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## Notice of Adjourned Meeting

in relation to the adjourned general meeting of  
members of the

### **Asia Pacific Data Centre Trust**

**ARSN 161 049 556**

convened under section 252D of the Corporations Act

**NEXTDC recommends that all APDC Securityholders eligible to vote  
on the Resolution vote IN FAVOUR of the Resolution.**

This Notice of Adjourned Meeting is issued by NEXTDC Limited, in relation to the adjourned general meeting of the members of the Asia Pacific Data Centre Trust.

This is an important document and requires your immediate attention. The resolution relates to a proposal to wind up the Asia Pacific Data Centre Trust.

If you are in any doubt about how to deal with this document, you should contact your broker, financial adviser or legal adviser immediately.

Your vote is important. A Proxy Form for the Meeting accompanies this Notice of Adjourned Meeting. Please complete, sign and return the Proxy Form in accordance with the instructions which appear on the Proxy Form.

Adjourned meeting to be held at 11.00am (Sydney time) on Friday, 14 September 2018 at Herbert Smith Freehills, Level 34, 161 Castlereagh Street, Sydney, NSW 2000 Australia.



## Notice of Adjourned General Meeting

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Further to the announcement of NEXTDC Limited (**NEXTDC**) on 29 January 2018 confirming the adjournment of the general meeting of members of Asia Pacific Data Centre Trust (**APDC Trust**), the meeting will be resumed at 11.00am (Sydney time) on Friday, 14 September 2018 at Level 34, 161 Castlereagh Street, Sydney, NSW 2000 (**Meeting**).

### **BUSINESS**

The Business of the Meeting will consist of the following:

#### **1. To wind up the APDC Trust**

To consider, and, if thought fit, to pass the following resolution as an extraordinary resolution (**Resolution**):

*“That, for the purposes of section 601NE(1)(b) of the Corporations Act 2001 (Cth), and for all other purposes, the responsible entity of the Asia Pacific Data Centre Trust ARSN 161 049 556 (APDC Trust) is directed to wind up the APDC Trust.”*

**NEXTDC recommends that all APDC Securityholders eligible to vote on the Resolution vote IN FAVOUR of the Resolution.**

### **EXPLANATORY INFORMATION**

The Supreme Court of New South Wales (**Court**) issued orders on 31 January 2018 noting that 360 Capital FM Limited (**360 FM**) and NEXTDC had undertaken to the Court that the meeting be adjourned until five (5) business days after the Court determination.

On 7 September 2018, the Court determined that based on the circumstances as at the date of the hearing, 360 FM is not an associate of Asia Pacific Data Centre Limited (**APDC RE**), and accordingly that 360 FM is eligible to vote on the Resolution. NEXTDC is currently considering whether to appeal this decision.

This Notice of Adjourned Meeting calls for the Meeting to be resumed in accordance with the orders of the Court.

The further information set out below supplements the information in relation to the Resolution provided in the Meeting Booklet dated 2 January 2018 (the **Initial Notice of Meeting**).

#### **Other developments**

Since the adjournment of the Meeting on 31 January 2018, the following behaviour and conduct of APDC RE in relation to the APDC Trust and Asia Pacific Data Centre Holdings Limited (**APDC Holdings**) (together with the APDC Trust, the **APDC Group**) has only caused to strengthen NEXTDC’s belief that the APDC Trust is not being operated with sound governance practices and that winding up of APDC Trust remains the appropriate course of action.

- **No strategic clarity:** In APDC’s FY18 Annual Report dated 21 August 2018, it noted that all assets in the portfolio remain subject to an expression of interest campaign (**Sales Process**) and are therefore reported as ‘held for sale’.



Notwithstanding, APDC stated in its FY18 Annual Results Presentation that it has conducted a “strategic review” and determined that it may consider acquiring further data centres in the APAC region, developing new “best in class” data centres, or even exploring opportunities as an operator of data centre assets despite no capability, resources, experience nor customer relationships.

The new proposed strategic intent of the APDC Group to become an entity that engages in property development and data centre operations is in stark contrast to its investment standing as a passive A-REIT.

