with the definition under this Agreement); and;



### Restrictive Covenant

- v Replace clause 2.2a with the following wording:

Part of the Servient Land (comprising the NZICC Space and the Services Space, as defined in the NZICC Agreement) will be used for the purposes of an international convention centre operated in accordance with (and subject to the terms of) the NZICC Agreement and the balance of the Servient Land will be used for certain other purposes in accordance with (and subject to the terms of) the NZICC Agreement.

- f in the event that SKYCITY wishes to sell the freehold of any part of the land set out in Schedule 2 which comprises part of the Land (having the meaning set out in clause 4.1c of this Agreement), prior to completion of the subdivision as described in Schedule 3, the Ground Lessor Memorandum of Encumbrance, the Ground Lease Memorandum of Encumbrance and the Ground Lease Restrictive Covenant to be registered, and the Ground Lease Tripartite Deed to be entered into, pursuant to clause 16.7 of the Original Agreement shall be amended in a manner consistent with the amendments to the Memorandum of Encumbrance and the Restrictive Covenant as set out in clause 4.1e; and
- g at the time of registration of the subdivision as described in Schedule 3, the Crown shall enter into all such documents as SKYCITY may reasonably require as necessary to release, discharge and/or cancel any of the Memorandum of Encumbrance, the Restrictive Covenant, the Ground Lessor Memorandum of Encumbrance, the Ground Lease Memorandum of Encumbrance, the Ground Lease Restrictive Covenant and/or the Ground Lease Tripartite Deed that have been entered into prior to completion of the subdivision, and to replace those documents with the equivalent documents relating to the whole of the Land as defined following the completion of the subdivision, in accordance with clause 4.3b of this Agreement.

#### 4.2 SKYCITY acknowledges that:

- a it has derived additional value from the redefinition of the Land and Future Development Unit; and
- b in order to comply with its Fundamental Design and Construction Obligation in clause 3.2, SKYCITY will be required to make an additional capital commitment to the NZICC.

Accordingly SKYCITY agrees that its minimum capital expenditure under and in accordance with the Original Agreement (as modified by this Agreement) in respect of all matters contained within the definition of 'Total Project Cost' (including for the avoidance of doubt the Land Value) will aggregate to not less than \$430 million (this obligation is one of the **'Fundamental Design and Construction Obligations'** for the purposes of this Agreement). Clauses 9.1a, 11.40, 11.43, and 22.9 of the Original Agreement shall be read subject to this clause 4.2.

#### 4.3 Upon completion of the subdivision as described in Schedule 3 and the issue of new unique identifiers for each of (i) the NZICC Space and the Services Space; and (ii) the Balance Land:

- a any reference in the Original Agreement to:

- i 'Land' shall be deemed to be a reference to the title(s) issued for the NZICC Space and the Services Space; and
    - ii 'Future Development Unit' shall be a reference to the titles issued for the Balance Land other than the Carpark Levels.
  - b the Memorandum of Encumbrance and the Restrictive Covenant provided for by the Original Agreement and set out in Schedule 10 of the Original Agreement shall be registered only against the Land (as so redefined following that subdivision) and the parties shall in a timely manner take all steps necessary to achieve this outcome contemporaneously with registration at LINZ of the subdivision. The warranty in clause 14.1e of the Agreement shall be varied from that date by deleting the words "from the date of satisfaction of the condition in clause 4.1k (Building Works Contract and Ground Lease)" and inserting the words "from the date of completion of the registration of the subdivision contemplated in the Supplementary Agreement".
- 4.4 The parties agree that:
- a the full and proper use of the NZICC and the Balance Land as contemplated by the Original Agreement; and
  - b the location of the Shared Plant,
- will require the grant of various easements, interests and restrictive covenants in favour of each such parcel of land, and agreements relating to the use of the Shared Plant. These matters are covered in more detail in Schedule 3 and the parties agree to comply in a timely manner with their respective obligations set out in that Schedule to give them full effect.
- 4.5 Without limiting the provisions of clause 4.4 and Schedule 3, SKYCITY agrees to:
- a ensure that the registered proprietor of the Food, Beverage and Retail Space, the Laneway and the Airbridges grants restrictive covenants in favour of the NZICC on the terms set out in Schedule 3;
  - b comply, or procure that the relevant member of the SKYCITY Group complies, with those restrictive covenants in respect of the Food, Beverage and Retail Space, the Laneway and the Airbridges respectively for so long as it or a member of the SKYCITY Group is the registered proprietor of the same; and
  - c in the event that neither SKYCITY nor a member of the SKYCITY Group is the registered proprietor of (i) any of the Food, Beverage and Retail Space, (ii) the Laneway or (iii) either of the Airbridges, but SKYCITY or a member of the SKYCITY Group is the registered proprietor of the NZICC, SKYCITY shall or shall procure the registered proprietor to (as the case may be) take all steps necessary to enforce such restrictive covenants against those of (i) the Food, Beverage and Retail Space, (ii) the Laneway and/or (iii) the Airbridges respectively in respect of which neither SKYCITY nor a member of the SKYCITY Group is the registered proprietor.
- 4.6 The parties agree that all Shared Plant shall be subject to the rights granted to the Crown under clause 21.1b of the Original Agreement (notwithstanding that they may not be used wholly in connection with the NZICC) but if such rights are exercised, the Crown must at the same time take an assignment and novation of the rights and obligations of the owner of the

NZICC under the agreement relating to the Shared Plant (but excluding any liability for any antecedent breach) as provided for in paragraph 1d of Schedule 3.

