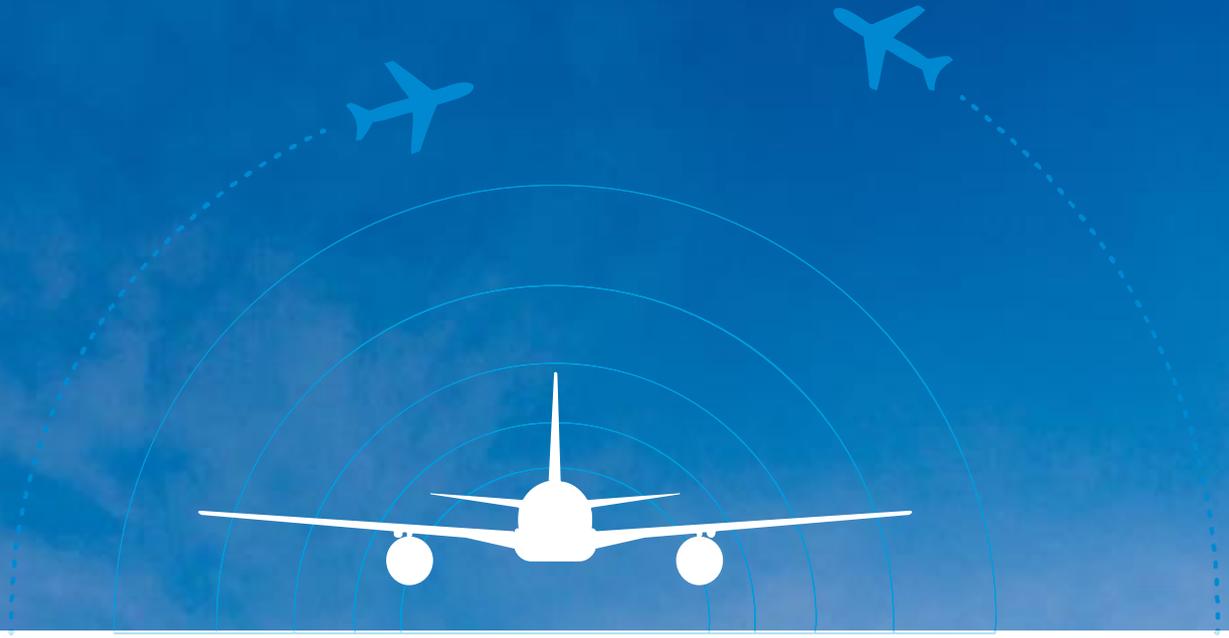


WSA Co



Western Sydney Airport

Visitor Centre & Office Accommodation

Invitation to submit a Registration of Interest

July 2018
WSA Co Ltd
(ABN 81 618 989 272)



Contents

1.	Introduction.....	4
1.1	Invitation to submit a Registration of Interest	4
1.2	Key information	4
1.3	Indicative procurement timetable	5
1.4	Interaction during the ROI stage	5
1.5	Structure of this Invitation	5
2.	Background.....	6
2.1	WSA Co	6
2.2	Regulatory context.....	6
2.3	Airport Plan	6
2.4	Environmental Impact Statement	6
3.	Western Sydney Airport.....	7
3.1	Overview	7
3.2	Objectives for the Western Sydney Airport	7
3.3	Badgerys Creek site	7
3.4	Procurement method	9
3.5	Stakeholder and community engagement	9
3.6	Health and safety	9
3.7	Facilitating growth in Western Sydney	10
3.8	Building Code compliance	10
4.	Overview and Timing.....	11
4.1	Scope of the Visitor Centre & Office Accommodation	11
4.2	Visitor Centre & Office Accommodation Site	12
4.3	Contractual structure	13
5.	Registration.....	13
5.1	Minimum requirements	13
5.2	How to register	13
5.3	WSA Co Representative	13
5.4	Enquiries and clarification questions	15
5.5	Access to Request for Tender via the WSA Data Room	15
5.6	Interested Party and Registrant communications	15
5.7	Anti-lobbying, improper interference and solicitation	16
5.8	Probity	16
6.	Definitions and interpretation.....	17
6.1	Definitions	17
6.2	Interpretation.....	18
Attachment 1: Registration Application		19
Attachment 2: Confidentiality and Disclaimer Deed Poll		22
Attachment 3: User Access Request Form		34
Appendix A – WSA Data Room Conditions of Use		36

List of Attachments

List of attachments	
Attachment 1	Registration Application
Attachment 2	Confidentiality and Disclaimer Deed Poll
Attachment 3	User Access Request Form

1. Introduction

The purpose of this section is to provide an overview of key information relating to this Invitation to submit a Registration of Interest.

1.1 Invitation to submit a Registration of Interest

Western Sydney Airport will provide much-needed additional aviation capacity to meet growing demand in the Sydney basin and improve access to flights for people in Western Sydney. One of Australia's most significant infrastructure projects in decades, the international and domestic airport will open in 2026.

WSA Co has been established to design, build and operate the Western Sydney Airport.

Development of Western Sydney Airport involves delivery of a single 3.7-kilometre runway, terminal and airport facilities to provide for 10 million annual passengers. WSA Co is seeking to engage a suitably qualified Contractor for the design and construction of the Visitor Centre & Office Accommodation.

The purpose of this Invitation for ROI is to:

- provide information about Western Sydney Airport and the procurement process for the Visitor Centre & Office Accommodation to Interested Parties; and
- invite Interested Parties (whether individually or as part of a consortium) to register to participate in the Request for Tender for the Visitor Centre & Office Accommodation.

Interested Parties that are determined to be eligible for registration by WSA Co will be able to download the Request for Tender and the Information Documents from the WSA Data Room.

1.2 Key information

The table below provides an overview of key information relating to this Invitation.

Key ROI information	Date / Time
ROI Description	WSA Co invites Interested Parties (whether individually or as part of a consortium) to register to participate in the Request for Tender for the Visitor Centre & Office Accommodation.
Release of Invitation to submit an Expression of Interest	11 July 2018
Registration Method	Refer to section 5 of this Invitation
WSA Co Representative	Name: Dermot Monaghan Email: tenders@wsaco.com.au

1.3 Indicative procurement timetable

The table below provides an indicative timetable for procurement of the Visitor Centre & Office Accommodation package.

Milestone	Date / Time
Release of Invitation to submit an Expression of Interest	11 July 2018
Expression of Interest submission close	4:00pm, 4 August 2018
Release of the Request for Tender	Mid August 2018
Request for Tender Closing Date	Late September 2018
D&C Deed awarded	Late October 2018
Visitor Centre & Office Accommodation completed	Mid June 2019

The indicative timetable is provided for guidance only. The provision of the indicative timetable does not impose any obligations on WSA Co to proceed with any activities or processes on the stated dates or otherwise and does not identify all activities relating to the procurement of the Visitor Centre & Office Accommodation. WSA Co may change the indicative timetable at its absolute discretion.