- **Failed sales process:** Despite running a global Sales Process for approximately eight months, the APDC Group has still failed to secure any binding offers for any of the APDC assets:
  - APDC put three separate pre-emptive offers to NEXTDC in relation to the APDC portfolio at \$300m (28 December 2017), \$280m (15 February 2018) and \$265m (5 April 2018), all of which were promptly rejected by NEXTDC.
- **Intention to wind up the APDC Trust:** On 14 February 2018, the APDC Group also stated its intention to wind up the APDC Trust if the Sales Process resulted in a sale of the portfolio. As noted above, there has yet to be any contracted sale of the properties given the inflated view of value expressed by APDC.
- **ASIC enquiries:** The discovery by NEXTDC that ASIC had conducted enquiries in April 2018 into the potentially misleading director valuation of APDC’s portfolio at \$280 million as at 31 December 2017. Notably, ASIC expressly reserved the right to make further enquiries and has left open whether APDC RE had complied with its obligations under the Corporations Act.
- **Increased management costs:** Contrary to 360 Capital Group’s previous statements,<sup>1</sup> while under the control of 360 Capital Group, the APDC Group has significantly increased its overall management costs by growing the staff and executive team despite a passive portfolio, no coherent strategy and an ongoing failed Sales Process. Despite the growth in the overall management cost base, the APDC Group has not grown its portfolio nor has it increased its involvement in the day-to-day management of its three properties.
- **‘Suboptimal returns’:** On 22 August 2018, 360 Capital Group, APDC Group’s controlling securityholder, lamented in its FY18 Annual results presentation that the *‘current distribution returns from [APDC] is sub-optimal’*. As mentioned above, between 360 Capital Group and APDC, there is no coherent strategy to rectify these suboptimal returns.
- **Tenant disruption:** Continued disruptive behaviour towards NEXTDC as APDC Trust’s sole tenant at each of its properties as well as the pursuit of unauthorised access to the secured properties. This has included the conduct of costly legal proceedings against NEXTDC with an apparent disregard to the rights of the tenant under each lease (**Access Dispute**), which were recently dismissed by the Court.
- **Wasting APDC Trust assets:** The APDC RE pursued the futile Access Dispute through an extensive litigation process despite NEXTDC’s stated willingness to provide access for valuers and prospective purchasers on a case by case basis in accordance with the terms of its leases. Cost orders have now been made in favour of NEXTDC on several occasions. Indeed, in the judgement delivered on 4 September 2018, it was stated “[t]here is not now, and there has not to date been, any assertion of conduct on behalf of the Tenant which has either been not in good faith or not reasonable”. The APDC RE has relied on the assets of the APDC Trust

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<sup>1</sup> See 360 Capital Group’s statements in relation to reducing APDC management costs in its 28 June 2017 EGM notice



to indemnify itself in relation to the legal expenses needlessly incurred in its various legal actions, to the detriment of all APDC Securityholders.

Furthermore, in a report dated 18 January 2018 in relation to NEXTDC's winding up proposal, the independent proxy advisor, Institutional Shareholder Services (ISS), recommended APDC Securityholders vote in favour of the resolution to wind up the APDC trust, citing several reasons, including 'corporate governance concerns'.

The APDC Group had previously proposed to borrow \$100 million and use the proceeds of the borrowing to conduct a capital distribution (the **Capital Distribution Proposal** referred to in the Initial Notice of Meeting). Although, given the passing of time such a proposal may not involve financial assistance, for the reasons set out in the Initial Notice of Meeting, NEXTDC remains concerned that implementation of the Capital Distribution Proposal would not be in the best interests of APDC Securityholders.

**Accordingly, NEXTDC continues to recommend that all APDC Securityholders eligible to vote on the Resolution vote IN FAVOUR of the Resolution.**

## CONDUCT OF VOTING

Members may vote:

- by attending this Meeting in person; or
- by proxy (see below); or
- by corporate representative in the case of corporate members (see below).

The Resolution is an extraordinary resolution of the APDC Trust. An extraordinary resolution will be passed if it is approved by more than 50% of votes that may be cast by members entitled to vote on the Resolution (including members who are not present in person or by proxy).

Pursuant to section 252S of the Corporations Act, the members present at the Meeting must elect a member present to chair the meeting. Clause 18.4(b) of the APDC Trust Constitution provides that, if there is an equality of votes on a show of hands or on a poll, the chair has a casting vote in addition to the votes to which they may be entitled as a unitholder.

## VOTING AT THE MEETING

NEXTDC intends to call for voting on the Resolution to be conducted by poll. Under the Corporations Act, an extraordinary resolution put to the vote at a meeting must be decided on a poll.

Pursuant to section 253C of the Corporations Act, on a poll, a member (or their nominated proxy or representative) has one vote for each dollar of the value of the total interests the member has in the APDC Trust.

## PROXY VOTING

A Proxy Form is included with this Notice of Adjourned Meeting.

Members wishing to appoint a proxy to attend and vote at the meeting must complete and return the Proxy Form in accordance with the instructions on it. Please note that the proxy does not need to be a member of APDC. You are entitled to appoint one or two proxies and specify the number or proportion of votes that each proxy may exercise. If you appoint two proxies, and the appointment does not specify the proportion or number of



votes that each proxy may exercise, each proxy will be entitled to exercise half of your votes.