- 4.7 SKYCITY agrees that from Completion of the NZICC it will manage and maintain the Carpark Levels, the Food, Beverage and Retail Space, the Laneway and the Airbridges, for so long as it or a member of the SKYCITY Group is the registered proprietor of the same respectively, to a standard which will not compromise the achievement of its obligations under clause 12.1a of the Original Agreement.
- 4.8 As a consequence of the new obligations assumed by SKYCITY in the preceding clauses, Appendices B and E of Schedule 16 (Operating Standards) are amended to insert the following:

Obligation name	Details of obligation	Additional Instance Assessment Period
Enforce restrictive covenant	<p>For so long as SKYCITY or a member of the SKYCITY Group is the registered proprietor of the same, SKYCITY must comply, or procure that the relevant member(s) of the SKYCITY Group comply, with the terms of the restrictive covenants entered into pursuant to clauses 4.5 and 4.10 of the Supplementary Agreement.</p> <p>In the event that the foregoing does not apply but SKYCITY or a member of the SKYCITY Group is the registered proprietor of the NZICC, SKYCITY shall, or shall procure the registered proprietor to (as the case may be), take all steps necessary to enforce such restrictive covenants (excluding the restrictive covenants referred to at paragraph 1e.ii of Schedule 3 of the Supplementary Agreement (to which the next following paragraph shall apply)).</p>	Ongoing
Maintenance and operation	<p>For so long as SKYCITY or a member of the SKYCITY Group is the registered proprietor of the same SKYCITY must operate, maintain and manage the Food, Beverage and Retail Space, the Laneway, the Carpark Levels and the Airbridges in a manner consistent with clause 4.7 of the Supplementary Agreement.</p> <p>In the event that the foregoing does not apply but SKYCITY or a member of the SKYCITY Group is the registered proprietor of the NZICC, SKYCITY shall, or shall procure the registered proprietor to (as the case may be), take all steps necessary to enforce the restrictive covenants referred to at</p>	Ongoing

Obligation name	Details of obligation	Additional Instance Assessment Period
	paragraph 1e.ii of Schedule 3 of the Supplementary Agreement.	

Contravention	Severity Classification		
	First instance	Second instance	Each further instance
<b><u>General operating responsibilities</u></b>			
Failure to comply with restrictive covenants obligations for Food, Beverage and Retail Space, the Laneway, the Airbridges and the Carpark Levels	2	2	1
Failure to comply with maintenance and operational obligations for Food, Beverage and Retail Space, the Laneway, the Carpark Levels and the Airbridges	3	2	1

4.9 Clause 20.7 is deleted and replaced with the following:

The NZICC shall be capable of operating on a standalone basis without the support of any ancillary services (e.g. kitchen facilities) from the main SKYCITY complex or the Future Development Unit, other than from the Shared Plant. In the event that SKYCITY has chosen to provide such ancillary services from the main SKYCITY complex or the Future Development Unit other than from the Shared Plant, then in the event that the Crown takes the Crown Lease, SKYCITY must either fit out the NZICC with the facilities necessary for it to operate on a standalone basis, or pay the Crown the cost of the Crown doing so.

4.10 SKYCITY and the Crown acknowledge and agree that for so long as and to the extent that SKYCITY or a member of the SKYCITY Group is the registered proprietor of the Carpark Levels, the provisions of clause 13.22 of the Original Agreement (which relates to NZICC signage) shall apply to the relevant Carpark Levels as well as to the NZICC Space. Without limiting the provisions of clause 4.4 and Schedule 3, SKYCITY agrees that in the event that SKYCITY disposes of its interest in the Carpark Levels, it will ensure that the registered proprietor of the Carpark Levels grants restrictive covenants in favour of the NZICC to the effect that the person acquiring the interest and any subsequent transferees are bound by clause 13.22 of the Original Agreement as if that party were SKYCITY, and in the event that neither SKYCITY nor a member of the SKYCITY Group is the registered proprietor of the Carpark Levels, but SKYCITY or a member of the SKYCITY Group is the registered proprietor of the NZICC, SKYCITY shall or shall procure the registered proprietor to (as the case may

be) take all steps necessary to enforce such restrictive covenants against those of the Carpark Levels in respect of which neither SKYCITY nor a member of the SKYCITY Group is the registered proprietor.

- 4.11 SKYCITY and the Crown acknowledge and agree that clause 13.19 of the Original Agreement (which relates to the uniforms to be worn by participant facing staff) does not apply to the Food, Beverage and Retail Space, the Laneway or any other part of the Future Development Unit unless any or all of the Food, Beverage and Retail Space, the Laneway or any other part of the Future Development Unit is being used by a hirer of the NZICC using NZICC staff (in which case clause 13.19 of the Original Agreement applies in relation to such use for the duration of such use).
- 4.12 The parties agree that the Original Agreement must be read subject to clauses 4.1 to 4.11.