1.4 Interaction during the ROI stage

WSA Co intends to engage with Interested Parties and Registrants during the ROI stage in relation to the timing, scope and procurement process for the Visitor Centre & Office Accommodation. WSA Co may provide supplementary information to assist with these interactions.

1.5 Structure of this Invitation

This Invitation comprises the following sections:

- Background;
- Western Sydney Airport;
- Overview and Timing;
- Registration; and
- Definitions and interpretation.

2. Background

The purpose of this section is to provide an overview of Western Sydney Airport's background, strategic rationale and regulatory context.

2.1 WSA Co

In August 2017, the Commonwealth established WSA Co Limited (WSA Co), a Government Business Enterprise constituted under the *Corporations Act 2001* (Cth) and operating under the *Public Governance, Performance and Accountability Act 2013* (Cth), to deliver and operate the Western Sydney Airport.

WSA Co is wholly owned by the Commonwealth. The Commonwealth will invest up to \$5.3 billion for WSA Co to build Western Sydney Airport. Further details regarding WSA Co, including details in relation to the Chairman and Board, can be found online at the WSA Co website (www.wsaco.com.au).

2.2 Regulatory context

The proposed airport is one of the largest infrastructure projects in Australia's history and would be the first major new Australian airport development in decades.

Development of the airport is subject to a Commonwealth environment and development approvals framework under the Airports Act 1996 (Cth) (Airports Act). The Airports Act provides for the preparation of an 'Airport Plan', to guide the development of the airport. The Airport Plan was determined by the Minister for Urban Infrastructure in December 2016. A pre-condition to that determination was finalisation of an Environmental Impact Statement (EIS) which occurred in September 2016.

2.3 Airport Plan

The Airport Plan consists of three parts, being the title section (Part 1), the concept design (Part 2) and the details of the specific developments authorised by the Airport Plan (Part 3). The conditions set out in Part 3 must be complied with in the planning, construction and operation of the Western Sydney Airport. The Airport Plan is publically available online via the WSA Co website.

2.4 Environmental Impact Statement

In preparing the EIS, the Commonwealth undertook a comprehensive study of the environmental, social and economic impacts that the Western Sydney Airport could potentially have on the airport site and surrounding areas. The EIS identifies a number of mitigation measures to be implemented in order to minimise the impacts of the development of Western Sydney Airport. The EIS is also publically available online via the WSA Co website.

3. Western Sydney Airport

The purpose of this section is to provide an overview of the Western Sydney Airport scope of work, WSA Co's proposed delivery approach and developments undertaken to date.

3.1 Overview

WSA Co is responsible for constructing and operating Western Sydney Airport in accordance with the Airport Plan. This section will specifically focus on WSA Co's approach to constructing Western Sydney Airport and ensuring that operational readiness is achieved by December 2026.

At a high level, the Western Sydney Airport scope includes undertaking all required works to deliver a single 3.7-kilometre runway and airport facilities for 10 million annual passengers (refer to section 3.4 below for further details). WSA Co has developed a delivery approach that will ensure that the Western Sydney Airport is delivered to a high standard, within appropriate timeframes, and achieves the best outcomes for the Western Sydney region.

3.2 Objectives for the Western Sydney Airport

The development of Western Sydney Airport will bring a range of benefits to Western Sydney and the Australian economy. WSA Co's objectives for the Western Sydney Airport are (WSA Co Objectives):

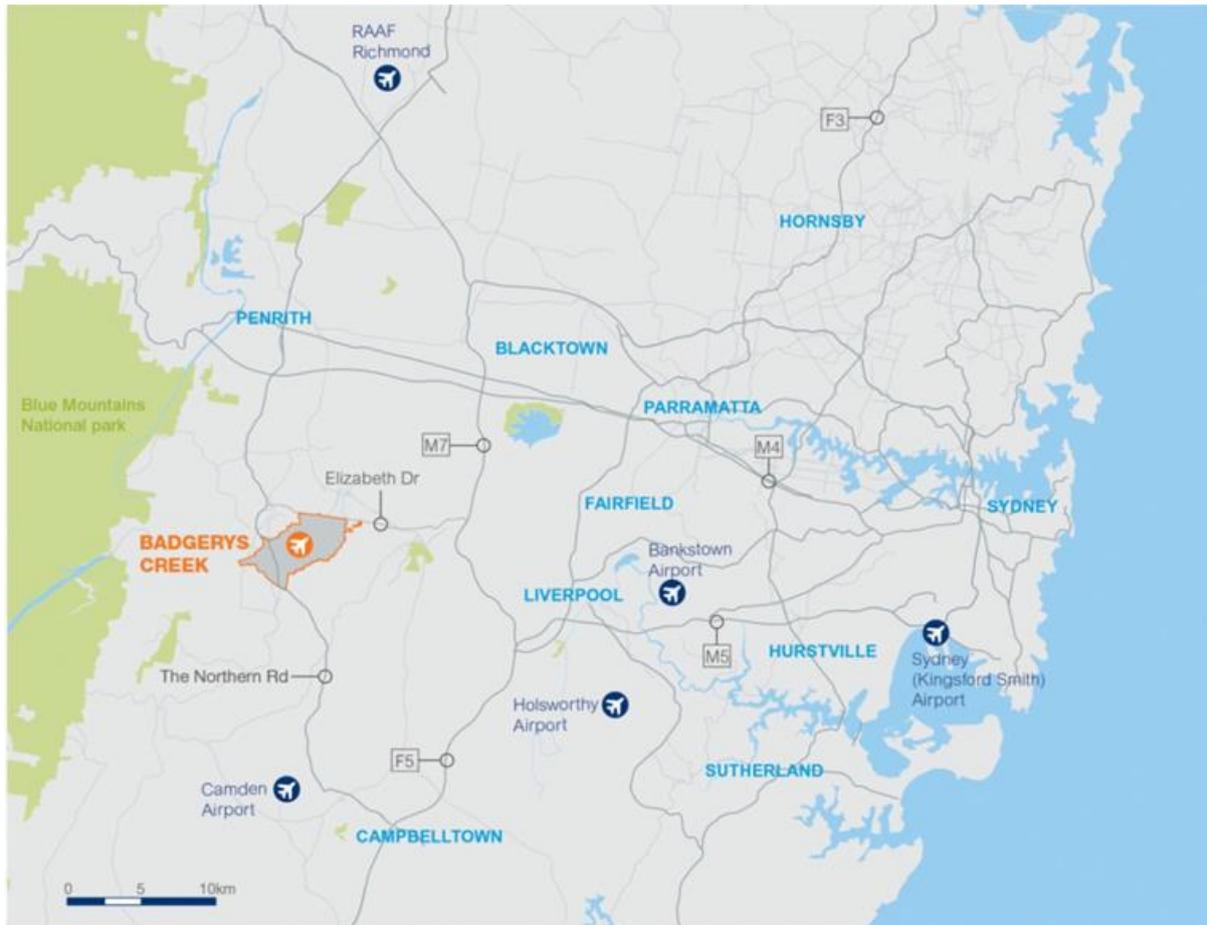
- **improving access to aviation services in Western Sydney:** by providing a broad range of passenger and air freight services;
- **resolving the long-term aviation capacity issue in the Sydney basin:** by maximising the aviation capacity of the site, noting the constraints at Sydney (Kingsford Smith) Airport;
- **maximising the value of a Western Sydney Airport as a national asset:** including consideration of benefits the airport will bring within and around Western Sydney, NSW and Australia and enhancing Australia's international competitiveness for air travel;
- **optimising the benefit of Western Sydney Airport on employment and investment in Western Sydney:** by recognising that the airport will be a major catalyst for growth and development in Western Sydney;
- **effectively integrating with new and existing initiatives in the Western Sydney area:** by ensuring long-term planning considers the airport's economic, social and environmental impact in Western Sydney; and
- **operating on commercially sound principles, having regard to the Australian Government's intention to preserve its options with respect to ownership and governance arrangements:** by applying private sector discipline in the management of WSA Co.