To ensure the integrity of the proxy voting process, NEXTDC has engaged a professional third party expert, Link Market Services, to collect and collate Proxy Forms returned to it. Link Market Services will at all times handle the Proxy Forms with due care and skill and will safeguard the Proxy Forms against tampering, filtering or other inappropriate handling.

Please send completed Proxy Forms and corporate authorised representative forms to:

**By Mail: A reply paid envelope is enclosed with the Notice of Adjourned Meeting.**

Asia Pacific Data Centre Group, C/- Link Market Services Limited  
Locked Bag A14 Sydney South NSW 1235 Australia

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**By Fax:** +61 2 92870309

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**In person:** Link Market Services Limited, 1A Homebush Bay Drive, Rhodes NSW 2138  
OR  
Level 12, 680 George Street, Sydney, NSW 2000

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Please note that, in order for your appointment of proxy to be effective, Link Market Services will need to forward your Proxy Form to the APDC RE so that it is received by the APDC RE by no later than 11.00am (Sydney time) on Thursday, 13 September 2018. In order for it to do so, please complete, sign and return your Proxy Form to Link Market Services, in accordance with the details appearing on the Proxy Form, as soon as possible, and in any event no later than 5.00pm (Sydney time) on Wednesday, 12 September 2018.

While it is the preference of NEXTDC for APDC Securityholders to send the Proxy Forms and corporate authorised representative forms to Link Market Services at the above address, you may also return these documents directly to the APDC RE at the following address:

Level 11  
20 Hunter Street  
Sydney, New South Wales, 2000

Any Proxy Forms returned to the APDC RE must be received by the APDC RE by 11.00am (Sydney time) on Thursday, 13 September 2018.

## **CORPORATE SECURITYHOLDERS**

Corporate members who wish to appoint an individual as a representative to attend the Meeting on their behalf must provide that person with a properly executed letter or other document confirming that they are authorised to act as the company's representative. A form can be obtained from APDC's Registry for this purpose.

## **ELIGIBILITY TO VOTE**

In accordance with Section 1074E(2)(g)(i) of the Corporations Act, and Regulation 7.11.37 of the Corporations Regulations, NEXTDC has determined that, for the purpose of determining entitlements to attend and vote at this Meeting, units will be taken to be held by the persons who are the registered holders at 7.00pm (Sydney time) on



Wednesday, 12 September 2018. Accordingly, unit transfers registered after that time will be disregarded in determining entitlements to attend and vote at this Meeting.

#### **VOTING EXCLUSION STATEMENT**

Pursuant to section 253E of the Corporations Act, the responsible entity of a registered scheme and its associates are not entitled to vote their interest on a resolution at a meeting of the scheme's members (other than, in the case of a listed scheme, a resolution to remove and replace the responsible entity) if they have an interest in the resolution or matter other than as a member.

However, a proxy who is not entitled to vote on a resolution as a member may vote as a proxy for another member who can vote if their appointment specifies the way they are to vote on the resolution and they vote that way.

Dated: 10 September 2018

**Doug Flynn**

Independent Chairman

Proxy Form for an adjourned meeting of the members of Asia Pacific Data Centre Trust issued by NEXTDC Limited (**NEXTDC**)

**LODGE YOUR VOTE - OPTION 1**

**BY MAIL**  
Asia Pacific Data Centre Group  
C/- Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235 Australia

**BY FAX**  
+61 2 9287 0309

**BY HAND**  
Link Market Services Limited  
1A Homebush Bay Drive, Rhodes NSW 2138;or  
Level 12, 680 George Street, Sydney NSW 2000

**ALL ENQUIRIES TO**  
Telephone: +61 1300 554 474



**X999999999999**

**PROXY FORM**

I/We being a member(s) of Asia Pacific Data Centre Trust (**APDC Trust**) and entitled to attend and vote hereby appoint:

**APPOINT A PROXY**

If you are NOT appointing the Chairman of the Meeting as your proxy, please write the name of the person or body corporate you are appointing as your proxy. You may strike out and replace the name in this box if you wish. If you strike out the name in this box and do not write a replacement name, you will be taken to have left this box blank and not have named a person or body corporate as your proxy.

**Michael Helmer**

**OR**

**the Chairman of the Meeting (mark box)**

or failing the person or body corporate named, or if no person or body corporate is named, the Chairman of the Meeting, as my/our proxy to act on my/our behalf (including to vote in accordance with the following directions or, if no directions have been given and to the extent permitted by the law, as the proxy sees fit) at the adjourned General Meeting of APDC Trust to be held at **11:00am (Sydney time) on Friday 14 September 2018 at Level 34, 161 Castlereagh Street, Sydney, NSW 2000 (the Meeting)** and at any postponement or adjournment of the Meeting.