## **5 Design and construction of the NZICC**

*As set out in Recital G, having regard to the parties' shared objective that Completion of the NZICC should be expedited, and SKYCITY's desire that a design and construction process should be adopted which will best manage costs and other risks, the Crown has agreed to allow SKYCITY greater control of the design and construction processes through to Completion of the NZICC.*

- 5.1 In reliance on SKYCITY's Fundamental Design and Construction Obligations, the Crown agrees that:
- a from the date of this Agreement, the Crown's approval is no longer required to the Developed Design and the Detailed Design (and the estimated Total Construction Cost at each such stage), and accordingly:
    - i the level of detail incorporated into any Design Document is at the discretion of SKYCITY (and the definitions of 'Detailed Design', 'Developed Design' and 'Design Documents' are read subject to this provision);
    - ii the conditions subsequent in clause 4.1e (Developed Design) and 4.1h (Detailed Design) of the Original Agreement are now conditions for the benefit of SKYCITY only (and all subsequent clauses of the Original Agreement which contemplate the continuing right of approval by the Crown to these matters shall be read subject to this clause);
    - iii SKYCITY shall be entitled to amend the Developed Design and/or the Detailed Design (or cause the Building Works Contractor and its subcontractors to amend the Developed Design and/or the Detailed Design) at any time and to permit the Building Works Contractor (whether by amendment to the Building Works Contract or otherwise in accordance with clause 6.3 of this Agreement) to depart from the Developed Design and/or the Detailed Design in the construction of the NZICC, provided that such amendment or departure does not result in a breach of SKYCITY's Fundamental Design and Construction Obligations; and
    - iv clauses 9.17 and 9.19c of the Original Agreement are to be read recognising that following the Crown's approval of the Preliminary Design as recorded in this Agreement, the Crown has no further right of approval of any Design Documents;

- b clauses 9.5, 9.7 to 9.16, 11.2, 11.3b, 11.3i (but the remainder of clause 11.3 remains in full force and effect), 11.4, 11.5, 11.6 and 11.47 of the Original Agreement are deleted and replaced in each case with the words "From the date of the Supplementary Agreement, no longer used" and the words "during the consultation process referred to in clause 11.2 (Construction of the NZICC)" in clause 8.3 of the Original Agreement are deleted;
- c while the Crown may continue to request changes to the design of the NZICC during the design and construction processes, and SKYCITY will consider such changes in good faith, SKYCITY shall not be obliged to make such changes (but this clause does not prejudice the Crown's rights under this Agreement in the event that SKYCITY is in breach of its Fundamental Design and Construction Obligations);
- d SKYCITY shall be entitled to:
  - i conduct the tender process for the Building Works Contract (which may comprise a number of separate phases) in the manner, on the terms and basis, and with the potential Building Works Contractors, it considers will most likely result in the optimum outcome for the NZICC project; and
  - ii engage with one or more potential Building Works Contractors, including in respect of the design and buildability of the NZICC;
- e SKYCITY shall be entitled to select the Building Works Contractor and negotiate and enter into the Building Works Contract in such form as it considers to be appropriate, without any right of approval by the Crown or its advisers;
- f SKYCITY may elect to enter into the Building Works Contract at any stage, and if this occurs prior to completion of any Design Phase, then SKYCITY will be deemed to have confirmed satisfaction of each remaining Design Phase condition in clause 4.1 of the Original Agreement (which has still at that stage to be confirmed as having been satisfied); and
- g SKYCITY may elect to enter into the Building Works Contract on the basis of a guaranteed maximum price rather than a lump sum fixed price, provided that if SKYCITY does so and the final contract price under the Building Works Contract results or would result in the Total Project Cost being less than \$430 million (and/or results or would result in the Total Construction Cost being less than the Total Construction Budget), SKYCITY shall take such steps in respect of the NZICC as the Crown reasonably requests to bring the Total Project Cost to at least \$430 million.

5.2 If SKYCITY elects to enter the Building Works Contract prior to completion of the Detailed Design Phase (contrary to the expectation of the parties at the time that the Original Agreement was executed) the period of 72 months specified in the definition of 'Completion Long Stop Date' in the Original Agreement shall nevertheless run from the date which is four months after the date on which SKYCITY would otherwise have been required to confirm the Detailed Design condition in clause 4.1h of the Original Agreement (before any extension under clause 4.7 or clause 4.8d of the Original Agreement, which shall also be included in the calculation if any such extension occurs).

5.3 For the purpose of clause 5.2, the parties wish to record that as at the date of this Agreement, the date SKYCITY would otherwise have been required to confirm the Detailed Design

condition in clause 4.1h of the Original Agreement is 1 September 2016, being six months after the date for satisfaction of clause 4.1f (NZICC Resource Consents) and clause 4.1g (Casino Alterations Resource Consents), but subject to any extension of:

- a clause 4.1f (NZICC Resource Consents) or clause 4.1g (Casino Alterations Resource Consents) in accordance with clause 4.7 of the Original Agreement; and
- b clause 4.1f (NZICC Resource Consents) in accordance with clause 4.8d of the Original Agreement),

and that absent any extension as contemplated by clause 5.2, the 72 month period would run from 1 January 2017.

5.4 Following the Building Works Contract becoming unconditional, and as a condition precedent to the Regulatory Concessions coming into effect pursuant to clause 7.4 of the Original Agreement, SKYCITY shall provide to the Crown:

- i a copy of the final executed version of the Building Works Contract;
- ii a certificate signed by two directors or the Chief Executive of SKYCITY (given on behalf of SKYCITY and not in the directors' or Chief Executive's personal capacity and expressly without any personal liability being accepted by the provider(s) of the certificate) confirming that in the directors' or Chief Executive's opinion (as applicable):
  - A the tendering process carried out by SKYCITY was consistent with best commercial practice and industry standards;
  - B the Building Works Contract meets the requirements of the Original Agreement (as varied by this Agreement), except to the extent, if any, otherwise agreed between SKYCITY and the Crown and except to the extent of any departure from SKYCITY's Fundamental Design and Construction Obligation relating to the design of the NZICC which has been fairly disclosed to the Crown a reasonable time prior to the date of issue of the certificate and in respect of which SKYCITY considers it is entitled to claim the benefit of clause 7.4;
  - C SKYCITY's minimum capital expenditure in respect of all of the matters contained within the definition of 'Total Project Cost' (including for the avoidance of doubt the Land Value) will aggregate to not less than \$430 million; and
  - D there is no condition under the Building Works Contract remaining to be fulfilled by, or declared satisfied by, SKYCITY and that SKYCITY is accordingly irrevocably committed to designing and constructing the NZICC, except as otherwise expressly provided in the Original Agreement.