3.3 Badgerys Creek site

The Western Sydney Airport will be developed on around 1,700 hectares of Commonwealth-owned land at Badgerys Creek in Western Sydney (WSA Site). The WSA Site is approximately 50 kilometres from Sydney's central business district. The site is adjacent to the South West Priority Growth Area and the Western Sydney Employment Area. It is also situated close to key transport corridors, including the Westlink M7 Motorway, the M12 Motorway and south west rail link.

The WSA Site is bounded by Elizabeth Drive to the north, Willowdene Avenue to the south, Luddenham and Adams Road to the west and Badgerys Creek to the east. The WSA Site has been largely cleared. The existing terrain is made up of undulating topography, and substantial earthworks are required to create a level surface to allow construction of the runway, taxiways and support services. The WSA Site location is illustrated in the figure below.

Location of the WSA Site



Source: Western Sydney Airport Environmental Impact Statement

3.4 Procurement method

WSA Co is utilising a two-step, ROI and RFT, process for procuring the Visitor Centre & Office Accommodation.

All Tenderers will be able to download the RFT from the WSA Data Room. The RFT will set out detailed requirements which Tenderers must address in developing their Tenders.

Post submission of Tenders, WSA Co will undertake a detailed evaluation process to determine the successful Tenderer. The successful Tenderer must execute a Design & Construct Deed (**D&C Deed**) with WSA Co.

Further details in relation to the RFT requirements, evaluation process and Design and Construct Contract will be provided in the RFT. WSA Co reserves the right to alter or vary the procurement process at any time.

3.5 Stakeholder and community engagement

Western Sydney Airport is one of Australia's largest infrastructure projects, and as such there are a wide range of stakeholders and community members with a correspondingly large range of local issues and interests in the Western Sydney Airport. Effective stakeholder and community participation in the planning and delivery of infrastructure can deliver better social, economic and environmental outcomes.

WSA Co is committed to engaging with the community and stakeholders in an open, inclusive, accessible and timely manner throughout the planning and delivery of the Western Sydney Airport and has an expectation that all contractors will adhere to this commitment in the delivery of their respective works packages.

Contractors and other involved parties may be required to communicate and engage with stakeholders and the local community. Communications and engagement activities with stakeholders must be proactive and well integrated into the planning and delivery of the Western Sydney Airport. It is important that potential issues and impacts on stakeholders are anticipated, considered and addressed in communications and engagement activities.

3.6 Health and safety

WSA Co is focused on eliminating or reducing risks to health and safety in order to achieve the overarching objective of delivering the Western Sydney Airport safely, preventing harm to workers or others affected by the works and inspiring exceptional health and safety performance. This objective can be achieved if WSA Co and its partners:

- ensure that safety is a core value;
- aspire to provide our people, our contractors, our stakeholders and members of the public with the highest level of safety protection;
- demonstrate visible safety leadership and inspire our people, our contractors and our stakeholders to value exceptional health and safety performance;
- lead an environment of trust and transparency;

- promote safety innovation and recognise exceptional health and safety performance; and
- monitor, review and achieve continual improvement in health and safety performance.

WSA Co requires exceptional health and safety management, and that all health and safety risks are identified and subsequently eliminated or satisfactorily controlled. WSA Co also expects the development and implementation of safety initiatives to drive continuous improvement of safety performance throughout delivery.

3.7 Facilitating growth in Western Sydney

WSA Co is committed to ensuring that Western Sydney Airport generates appropriate economic and social benefits for the greater Western Sydney region. WSA Co requires all parties to maximise opportunities in relation to:

- utilising local suppliers and employing local resources wherever possible;
- creating job opportunities and promoting a strong and sustained vocational training culture through the employment of apprentices, trainees and engineering cadets within the local building and construction industry; and
- encouraging participation of priority jobseekers and underrepresented groups in the industry including women, Aboriginal and Torres Strait Islanders, economic and social disadvantaged groups, people with a disability, retrenched workers, young people and long-term unemployed people.

Given the scale of the works, WSA Co is seeking innovative approaches to maximising economic and social benefits within the greater Western Sydney region and involving the local industry in all aspects of the Western Sydney Airport development.

3.8 Building Code compliance

WSA Co requires that all contractors for the Western Sydney Airport must comply with the requirements of the *Code for the Tendering and Performance of Building Work 2016* (the Building Code). It is intended that all Registrants who participate in the next stage of this procurement process, will be required, as part of their response to the Request for Tender, to submit a signed "Declaration of Compliance".

4. Overview and Timing

4.1 Scope of the Visitor Centre & Office Accommodation

The Visitor Centre is intended to display an engaging and exciting narrative of the Western Sydney Airport (WSA) project including interactive displays and key milestones. A key requirement for the Visitor Centre will be educational purposes for the local community.

The Visitor Centre & Office Accommodation component of the Western Sydney Airport is currently contemplated to include:

- Completion of design from 70% to 100%;
- Excavation, civil & site works pertaining only to services and forming finished levels;
- Concrete foundation / slab works;
- Design, manufacture, supply & installation of modular / prefabricated buildings;
- Services;
- Office fit out including FFE;
- Design and fit out of interactive exhibition fit out; and
- Landscaping, Hardscaping, Fencing etc.