5.5 Notwithstanding anything in this Agreement or the Original Agreement, SKYCITY must throughout each remaining Design Phase and during construction through to Completion comply with:

- a its Fundamental Design and Construction Obligations; and
- b its obligations under clause 7 of this Agreement.

- 5.6 For the avoidance of doubt, if the capital expenditure in respect of all of the matters contained within the definition of Total Project Cost (including for the avoidance of doubt the Land Value) would aggregate to more than \$430 million, SKYCITY shall be entitled, if it so elects, to enter into the Building Works Contract (whether before or after completion of the Developed Design or the Detailed Design), but nothing in this Agreement nor the Original Agreement shall oblige SKYCITY to do so.
- 5.7 The parties agree that the Original Agreement must be read subject to clauses 5.1 to 5.6.

## **6 Construction and Commissioning**

*As set out in Recital G, the parties have a shared objective that the Completion of the NZICC should be expedited, and that a construction process should be adopted which best allows SKYCITY to manage costs and other risks. Accordingly, the Crown has agreed as set out above to allow SKYCITY greater control of the construction process.*

- 6.1 In accordance with clause 7 of this Agreement, SKYCITY will keep the Crown informed of all developments during construction to enable the Crown to form a view as to whether a breach of SKYCITY's Fundamental Design and Construction Obligations has occurred.
- 6.2 Given the reduction in the Crown's involvement and oversight of the Building Works, the parties agree to amend the Original Agreement to provide that the formal process for certification of Completion under the Original Agreement will include an assessment of SKYCITY's compliance with its Fundamental Design and Construction Obligations.
- 6.3 Accordingly:
- a SKYCITY shall be entitled to amend the Developed Design and/or the Detailed Design (or cause the Building Works Contractor and its subcontractors to amend the Developed Design and/or the Detailed Design) at any time;
  - b SKYCITY shall be entitled to permit the Building Works Contractor (whether by amendment to the Building Works Contract or otherwise) to depart from the Developed Design and/or the Detailed Design during the construction of the NZICC,
- in both cases provided that such amendment or departure does not result in a breach of SKYCITY's Fundamental Design and Construction Obligations.
- 6.4 The parties will constitute the Project Steering Group for the duration of the Building Works in accordance with clauses 11.31 to 11.37 of the Original Agreement.
- 6.5 The parties agree that the Original Agreement must be read subject to this clause 6 and acknowledge, without limiting that general principle, that the following consequential amendments to the Original Agreement are required:
- a Clauses 11.11, 11.12, and 11.13 of the Original Agreement are deleted, and replaced in each case with the words "from the date of the Supplementary Agreement, no longer used";
  - b Clauses 11.14, 11.15, 11.16 and 11.17 of the Original Agreement are deleted and replaced in each case with the words "from the date of the Supplementary Agreement, no longer used";



- c The words 'the Design Brief' and 'the Detailed Design' are deleted from clause 11.23;
- d The definition of 'Completion' is amended as set out below:

'Completion' means there is proper and effective completion of the Building Works in accordance with this Agreement, including:

- a that SKYCITY has complied with its Fundamental Design and Construction Obligations; and
  - b all Approvals have been obtained from the Authorities so that the NZICC can be occupied and used for its intended purpose as an international standard convention centre.
- e Clause 11.38 is amended as set out below:
 

Upon completion of the NZICC in accordance with the terms of completion of the Building Works under the Building Works Contract SKYCITY must certify to the Crown that Completion for the purposes of this Agreement has occurred but, prior to certification, SKYCITY must consult with the Crown, and provide reasonable evidence, that the requirements of Completion have been met.
  - f Clauses 11.42 and 11.44 do not apply so long as the Total Project Cost of the NZICC is not less than \$430 million.

## **7 Provision of information, disputes and consequences of breach**

*As set out in Recital H, notwithstanding the amendments to the design and construction processes set out in this Agreement, SKYCITY has agreed that the Crown will continue to be kept informed and mechanisms will be adopted (as referred to in clause 7.2) to ensure that SKYCITY will construct and complete the NZICC in compliance with its Fundamental Design and Construction Obligations (except to the extent that the parties agree otherwise during the design and construction of the NZICC).*

- 7.1 SKYCITY agrees that it will take steps to ensure that it keeps the Crown fully informed as to all material matters throughout the design, procurement and construction phases of the development of the NZICC, and in particular will:
  - a provide the Crown with copies of the Developed Design and Detailed Design both on completion of those documents and as the draft versions of those documents progress;
  - b keep the Crown informed as to any material changes to SKYCITY's procurement processes;
  - c notify the Crown of any significant variations to the Detailed Design that occur during the construction of the NZICC;
  - d immediately notify the Crown in the event that SKYCITY forms the view that there has been or is likely to be a breach of SKYCITY's Fundamental Design and Construction Obligations; and
  - e prior to entry into the Building Works Contract, provide the Crown with draft versions of the Building Works Contract that contain sufficient detail to allow the Crown to

independently ascertain whether the Building Works Contract meets the requirements of the Original Agreement (as varied by this Agreement).

A failure to comply with paragraphs 7.1a, 7.1b, 7.1c or 7.1e will not be a breach of this Agreement but SKYCITY acknowledges that any such failure will be relevant to the application of clause 7.4.

- 7.2 The parties will implement mechanisms for the sharing of information and the maintenance of communication channels between the parties consistent with the Relationship Principles of the Original Agreement.
- 7.3 If, based on information provided by SKYCITY to the Crown, the Crown forms the view that a variation or departure has occurred which, either in of itself or when viewed together with other earlier variations, constitutes a breach of SKYCITY's Fundamental Design and Construction Obligations, the Crown will promptly notify SKYCITY of such view (including details of the reasons why the Crown has reached such view) and at any time thereafter may trigger the disputes resolution process of clause 24 of the Original Agreement.
- 7.4 If SKYCITY is in breach of a Fundamental Design and Construction Obligation, the Crown shall not be entitled to:
- a exercise any remedy in respect of such breach; or
  - b assert subsequently that, by reason of that breach only, Completion has not occurred, whether for the purposes of paragraph g of the definition of "Termination Event" in the Original Agreement, the certificate required by clause 11.38 of the Original Agreement (as amended by clause 6.5e of this Agreement), or otherwise,
- if and to the extent that it would be inequitable to do so having regard to:
- c SKYCITY's adherence to the matters set out in clause 7.1 and the Crown's obligations under clause 7.3;
  - d when the Crown could reasonably have formed the view that SKYCITY was in breach of the Fundamental Design and Construction Obligations based on the relevant facts and circumstances available to it;
  - e the time that elapsed between when the Crown could reasonably have formed that view and when the Crown advised SKYCITY of that view;
  - f whether the mechanisms adopted pursuant to clause 7.2 have been followed; and
  - g the financial and other consequences to SKYCITY of any delay by the Crown in advising SKYCITY that in its view such breach had occurred.
- 7.5 For the avoidance of doubt, nothing in clause 7.4 prevents the Crown or SKYCITY from referring to the Disputes Panel for determination any dispute as to whether:
- a SKYCITY is in breach of a Fundamental Design and Construction Obligation; or
  - b SKYCITY can claim the benefit of clause 7.4.
- 7.6 Subject to clause 7.4, whether a breach of SKYCITY's Fundamental Design and Construction Obligations has occurred will be determined having regard to the whole of the Preliminary Design, the Original Agreement (as amended by this Agreement) and this Agreement.

- 7.7 For the avoidance of doubt, the requirement under the Original Agreement (as modified by clause 3.7 of this Agreement) to have a convention centre which is capable of hosting at least 3,150 delegates is not a matter in respect of which any deviation is permitted, and any lower capacity will be a breach of SKYCITY's Fundamental Design and Construction Obligations and the provisions of clause 7.4 shall not apply in respect of any such breach. It is acknowledged and agreed by SKYCITY and the Crown that the design of the NZICC represented in the Architectural Drawings and Outline Specification in Appendix A of the Preliminary Design is a design that is capable of hosting at least 3,150 delegates in theatre style format, as at least 3,150 delegates can be comfortably hosted within the same area of the NZICC so that they can see and hear a person (enhanced by the use of audio visual equipment as appropriate) who is presenting simultaneously to all of such delegates. If the delegate capacity of the NZICC is required to be re-calculated following a design change to ensure that the requirement that the NZICC is capable of hosting at least 3,150 delegates continues to be met, the same methodology shall be used.

## **8 Dispute resolution processes**

- 8.1 The parties agree that clause 24.6 of the Original Agreement should be read to reflect their mutual intention that either party may appoint and remove their representative at any time according to the nature of the dispute presently before the Disputes Panel as they see fit.

## **9 Effect of Agreement**

- 9.1 The provisions of this Agreement shall have effect on and from the date of execution of this Agreement and the Original Agreement shall be read and construed subject to the provisions of this Agreement from that date.
- 9.2 For the purposes of section 14 of the Property Law Act 2007 this Agreement is intended to be read as supplementary to, and forming part of, the Original Agreement.
- 9.3 In the event of any inconsistency between this Agreement and the Original Agreement, this Agreement shall prevail.

## **10 General**

### **Interpretation**

- 10.1 In the interpretation of this Agreement, unless the context requires otherwise:
- a Reference to clauses are to clauses of this Agreement;
  - b The rules for interpretation of the Agreement set out in clause 1.2 of the Original Agreement shall apply to this Agreement;
  - c References to SKYCITY shall include New Zealand International Convention Centre Limited, a subsidiary of SKYCITY to whom certain of SKYCITY's rights under the Agreement have been assigned as previously notified to the Crown in accordance with the Agreement; and
  - d Section, clause and other headings are for ease of reference only, and do not affect this Agreement's interpretation.

**Variation**

- 10.2 No oral or written variation of this Agreement has any force or effect unless and until such variation is in writing and signed by both parties.

**Costs**

- 10.3 Each party will bear its own costs in relation to the preparation and negotiation of this Agreement.

**Governing law**

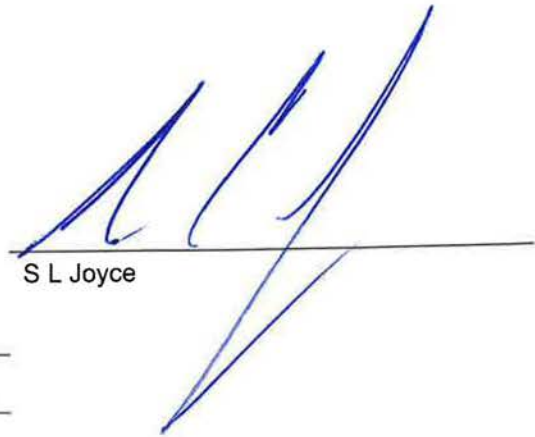
- 10.4 This Agreement is governed by, and will be construed in accordance with, the Laws of New Zealand.