In delivering the scope for the Visitor Centre & Office Accommodation, the Visitor Centre & Office Accommodation Contractor is anticipated to be required to:

- satisfy the technical and procedural requirements of WSA Co with respect to construction and handover of the Visitor Centre & Office Accommodation;
- demonstrate quality engineered outcomes and an appropriate application of whole-of-life considerations to the construction of the Visitor Centre & Office Accommodation;
- obtain any required approvals for construction work outside of those provided under the Airport Plan and the Remediation Action Plan for the decontamination;
- adhere to all relevant environmental requirements, Airport Plan conditions and Remediation Action Plan conditions;
- stage works in order to minimise disruption impacts on the road network, including collaboration with the relevant road authorities and local government agencies;
- establish and maintain a positive relationship with WSA Co;
- work cooperatively with WSA Co, any other contractors and stakeholders to ensure the impacts of the Visitor Centre & Office Accommodation Contractor's activities on those contractors and stakeholders are reasonably minimised;

- demonstrate leading practice systems and safety assurance for the duration of the Visitor Centre & Office Accommodation; and
- develop, implement and maintain workplace initiatives that support training, local employment, social inclusion and positive industrial relations.

Further detail on the requirements will be provided in the RFT documents.

4.2 Visitor Centre & Office Accommodation Site

The site for the Visitors Centre & Office Accommodation is on Eaton Rd in the upper western area of the WSA Site. Eaton Rd is accessed off the Northern Rd and the village of Luddenham is north east of the site. The indicative location of the Visitors Centre & Office Accommodation area within the WSA Site is shown in Figure 1.

Figure 1: Visitor Centre & Office Accommodation area within the WSA Site



4.3 Contractual structure

The Visitor Centre & Office Accommodation package is expected to be delivered under the D&C Deed.

The D&C Deed is envisaged to be a fixed price lump sum agreement for delivery of the Visitor Centre & Office Accommodation. Under the D&C Deed, the Contractor will accept the risk of all cost overruns associated with the delivery of the works, except where the Contractor is expressly entitled to relief under the terms of the D&C Deed.

The D&C Deed will include provisions to reflect project specific requirements for the development of Western Sydney Airport, including certain pass-down requirements from the Project Deed between WSA Co and the Commonwealth. The D&C Deed will be included as part of the RFT documents provided to Tenderers during the RFT stage.

5. Registration

The purpose of this section is to provide an overview of the registration process.

5.1 Minimum requirements

In order for an Interested Party to be eligible to receive the Request for Tender, the Interested Party must be compliant with the requirements of the *Code for the Tendering and Performance of Building Work 2016*.

5.2 How to register

Interested Parties wishing to register to receive the Request for Tender must:

- complete and submit the Registration Application (Attachment 1);
- execute and submit the Confidentiality and Disclaimer Deed Poll (Attachment 2); and
- complete and submit the User Access Request Form (Attachment 3).

The Registration Application, Confidentiality and Disclaimer Deed Poll and the User Access Request Form may also be downloaded from <http://wsaco.com.au/project/business.aspx>. The completed documents should be emailed to tenders@wsaco.com.au.

Please ensure all emails include "Visitor Centre & Office Accommodation" in the subject line.

In relation to any document required to be executed and submitted as part of this Invitation, WSA Co will not accept electronic signatures and documents must be signed by hand.

WSA Co will notify the Primary Contact of the outcome of its determination via email.

If the Interested Party is eligible for registration, WSA Co will provide the Primary Contact with the details to access the WSA Data Room.

5.3 WSA Co Representative

The WSA Co Representative for the Visitor Centre & Office Accommodation procurement process is:

Name: Dermot Monaghan

Role: Contracts Manager

Email: tenders@wsaco.com.au

WSA Co may, by notice in writing to Registrants, appoint a substitute WSA Co Representative at any time.

5.4 Enquiries and clarification questions

Any questions about the registration process, including the Confidentiality and Disclaimer Deed, should be submitted in writing to tenders@wsaco.com.au.

Please ensure all emails include "Visitor Centre & Office Accommodation" in the subject line.

Where a Registrant has requested that a response to its clarification query be restricted by marking the question as confidential, if WSA Co determines that the response needs to be distributed to all Registrants, the requesting Registrant will be notified of this decision. The Registrant may then decide either not to pursue the clarification question or to re-submit that question as a non-confidential enquiry.

The fact that a question is marked confidential or determined by WSA Co to be confidential, or is otherwise withdrawn by a Registrant, does not limit or otherwise affect WSA Co's rights under this document.

5.5 Access to Request for Tender via the WSA Data Room

Registrants will be provided with access to the WSA Data Room. The WSA Data Room will be opened to Registrants upon release of the Request for Tender. Registrants will be able to download the Request for Tender and the Information Documents from the WSA Data Room. The WSA Data Room will be opened to Registrants on or about 13 August 2018 from where Registrants will have access to some preliminary information about the Visitor Centre & Office Accommodation and subsequently to the RFT, once that is issued by WSA Co.

Initially, access will be provided to those representatives nominated by the Registrant on the User Access Request Form. If a Registrant requires access to the WSA Data Room to be provided to additional users, it must seek the written consent of WSA Co (which may be given or withheld in WSA Co's absolute discretion), by submitting an additional User Access Request Form to the satisfaction of WSA Co listing the additional users to whom the Registrant proposes to provide access.

5.6 Interested Party and Registrant communications

Other than as provided in sections 5.2, 5.4 and 5.6 of this Invitation, Interested Parties and Registrants must not contact:

- the Australian Government (including the Department of Infrastructure, Regional Development and Cities, including the Western Sydney Unit), any of its agencies, officers, employees, agents or advisors;
- WSA Co, any of its officers, directors, employees, agents or advisors;
- the New South Wales Government, any of its agencies, officers, employees, agents or advisors (including for the avoidance of doubt, Roads and Maritime Services);
- local councils; or
- any elected representative of the Australian or New South Wales Governments,

to discuss this document, their preparation for the Request for Tender or any other element of their participation in the Visitor Centre & Office Accommodation procurement process in any way.

Interested Parties and Registrants also must not use any media or other public communication channels:

- in any way which may reflect adversely on the Western Sydney Airport project or WSA Co in relation to the project; or
- to make comment about matters associated with the Visitor Centre & Office Accommodation procurement process.

At the sole discretion of WSA Co, any breach of this section may lead to exclusion from the procurement process for the Visitor Centre & Office Accommodation.

5.7 Anti-lobbying, improper interference and solicitation

Interested Parties, Registrants and their representatives are prohibited from engaging directly or indirectly in lobbying, improper interference or solicitation of WSA Co, including but not limited to Ministers, and their advisors, Members of Parliament, public servants and WSA Co representatives and advisors with respect to any aspect relating to the procurement process or any activities which are likely to give rise to the perception that they have engaged in lobbying, improper interference or solicitation of WSA Co or its advisors. Any breaches of these requirements may result in an Interested Party or Registrant being removed from the procurement process.

5.8 Probity

O'Connor Marsden & Associates Pty Ltd has been engaged to provide probity oversight during the procurement process and the assessment of the Registration Applications. The Probity Advisor for the Visitor Centre & Office Accommodation procurement process is:

Name: Andrew Marsden
Email: amarsden@ocm.net.au

The Probity Advisor is not part of the evaluation team, but is an independent observer of the procurement process. Any probity concerns regarding this Invitation or any aspect of the process, must be submitted in writing (in appropriate detail) to the Probity Advisor.