**Status and delivery**

- 10.5 This Agreement is executed, and shall be construed, as a Deed notwithstanding the references to Agreement.
- 10.6 For the purposes of section 9 of the Property Law Act 2007, without limiting any other mode of delivery, this Agreement will be delivered by each party to be bound by it immediately upon the earlier of:
- a physical delivery of an original form of this Agreement executed by that party; or
  - b transmission (whether by facsimile or email) of a copy of this Agreement executed by that party,
- to the other party or to that party's solicitor.
- 10.7 This Agreement will be made publicly available the day after it comes into force in accordance with the requirements of the New Zealand International Convention Centre Act 2013, and the parties will consult with each other with a view to co-ordinating its public release.

**Executed as a deed**

**Signed and delivered by Her Majesty the Queen in Right of New Zealand acting by and through the Minister for Economic Development** in the presence of:

  
S L Joyce

Witness signature



Full name

Abby Tia Tearle

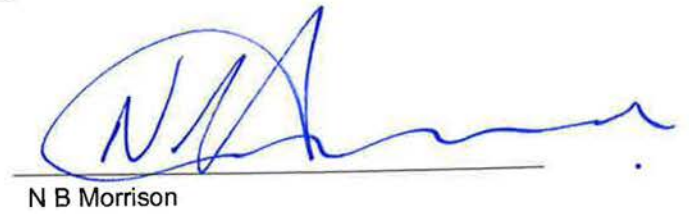
Occupation

Solicitor

City/Town

Wellington

**Signed and delivered for SKYCITY Entertainment Group Limited** by its Managing Director:

  
N B Morrison

Witness signature



Full name

PETER ANTHONY TREACY

Occupation

SOLICITOR

City/Town

AUCKLAND

**Schedule 1**  
**Preliminary Design and associated specifications**

**Schedule 2**  
**Legal descriptions of land comprising the Land and Balance Land, including the Future Development Unit**

Legal descriptions of land comprising the Land and Balance Land, including the Future Development Unit ('FDU')						
Street Address	Unique Identifier	Lot	DP	Area	Estate	Is site in FDU*
Corner Wellesley Street & Nelson Street 109 Hobson Street & 117 Hobson Street	NA127D/191	Lot 2	198988	2183m <sup>2</sup>	Fee Simple	No
	NA17B/648	Lot 2	60273	379m <sup>2</sup>	Fee Simple	No
	NA65/33	Lot 2	1086	304m <sup>2</sup>	Fee Simple	No
83 Wellesley Street	NA343/182		14489	372m <sup>2</sup>	Fee Simple	No
87 Wellesley Street	NA77/220	Lot 2 Allotment 12 Section 23	1507	253m <sup>2</sup>	Fee Simple	No
91 Wellesley Street	NA88C/600	Lot 4 Allotment 12 Section 23	-	263m <sup>2</sup>	Fee Simple	No
89 Wellesley Street	NA67C/827	Part Allotment 12 Section 23	-	238m <sup>2</sup>	Fee Simple	No
Unit A, 85 Wellesley Street	NA127B/972	Lot 1 DP195519 (underlying freehold)	198585	265m <sup>2</sup> (underlying freehold)	Stratum in Freehold	No
Unit B 85 Wellesley Street	NA127B/973		198585		Stratum in Freehold	No
Unit C, 85 Wellesley Street	NA127B/974		198585		Stratum in Freehold	No
Unit D, 85 Wellesley Street	NA127B/975		198585		Stratum in Freehold	No
Unit E, 85 Wellesley Street	NA127B/976		198585		Stratum in Freehold	No
Unit 1A, 85 Wellesley Street	NA127B/977		198585		Stratum in Freehold	No
Unit 1B, 85 Wellesley Street	NA127B/978		198585		Stratum in Freehold	No
Unit 1C, 85 Wellesley Street	NA127B/979		198585		Stratum in Freehold	No
Unit 1D, 85 Wellesley Street	NA127B/980		198585		Stratum in Freehold	No
Unit 2A, 85 Wellesley Street	NA127B/985		198585		Stratum in Freehold	No
Unit 2B, 85 Wellesley Street	NA127B/986		198585		Stratum in Freehold	No
Unit 2C, 85 Wellesley Street	NA127B/987		198585		Stratum in Freehold	No
Unit 2D, 85 Wellesley Street	NA127B/988		198585		Stratum in Freehold	No
Unit 3A, 85 Wellesley Street	NA127B/993		198585		Stratum in Freehold	No
Unit 1E, 85 Wellesley Street	NA127B/981		198585		Stratum in Freehold	No
Unit 1F, 85 Wellesley Street	NA127B/982		198585		Stratum in Freehold	No
Unit 1G 85 Wellesley Street	NA127B/983		198585		Stratum in Freehold	No
Unit 2E, 85 Wellesley Street	NA127B/989		198585		Stratum in Freehold	No
Unit 2H, 85 Wellesley Street	NA127B/992		198585		Stratum in Freehold	No
Unit 1H, 85 Wellesley Street	NA127B/984		198585		Stratum in Freehold	No
Unit 2F, 85 Wellesley Street	NA127B/990		198585		Stratum in Freehold	No