6. Definitions and interpretation

6.1 Definitions

Term	Definition
Confidentiality and Disclaimer Deed Poll	means the deed poll in the form of Attachment 2 to this Invitation.
Contractor	means the person, entity, party, joint venture or consortium selected to deliver the Visitor Centre & Office Accommodation, and who enters into a contract with WSA Co for that purpose.
Information Document	has the meaning given to that term in the Confidentiality and Disclaimer Deed Poll.
Interested Party	means a person, entity, party, joint venture or consortium that is interested in becoming registered to receive the Request for Tender.
Primary Contact	means the person nominated as the primary contact by an Interested Party on the User Access Request Form.
Registrant	means a person, entity, party, joint venture or consortium that has been registered to receive the Request for Tender.
Registration Application	means an application in the form of Attachment 1 to this Invitation.
Registration of Interest or ROI	means the submission by an Interested Party, in the form prescribed in this Invitation, expressing its interest to be registered for the Visitor Centre & Office Accommodation.
Request for Tender or RFT	means the invitation to submit a tender for the Visitor Centre & Office Accommodation.
User Access Request Form	means the form included at Attachment 3 to this Invitation.
Visitor Centre & Office Accommodation	means the works described in section 4.1.
WSA Co	means WSA Co Limited, the company established by the Australian Government to facilitate and manage develop and operate the procurement, delivery and operation of the Western Sydney Airport.
WSA Co Representative	means the person appointed by WSA Co to receive, in respect of this Invitation, enquiries and requests for information from Interested Parties and Registrants, to respond to such enquiries and requests, and to convene meetings with Interested Parties and Registrants.
WSA Data Room	<p>means, as the context requires, any or all of:</p> <ul style="list-style-type: none"> a) the electronic data room containing documents, data and other information regarding the Western Sydney Airport project; b) the electronic data room containing WSA Co-initiated questions; and c) any other electronic data room, <p>created and maintained by WSA Co for the purposes of the Visitor Centre & Office Accommodation and any process relating to the procurement of the Visitor Centre & Office Accommodation.</p>
WSA Site	means the site described in section 2.2 above.

6.2 Interpretation

In this Invitation:

- the definitions of capitalised terms are listed in section 6.1;
- any reference to a part, section or clause is a reference to a part, section or clause of this Invitation, unless otherwise indicated;
- use of the terms "includes" or "including" are to be read, in each case, as though the term is followed by "without limitation";
- use of the phrase "absolute discretion" is to be read as though the phrase is followed by "and without having any obligation to do so";
- a reference to any legislation or to any section or provision of it includes:
 - any statutory modification or re-enactment of, or any statutory provision substituted for, that legislation, section or provision; and
 - ordinances, by-laws, regulations of and other statutory instruments issued under that legislation, section or provision,
- words in the singular include the plural (and vice versa) and words denoting any gender include all genders;
- any reference to "information" will be read as including information, representations, statements, data, samples, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated; and
- to the extent of any inconsistency, ambiguity or conflict between the terms of this Invitation and the terms of the Confidentiality and Disclaimer Deed Poll, the terms of the Confidentiality and Disclaimer Deed Poll prevail.

This Invitation and the procurement process will be governed by the law of New South Wales, and by lodging an Registration, the Interested Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales.

WSA Co

Attachment 1:
Registration Application

Western Sydney Airport – Visitor Centre & Office Accommodation Registration Application

TO: WSA Co

BY: [Insert legal name of the party seeking registration]

We refer to the Invitation to submit a Registration of Interest dated [insert].

We submit our Registration Application on the basis of, and accept and agree with, the terms of the Invitation to submit a Registration of Interest.

Details of the Interested Party:

Information requirement	Response
Legal name and ABN of Interested Party. If the party is a consortium, the name of the consortium and legal names and ABNs of each of its proposed members	
Address of the Interested Party (physical address to be provided, not a PO Box)	
Contact person to whom enquiries regarding the Registration Application should be addressed	
Contact details for the contact person named above	
Is the Interested Party Building Code 2016 Compliant	Yes / No

DATED this day of 2018

[Note to Interested Parties: Interested Parties may reproduce signature blocks as required, so that where the Interested Party is a consortium, this ROI Invitation Form can be signed by each participant comprising the Interested Party.]

EXECUTED by **[INSERT INTERESTED PARTY/PARTICIPANT NAME and ABN]**
in accordance with section 127 of the
Corporations Act 2001 (Cth):

Signature of director

Signature of director/secretary

Print Name

Print Name

EXECUTED by **[INSERT INTERESTED PARTY/PARTICIPANT NAME and ABN]**
under power of attorney in the presence of:

Signature of attorney

Signature of witness

Name

Name

Date of power of attorney

Attachment 2: Confidentiality and Disclaimer Deed Poll

Confidentiality and Disclaimer Deed Poll Western Sydney Airport

THIS DEED POLL is made on

20

IN FAVOUR OF WSA Co Limited (ACN 618 989 272) and any other Beneficiary

APPLICANT: *[Note to Applicant: If Applicant comprises more than one Participant, each Participant's name and ABN should be included.]*

Name:

ABN/ACN:

Address:

([together comprising] the **Applicant**).

RECITALS:

- A. WSA Co may disclose certain Confidential Information to the Applicant and provide the Applicant with access to certain Information Documents.
- B. This Deed Poll sets out the terms that will apply in respect of the Applicant's access to the Confidential Information and Information Documents.

THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Applicant means the entity or entities that have executed this Deed Poll.

Beneficiaries means the beneficiaries of the Applicant's promises under this Deed Poll, being WSA Co, the Commonwealth, and any entity notified under clause 7(h), and

Beneficiary means any of them.

Business Day means any day other than a Saturday, Sunday or public holiday in Sydney, or 27, 28, 29, 30 and 31 December.

Claim includes any claim, action, demand or proceeding:

- (a) arising out of, or in connection with, any task, thing or relationship connected with the Project; or
- (b) otherwise at law or in equity including:
 - (i) by or for breach of statute;
 - (ii) in tort for negligence or otherwise, including negligent misrepresentation; or

- (iii) for restitution, including restitution based on unjust enrichment.

The term "Claim" does not include a claim made against any Beneficiary by any third party, other than a third party to whom the Applicant discloses the Information Documents, arising from a breach by such Beneficiary of an obligation which the Beneficiary owes to that third party in relation to the Information Documents.

Commonwealth means the Crown in right of the Commonwealth of Australia.

Comprehensive Security Measures means such reasonable IT and physical security measures and workplace policies as required to prevent unauthorised disclosure and use.