Unit 2G, 85 Wellesley Street	NA127B/991		198585		Stratum in Freehold	No
Unit 3B, 85 Wellesley Street	NA127B/994		198585		Stratum in Freehold	No
Unit 3C, 85 Wellesley Street	NA127B/995		198585		Stratum in Freehold	No
Unit 3D, 85 Wellesley Street	NA127B/996		198585		Stratum in Freehold	No
Unit 3E, 85 Wellesley Street	NA127B/997		198585		Stratum in Freehold	No
Unit A, 79-81 Wellesley Street	NA119A/753		189495		Stratum in Freehold	No
Unit B, 79-81 Wellesley Street	NA119A/754		189495		Stratum in Freehold	No
Unit C, 79-81 Wellesley Street	NA119A/755		189495		Stratum in Freehold	No
Unit D, 79-81 Wellesley Street	NA119A/756		189495		Stratum in Freehold	No
Unit E, 79-81 Wellesley Street	NA119A/757		189495		Stratum in Freehold	No
Units F, 79-81 Wellesley Street	NA119A/758		189495		Stratum in Freehold	No
Units M, 79-81 Wellesley Street	NA119A/765		189495		Stratum in Freehold	No
Unit G, 79-81 Wellesley Street	NA119A/759		189495		Stratum in Freehold	No
Unit H, 79-81 Wellesley Street	NA119A/760		189495		Stratum in Freehold	No
Unit I, 79-81 Wellesley Street	NA119A/761		189495		Stratum in Freehold	No
Unit J, 79-81 Wellesley Street	NA119A/762		189495		Stratum in Freehold	No
Unit K, 79-81 Wellesley Street	NA119A/763		189495		Stratum in Freehold	No
Unit L, 79-81 Wellesley Street	NA119A/764		189495		Stratum in Freehold	No
Unit N, 79-81 Wellesley Street	NA119A/766		189495		Stratum in Freehold	No
Unit O, 79-81 Wellesley Street	NA119A/767		189495		Stratum in Freehold	No
Unit P, 79-81 Wellesley Street	NA119A/768		189495		Stratum in Freehold	No
Unit Q, 79-81 Wellesley Street	NA119A/769		189495		Stratum in Freehold	No
Unit R, 79-81 Wellesley Street	NA119A/770		189495		Stratum in Freehold	No
Unit S, 79-81 Wellesley Street	NA119A/771		189495		Stratum in Freehold	No
Unit T, 79-81 Wellesley Street	NA119A/772		189495		Stratum in Freehold	No
Unit U, 79-81 Wellesley Street	NA119A/773		189495		Stratum in Freehold	No
Unit V, 79-81 Wellesley Street	NA119A/774		189495		Stratum in Freehold	No
Unit W, 79-81 Wellesley Street	NA119A/775		189495		Stratum in Freehold	No
Unit X, 79-81 Wellesley Street	NA119A/776		189495		Stratum in Freehold	No
Unit Y, 79-81 Wellesley Street	NA119A/777		189495		Stratum in Freehold	No
Unit Z, 79-81 Wellesley Street	NA119A/778		189495		Stratum in Freehold	No
Unit AA, 79-81 Wellesley Street	NA119A/779		189495		Stratum in Freehold	No
97-101 Hobson Street	NA839/214	Lot 1	32654	1060m <sup>2</sup>	Fee Simple	No
97-101 Hobson Street	NA162/157	Part Allotment 8 Section 23	-	541m <sup>2</sup>	Fee Simple	No
103-107 Hobson Street	NA127D/192	Lot 3 (above RL 33.00)	198988	1288m <sup>2</sup>	Fee Simple	No
50 Nelson Street	NA127D/190	Lot 1 (above RL 33.00)	198988	1169m <sup>2</sup>	Fee Simple	No
		Lot 1 (below RL 33.00)	198988	2457m <sup>2</sup>	Fee Simple	No
46-48 Nelson Street	NA95C/235	Lot 1	67298	2071m <sup>2</sup>	Fee Simple	Yes - partial
93 Hobson Street	NA2034/97	Lot 1	47977	1,034m <sup>2</sup>	Fee Simple	Yes - partial
		Pt Allotment 11 Sect 23 Auckland City & Lot 1 DP 60273 (underlying freehold)		589m <sup>2</sup> +101m <sup>2</sup> (underlying freehold)		



91 Hobson Street 85 Hobson Street	NA1874/26 NA1041/140	Lot 1	1293 39058	1,012m2 1,029m2	Fee Simple Fee Simple	Yes Yes
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**\*FDU comprises the approximately 2800m<sup>2</sup> site (at grade) held for non NZICC future development, as per the following diagram.**