Confidential Information means:

- (a) Information Documents;
- (b) information acquired by the Applicant or its Representatives in relation to the Project or the Works; and
- (c) any notes or other Documents which include the Confidential Information or any summary, extract or part of it, copies or any other thing derived from anything described in paragraph (a) or (b) of this definition,

whether or not marked as "Commercial in Confidence", "Proprietary" or "Confidential", and which may be provided in writing, electronically, verbally or otherwise, but does not include any information which the Applicant can demonstrate to be in the public domain or was known to the Applicant at the time of disclosure other than through a breach of this Deed Poll or any other obligation of confidence.

Data Room means, as the context requires, any or all of:

- (a) the electronic data room containing documents, data and other information regarding the Project;
- (b) the electronic data room containing WSA Co-initiated questions; and
- (c) any other electronic data room.

created and maintained by WSA Co for the purposes of the Works and any Procurement Documents process.

Document means any type of document, including:

- (a) paper or other material on which there is writing, printing, marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and
- (b) any material from which sounds, images, writing or messages can be reproduced.

Information Document means any information, opinion, data, materials, models or document which is:

- (a) made available to the Applicant through the Data Room;
- (b) issued or made available by, or on behalf of, any Beneficiary to the Applicant in connection with the Project or any Procurement Documents process and which at the

time of issue (or being made available) is expressly classified or stated to be an "Information Document";

- (c) issued or made available by, or on behalf of, any Beneficiary to the Applicant in connection with the Project, but which is not intended to form part of any Procurement Documents (regardless of whether or not it is expressly classified or stated to be an "Information Document"), including any information, opinion, data, materials, models or document which is provided (including verbally or visually) by WSA Co at, or following from, any market sounding or briefing or WSA Co's participation in any early tenderer involvement workshops or any other interactive engagement process under the Procurement Documents; or
- (d) otherwise obtained by the Applicant in connection with the Project or any Procurement Documents, including any public statement made or documents prepared by any Beneficiary or a representative of any Beneficiary; or
- (e) referred to or incorporated by reference in an Information Document,

whether issued or made available before or after the date of this Deed Poll.

Participant means an entity which is a partner or joint participant in the Applicant.

Procurement Documents means any registration of interest, request for tender or similar procurement document in relation to the Works or the Project.

Project means the Western Sydney Airport project.

Related Company means a related body corporate as defined by section 9 of the *Corporations Act 2001* (Cth).

Representatives means any employees, agents or contractors of the Applicant or any Participant that are in any way involved in the Project or the Works.

Works means the Visitor Centre & Office Accommodation described in the registration of interest document.

WSA Co means WSA Co Limited ACN 618 989 272.

1.2 Interpretation

In this Deed Poll unless the context otherwise requires:

- (a) references to a person include an individual, a body politic, the estate of an individual, a firm, a corporation, an authority, an association or joint venture (whether incorporated or unincorporated), or a partnership;
- (b) the words "including", "includes" and "include" will be read as if followed by the words "without limitation";
- (c) a reference to any party to this Deed Poll includes that party's executors, administrators, successors, and permitted substitutes and assigns, including any person taking part by way of novation;
- (d) a reference to this Deed Poll or to any other deed poll, deed, agreement, document or instrument is deemed to include a reference to this Deed Poll or such other deed poll,

deed, agreement, document or instrument as amended, novated, supplemented, varied or replaced from time to time;

- (e) words in the singular include the plural (and vice versa) and words denoting any gender include all genders;
- (f) a reference to:
 - (i) a party, clause or schedule is a reference to a party, clause or schedule of or to this Deed Poll; and
 - (ii) a paragraph or a sub-paragraph is a reference to a paragraph or sub-paragraph in the clause in which the reference appears;
- (g) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (h) no rule of construction applies to the disadvantage of a party on the basis that the party put forward or drafted this Deed Poll or any part;
- (i) any reference to "information" will be read as including information, representations, statements, data, samples, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated; and
- (j) headings do not affect the interpretation of this Deed Poll.

2. **Applicant disclaimer**

The Applicant:

- (a) warrants that it will not rely upon the Procurement Documents or Information Documents as being proper, accurate, adequate, suitable, current, fit for purpose, reasonable, reliable or complete for the purposes of enabling the Applicant to respond to the Procurement Documents or perform the Works which the Applicant will be required to perform if it enters into any contract with WSA Co relating to the Works;
- (b) warrants that it will make its own independent evaluation of the accuracy, adequacy, suitability, currency, fitness for purpose, reasonableness, reliability and completeness of the Procurement Documents or Information Documents for the purposes of enabling the Applicant to respond to the Procurement Documents or perform the obligations which the Applicant will be required to perform if it enters into any contract with WSA Co relating to the Works;
- (c) acknowledges and agrees that:
 - (i) no representation or warranty (express or implied) has been or is made by the Beneficiaries or any of them (or by anyone on their behalf) to the Applicant that:
 - (A) the scope of works and any technical criteria, data or any other specifications, or drawings included in the Procurement Documents or Information Documents will represent a completed strategy for any works or services relating to the Works or the Project or that they are

accurate, adequate, suitable, current, fit for purpose, reasonable or reliable for any purposes; and

- (B) the Procurement Documents or Information Documents or any advice or information given by any Beneficiary with respect to the Project, the Procurement Documents or the Information Documents, are accurate, adequate, suitable, current, fit for purpose, reasonable, reliable or complete for any purpose connected with the Project;
- (ii) the Beneficiaries will provide it with the Information Documents for the information only of the Applicant;
- (iii) the Information Documents or any information or data do not form part of the Procurement Documents and will not form part of any contract with respect to the Project (whether referred to in any contract, or included as a schedule, exhibit, annexure or otherwise);
- (iv) none of the Beneficiaries owes any duty of care to the Applicant with respect to the Procurement Documents or Information Documents;
- (v) the Beneficiaries:
 - (A) are not responsible for; and
 - (B) make no representation, guarantee or warranty in respect of, the contents of the Procurement Documents or Information Documents or any advice or information given by any Beneficiary with respect to the Project, the Procurement Documents or the Information Documents, including the accuracy, adequacy, suitability, currency, fitness for purpose, reasonableness, reliability or completeness of any reports, data, test results, samples, reports or geotechnical investigations, opinions, recommendations, findings or other information contained in the Procurement Documents or Information Documents;
- (vi) the Procurement Documents or Information Documents will not purport to contain, or be, all of the information that an interested party (including the Applicant) may require in order to make any decision to respond to the Procurement Documents or perform the obligations which the Applicant will be required to perform if it enters into a contract with WSA Co for the performance of the Works;
- (d) for any purpose in connection with the Project, the Applicant acknowledges and agrees that:
 - (i) the Beneficiaries will be providing the Procurement Documents and Information Documents to the Applicant in reliance upon the acknowledgements and warranties contained in this Deed Poll;
 - (ii) the Beneficiaries are relying on the skill and expertise of the Applicant in reviewing the Procurement Documents and Information Documents;
 - (iii) insofar as is permitted by law, the Beneficiaries will not be liable to the Applicant upon any Claim arising out of or any way in connection with:

- (A) the provision of, or the purported reliance upon, or use of, the Procurement Documents or Information Documents by the Applicant or any other person to whom the Procurement Documents or Information Documents are disclosed by the Applicant; or
- (B) a failure by a Beneficiary to provide any information to the Applicant; and
- (iv) none of the Beneficiaries have any obligation to provide any additional information or to update the Procurement Documents or Information Documents or to correct or inform any person or entity of any inaccuracies in the Procurement Documents or Information Documents which may become apparent;

3. **Release and Indemnity**

- (a) To the maximum extent permitted by law, the Applicant:
 - (i) unconditionally and irrevocably releases, discharges and indemnifies the Beneficiaries (or any of them) from and against:
 - (A) any Claim, liability, loss, damage, cost or expense suffered or incurred in connection with, or arising out of or in connection with, any breach of this Deed Poll by the Applicant or its Representatives or any disclosure of the Confidential Information by the Representatives other than as permitted by this Deed Poll;
 - (B) any Claim against any Beneficiary by, or liability of any Beneficiary to, any person; or
 - (C) (without being limited by clause 3(a)(i)(A)) any liabilities, costs, losses or damages suffered or incurred by any Beneficiary, arising, now or in the future, in any way out of or in connection with the provision of, or the purported reliance upon, or use of, the Procurement Documents or Information Documents by the Applicant, its Representatives or any other person to whom the Procurement Documents or Information Documents are disclosed by the Applicant;
 - (ii) unconditionally and irrevocably agrees that no Claim can be made by the Applicant or its Representatives against a Beneficiary arising in any way from, or relating in any way whatsoever to, the Procurement Documents or Information Documents and hereby releases each Beneficiary from any such claim.
- (b) It is not necessary for a Beneficiary to incur expense or make payments before enforcing its right of indemnity.

4. Disclosure and use of Confidential Information

4.1 **Applicant's obligations**

- (a) In consideration of the Beneficiaries agreeing to provide it with Confidential Information, the Applicant must, subject to clause 4.3, keep confidential and not disclose to any person the Confidential Information.

- (b) Except as required by law, the Applicant warrants that it will not:
 - (i) do any act or thing involving the use or disclosure of the Confidential Information which may cause loss or damage to the Beneficiaries;
 - (ii) use or permit the use of the Confidential Information for any purpose other than in connection with the Works unless authorised by a separate agreement between the Applicant and the Beneficiaries, and then only to the extent permitted by that agreement;
 - (iii) introduce any Confidential Information into any computer system or other device operated, controlled or which may be accessed to any extent by a person other than the Beneficiaries or any Representative to whom disclosure is permitted by clause 4.3;
 - (iv) copy or reproduce the Confidential Information except to the extent necessary for the Works; and
 - (v) make notes except to the extent necessary for the Works.

4.2 **Security measures**

The Applicant must establish and maintain Comprehensive Security Measures to ensure that any Confidential Information in its possession, custody or control is secure at all times. Without limiting this obligation, the Applicant must keep the Confidential Information no less secure than its own confidential information.

4.3 **When Applicant may disclose**

The Applicant may disclose the Confidential Information:

- (a) with the prior written consent of WSA Co;
- (b) to its Representatives to the extent that each has a need to know the information for the purposes of Procurement Documents and, in the case of Representatives that will have access to the Data Room; and
- (c) to the extent required by law or applicable listing rules.

4.4 **Representatives**

- (a) The Applicant must ensure that its Representatives (whether or not still employed or engaged by the Applicant) do not do or omit to do anything which if done or omitted to be done by the Applicant would be a breach of the Applicant's obligations under this Deed Poll.
- (b) In the event that a Representative does or omits to do anything which if done or omitted to be done by the Applicant would be a breach of the Applicant's obligations under this Deed Poll, such conduct will be deemed to be a breach of this Deed Poll by the Applicant.
- (c) The Applicant consents, and must procure the necessary consents from its Representatives, to such inspections and audits as may be reasonably required by any or all of the Beneficiaries for the purpose of auditing compliance by the Applicant and its Representatives with the terms of this Deed Poll.

4.5 Return of Confidential Information

- (a) Subject to the rest of this clause 4.6, if requested by WSA Co, the Applicant must:
- (i) promptly return to the relevant Beneficiary or Beneficiaries, as applicable, all documents and other physical records of Confidential Information in its possession, custody, power or control;
 - (ii) delete the Confidential Information from any computer system or other device operated, controlled or which may be accessed by the Applicant and its Representatives; and
 - (iii) provide a statutory declaration to any or all of the Beneficiaries, as applicable, confirming that all those documents and records and any copies have been returned or erased, as appropriate.
- (b) The Applicant may retain one copy of any Confidential Information as required to comply with any law, court order, rule or requirement of any stock exchange or government, corporate governance, insurance or internal audit requirements.
- (c) The Applicant is not required to delete Confidential Information that is stored in electronic form in back-up tapes, servers or other sources as a result of the Applicant's ordinary back-up procedures for electronic data, provided that no attempt is made by the Applicant to recover such Confidential Information from the back-up tapes, servers or other sources other than for purposes permitted by this Deed Poll.

4.6 No exclusion of law or equity

This Deed Poll must not be construed to exclude the operation of any principle of law or equity intended to protect and preserve the confidentiality of the Confidential Information.

5. Breach of confidentiality obligations

- (a) The Applicant must immediately notify WSA Co of, and take all steps necessary to prevent:
- (i) any actual, threatened or suspected breach of clause 4 of this Deed Poll by the Applicant; or
 - (ii) any unauthorised use or disclosure of the Confidential Information by the Applicant, its Representatives or any third parties,
- and must comply with any directions issued by any or all of the Beneficiaries regarding such breach or unauthorised use or disclosure.
- (b) The Applicant must provide such assistance as may be reasonably requested by any or all of the Beneficiaries in relation to any claim or proceedings that any or all of the Beneficiaries may take against any third party for unauthorised use or disclosure of the Confidential Information.

6. Exclusion of Applicant for Breach

The Applicant acknowledges and agrees that:

- (a) if the Applicant breaches a term of this Deed Poll WSA Co may in its absolute discretion exclude the Applicant from any further involvement in the Project by written notice to the Applicant;
- (b) WSA Co's rights under this clause 6 are without prejudice to any other rights or remedies which WSA Co may have in connection with the breach; and
- (c) to the extent permitted by law, the Applicant will have no claim against WSA Co arising out of WSA Co's exercise, or failure to exercise, its rights under this clause 6.

7. **Miscellaneous**

- (a) If the Applicant is more than one person, each person making up the Applicant is jointly and severally bound by the terms of this Deed Poll.
- (b) This Deed Poll is governed by the laws of New South Wales. The Applicant and the Beneficiaries submit to the non-exclusive jurisdiction of New South Wales.
- (c) This Deed Poll may not be revoked without the prior written consent of the Beneficiaries. Any amendments must be agreed in writing between the Applicant and WSA Co.
- (d) Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to this Deed Poll.
- (e) A consent required under this Deed Poll from any Beneficiary may be given or withheld, or may be given subject to any conditions, as the relevant Beneficiary (in its absolute discretion) thinks fit, unless this Deed Poll expressly provides otherwise.
- (f) To the extent permitted by law, in relation to its subject matter, this Deed Poll:
 - (i) embodies the entire understanding of the parties, and constitutes the entire terms agreed by the parties; and
 - (ii) supersedes any prior written or other agreement of the parties.
- (g) Any provision of this Deed Poll that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. This does not invalidate the remaining provisions of this Deed Poll nor affect the validity or enforceability of that provision in any other jurisdiction.
- (h) WSA Co may at any time give notice to the Applicant that another entity is to become an additional Beneficiary under this Deed Poll. WSA Co may give multiple notices under this clause. The Applicant agrees that on and from the date of WSA Co's notice, the entity identified by WSA Co will be a Beneficiary under this Deed Poll.
- (i) If for any reason a Beneficiary is unable to enforce against the Applicant its promises under this Deed Poll, the Applicant agrees that WSA Co may do so on behalf of any and all Beneficiaries.
- (j) This Deed Poll may be executed in counterparts.
- (k) Delivery of a counterpart of this Deed Poll by email attachment constitutes an effective mode of delivery.

8. **Waiver**

Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of a right, power or remedy provided by law or under this Deed Poll by all or any of the Beneficiaries does not preclude, or operate as a waiver of, the exercise or enforcement or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this Deed Poll.

Executed and delivered as a Deed Poll

Executed as a Deed Poll by **[insert]** in accordance with section 127 of the *Corporations Act 2001* by:

Director Signature

Director/Secretary Signature

Print Name

Print Name

[OR]

Each attorney executing this Deed Poll states that he or she has no notice of revocation or suspension of his or her power of attorney.

SIGNED, SEALED and DELIVERED as a Deed Poll for:
by its attorney under power of attorney / registered book
No
dated
in the presence of:

Witness Signature

Attorney Signature

Print Name

Print Name

[OR]

[Insert alternative valid execution. Ensure that where signing under a power of attorney, a copy of the power of attorney is provided with the executed Deed Poll.]

WSA Co

Attachment 3:
User Access Request Form

WSA Data Room – User Access Request Form

Registrant (Company or consortium name)	
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The Interested Party may nominate up to two individuals who will be its Primary Contacts for the Data Room Q&A facility. These Primary Contacts can but do not have to be the same individuals as the contacts nominated in the Registration Application.

Primary Contact			
Full name	Company	Phone number	Email address

For each user for whom access is being sought, please provide the following information.

Note: Each user must have read and understood the WSA Data Room Conditions of Use for the WSA Data Room as detailed in Appendix A to this User Access Request Form, and read and accept any other documents governing access to the WSA Data Room issued by WSA Co from time to time.

Full name	Company	Email address

Appendix A – WSA Data Room Conditions of Use

WSA Data Room – Visitor Centre & Office Accommodation

This data room (**WSA Data Room**) has been established to facilitate communications between WSA Co and the entities that have submitted to WSA Co a Registration Application in response to the "Invitation to submit a Registration of Interest" (**ROI**) and who WSA Co has determined to be eligible for registration for receipt of the Request for Tender (**Registrants**).

Access to the WSA Data Room is limited to Registrants and their authorised or permitted representatives (collectively, **Permitted Users**) for the duration of the procurement process for the Visitor Centre & Office Accommodation for the Western Sydney Airport project.

To access the WSA Data Room, please read the Conditions of Use, below. If you agree to accept the Conditions of Use, select "I have read, understood and agree to the above" and click on the "Submit" button and you will proceed to the WSA Data Room. If you do not agree to accept the Conditions of Use, select "I do NOT agree to the above" and click on the "Submit" button and you will not be permitted access to the WSA Data Room.

Conditions of Use

Access to and use of the information contained on this website is subject to and conditional upon the following terms and conditions:

1. The information contained on this website is "Confidential Information" for the purposes of the confidentiality and disclaimer deed poll executed by the Registrant and delivered to WSA Co in accordance with the ROI (**Confidentiality and Disclaimer Deed Poll**), which applies to the whole procurement process for the Visitor Centre & Office Accommodation. The information is only available to Permitted Users and is subject to the terms contained in:
 - a. the WSA Data Room, including these Conditions of Use;
 - b. the Confidentiality and Disclaimer Deed Poll, the terms of which you have read and understood;
 - c. any guide which applies to the use of the WSA Data Room and is provided to you by WSA Co (**Data Room User Guide**);
 - d. the ROI; and
 - e. any other terms of which WSA Co advises you from time to time.
2. You agree to comply with the terms of any Data Room User Guide.
3. You acknowledge that you have executed or have agreed to comply with the terms of the Confidentiality and Disclaimer Deed Poll and will take all necessary precautions to protect the confidentiality of the Confidential Information.

4. WSA Co has provided Permitted Users with access to the WSA Data Room. You agree to:
 - a. protect your username and password from being lost, stolen or disclosed;
 - b. not record or provide your username or password electronically or physically in a manner that will allow someone else (other than an authorised representative or a permitted representative) to obtain or use them;
 - c. notify WSA Co as soon as you think or suspect that someone (other than an authorised representative or a permitted representative) knows your username or password or they have been lost or stolen; and
 - d. notify WSA Co immediately of any change to the identity of your employer.
5. WSA Co is not responsible for the operation of any computer or communication system that you use to access the WSA Data Room. WSA Co does not represent that access to the WSA Data Room will always be available. You agree that WSA Co cannot be held responsible for delays, errors, inaccuracies, or omissions due to computer viruses, a failure in a computer system or ancillary equipment or any other circumstances beyond WSA Co's direct control.
6. You agree that WSA Co may at any time choose to cease providing you with access to the WSA Data Room.
7. WSA Co and the Commonwealth make no representations or warranties about the accuracy, adequacy, fitness for purpose, currency, reasonableness, reliability, completeness or suitability for any particular purpose of the information contained in the WSA Data Room or that the information is free of infection by computer viruses. Neither WSA Co nor the Commonwealth will be liable for any loss or damage suffered by you, caused by any error, inaccuracy, incompleteness or other similar defect in the information or the existence of any computer virus.
8. For the purposes of improving and monitoring use of the WSA Data Room, WSA Co may collect information about your use of and access to the WSA Data Room and the information available on it. You agree to WSA Co's use of such information for this purpose.
9. All material in the WSA Data Room, including (but not limited to) text, graphics, information architecture and coding, is subject to copyright as well as other intellectual property rights. Other than as expressly permitted by the Confidentiality and Disclaimer Deed Poll, no part of the material may be reproduced, adapted or transmitted without the prior written permission of the copyright owner.

You agree to notify WSA Co immediately upon becoming aware of any suspected or known non-compliance with these Conditions of Use.