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### Schedule 3

#### Subdivision Provisions (clauses 4.4 and 4.10)

- 1 Promptly upon construction of the NZICC reaching an appropriate stage of completion for the same to occur, the parties shall enter into all documentation necessary to effect a subdivision of the land comprising the Land and the Future Development Unit such that:
- a A separate unique identifier ("**NZICC Title**") comprising strata lots shall be created for the NZICC Space and the Services Space together with the following rights:
    - i the right (granted by way of an easement or land covenant as the parties may agree (acting reasonably)) in favour of the NZICC Title, pursuant to which the owner of the Carpark Levels covenants to ensure that 400 carparks are always available for casual use by the public (including NZICC users) in a manner which will meet the needs of NZICC attendees (for example by way of sufficient dedicated parking area(s) within the 400 carparks, for conventions, as and when they are being held (subject to the acknowledgement and agreement by the Crown set out in the last two sentences of clause 16.5b of the Agreement). The easement or land covenant shall include, inter alia, terms providing for the management and sharing of costs for maintenance and repair; remediation works in the event of damage or destruction; insurance and redevelopment; access for such purposes; and
    - ii such other rights of way (granted by way of an easement or land covenant as the parties may agree (acting reasonably)) over the Balance Titles in favour of the NZICC Title, such that the NZICC is able to be operated in the manner contemplated by the Original Agreement, such rights to extend without limitation to those necessary for the full provision of access to the NZICC and the proper and efficient provision, functioning of and access to the services located in the Services Space.
  - b one or more unique identifiers ("**Balance Titles**") shall be created for the Balance Land (and the parties acknowledge that following the creation of the Balance Titles, but without prejudice to the provisions of the Original Agreement, there shall be no restriction on any further subdivision of those Balance Titles provided that the rights granted in favour of the NZICC Title survive such subdivision). The Balance Titles shall include the Airbridges provided that benefit of the easements granting rights of way over the Airbridges shall be enjoyed by the NZICC Titles as dominant tenement and included in the easements referred to in sub-paragraph 1aii;
  - c easements shall be granted and registered to provide for such rights of way (including, without limitation, over the Airbridges and through the NZICC Title, between the Airbridge attaching thereto and the Carpark Levels); rights of access and egress (by pedestrians and vehicles; including the use of elevators; escalators and stairs; and including emergency egress); rights for the passage of services and utilities; rights of support and party wall easements, over each of the NZICC Title and the Balance Titles as may reasonably be required for the full and proper use and enjoyment, by the registered proprietor and its invitees, of each such title and the land currently owned by the SKYCITY Group on the other side of Hobson Street from the Land;
  - d an agreement shall be entered into between the registered proprietor of the NZICC Title and the relevant Balance Title(s) to provide for:

- i the use of the Shared Plant;
  - ii the registered proprietor of the NZICC Title as owner of the Shared Plant to be responsible for keeping the Shared Plant in good repair and condition and replacing the same when any such Shared Plant reaches the end of its economic life;
  - iii the registered proprietors of the relevant Balance Titles to pay a fair and equitable proportion of the depreciation of such Shared Plant as and when brought to account in accordance with applicable financial reporting standards, and a fair and equitable proportion of the costs of using, maintaining and (to the extent the same have or will not be met through the depreciation costs paid or to be paid) replacing the Shared Plant; and
  - iv the agreement to be binding on any future registered proprietor of the relevant lots and to be protected by the registration on the title to each lot of a memorandum of encumbrance in favour of each of the other lot owners;
- e the restrictive covenants contemplated by clause 4.5 of this Agreement shall be granted and registered and shall contain restrictions ensuring that the Food, Beverage and Retail Space, the Laneway and the Airbridges:
- i in the case of the Food, Beverage and Retail Spaces are used for food and beverage and retail activities only;
  - ii must be used, operated and managed in a manner which, when taken as a whole, is consistent with the operation of the NZICC in accordance with standards that are generally accepted in relation to international convention centres (including in relation to noise, smells, vibrations, inadequate maintenance, or any other factor);
  - iii cannot be used for:
    - A any kind of medical, dental or health centre (but a pharmacy is acceptable);
    - B educational facilities, language schools or similar purposes;
    - C probation, detention or prison services;
    - D consulates or embassies;
    - E residential premises;
    - F the supply of sexual services or adult entertainment including brothel, massage parlours, sex or adult supplies shops or theatres, or any other use associated with the sex industry;
    - G the preparation or the sale of psychoactive substances (as defined in the Psychoactive Substances Act 2013);
    - H discount stores;
    - I any purpose where the primary use is to conduct gambling operations;
    - J liquor stores;
    - K pawn, second hand or opportunity shops;

- L video and parlour game businesses;
  - M pet stores and supplies;
  - N funeral directors and supplies;
  - O any purpose where the primary use is the retailing of dangerous goods and supplies; and
  - P industrial manufacturing purposes; and
- iv in the case of items A, H, J and L, SKYCITY or, if different, the registered proprietor of any premises in respect of which a restrictive covenant is registered, may seek the Crown's consent to any such use and the Crown will not unreasonably or arbitrarily withhold consent where SKYCITY or the registered proprietor (as the case may be) has demonstrated that the proposed use will not be likely to be in breach of paragraph 1eii; and
- f the restrictive covenant contemplated by clause 4.10 of this Agreement shall be granted and registered.
- 2 The terms of the easements, covenants and agreements to be entered into pursuant to paragraph 1 shall, subject to them complying with paragraph 1, be on terms which are fair and equitable and reflect current market practice for similar easements, covenants and agreements, and the proximity and relationship to the NZICC.
- 3 SKYCITY shall procure its consultants and solicitors to prepare draft plans and documentation to effect the subdivision, and provide for the use of Shared Plant, in accordance with this Schedule for the approval of the Crown (which approval shall not be unreasonably withheld or delayed where the documentation is consistent with the requirements set out in this Schedule).
- 4 Such draft plans and documentation will be provided to the Crown at an early stage in order that the Crown has a reasonable opportunity to comment as they progress from early drafts through to penultimate drafts.
- 5 The Crown shall respond promptly to any documentation provided by SKYCITY pursuant to paragraph 4.
- 6 SKYCITY shall advise the Crown when such drafts may be regarded as final drafts and at any time after the Crown has had such final drafts for not less than 10 Business Days, then SKYCITY may give the Crown a further notice that in the event that the Crown does not raise any objection to any such documentation within 10 Business Days of receipt of the same, the Crown shall be deemed to have approved that documentation.
- 7 In the event that the parties cannot agree any of the documentation which either party considers to be reasonably required to complete the subdivision and give effect to the intention of the easements and covenants described in paragraph 1 the matter shall be referred to the dispute resolution process set out in clauses 24.5 to 24.27 of the Agreement.
- 8 The parties shall each bear their own costs (including any costs incurred to their consultants and solicitors) of complying with their obligations in this Schedule 3.