**VOTING DIRECTIONS**

Proxies will only be valid and accepted by the responsible entity of the APDC Trust if they are signed and received by the responsible entity no later than 11.00am on Thursday 13 September 2018.

Proxies can also be submitted to the address nominated by NEXTDC overleaf by 5:00pm (Sydney time) on Wednesday 12 September 2018. These proxies will be delivered to the responsible entity by no later than 11.00am on Thursday 13 September 2018.

Please read the voting instructions overleaf before marking any boxes with an

**Resolution**

1 To wind up the APDC Trust

For Against Abstain\*



**Recommendation**

**NEXTDC recommends that all APDC Securityholders eligible to vote on the Resolution vote IN FAVOUR of the Resolution.**

For Against Abstain\*



\* If you mark the Abstain box, you are directing your proxy not to vote on your behalf on a show of hands or on a poll and your votes will not be counted in computing the required majority on a poll.

**SIGNATURE OF MEMBERS – THIS MUST BE COMPLETED**

Member 1 (Individual)

Joint Member 2 (Individual)

Joint Member 3 (Individual)

Sole Director and Sole Company Secretary

Director/Company Secretary (Delete one)

Director

This Proxy Form should be signed by the member. If a joint holding, either member may sign. If signed by the member's attorney, the power of attorney must have been previously noted by the registry or a certified copy attached to this form. If executed by a company, the form must be executed in accordance with the company's constitution and the *Corporations Act 2001* (Cth).

**AJDU PRX1803N**



## HOW TO COMPLETE THIS SECURITYHOLDER PROXY FORM

### YOUR NAME AND ADDRESS

This is your name and address as it appears on APDC Trust's security register of members. If this information is incorrect, please make the correction on the form. Members sponsored by a broker should advise their broker of any changes. **Please note: you cannot change ownership of your securities using this form.**

### APPOINTMENT OF PROXY

If you wish to appoint the Chairman of the Meeting as your proxy, mark the box in Step 1. If you wish to appoint someone other than the Chairman of the Meeting as your proxy, please write the name of that individual or body corporate in Step 1. A proxy need not be a member of APDC Trust. If you leave this section blank, or your named proxy does not attend the Meeting, the Chairman will be your proxy.

### DEFAULT TO CHAIRMAN OF THE MEETING

Any directed proxies that are not voted on a poll at the Meeting in accordance with the instructions will default to the Chairman of the Meeting, who is required to vote those proxies as directed. Any undirected proxies that default to the Chairman of the Meeting will be voted according to the instructions set out in this Proxy Form.

### VOTES ON ITEMS OF BUSINESS – PROXY APPOINTMENT

You may direct your proxy how to vote by placing a mark in one of the boxes opposite the item of business. All your securities will be voted in accordance with such a direction unless you indicate only a portion of voting rights are to be voted on any item by inserting the percentage or number of securities you wish to vote in the appropriate box or boxes. If you do not mark any of the boxes on the items of business, your proxy may vote as he or she chooses subject to any voting restrictions that apply. If you mark more than one box on an item your vote on that item will be invalid.

### APPOINTMENT OF A SECOND PROXY

You are entitled to appoint up to two persons as proxies to attend the Meeting and vote on a poll. If you wish to appoint a second proxy, an additional Proxy Form may be obtained by telephoning the APDC Trust's security registry or you may copy this form and return them both together.

To appoint a second proxy you must:

- (a) on each of the first Proxy Form and the second Proxy Form state the percentage of your voting rights or number of securities applicable to that form. If the appointments do not specify the percentage or number of votes that each proxy may exercise, each proxy may exercise half your votes. Fractions of votes will be disregarded; and
- (b) return both forms together.

### SIGNING INSTRUCTIONS

You must sign this form as follows in the spaces provided:

**Individual:** where the holding is in one name, the holder must sign.

**Joint Holding:** where the holding is in more than one name, either member may sign.

**Power of Attorney:** to sign under Power of Attorney, you must lodge the Power of Attorney with the registry. If you have not previously lodged this document for notation, please attach a certified photocopy of the Power of Attorney to this form when you return it.

**Companies:** where the company has a Sole Director who is also the Sole Company Secretary, this form must be signed by that person. If the company (pursuant to section 204A of the *Corporations Act 2001*) does not have a Company Secretary, a Sole Director can also sign alone. Otherwise this form must be signed by a Director jointly with either another Director or a Company Secretary. Please indicate the office held by signing in the appropriate place.

### CORPORATE REPRESENTATIVES

If a representative of the corporation is to attend the Meeting the appropriate "Certificate of Appointment of Corporate Representative" should be produced prior to admission in accordance with the Notice of Meeting. A form of the certificate may be obtained from the Company's security registry or online at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au).

### LODGEMENT OF A PROXY FORM - OPTION 1

This Proxy Form (and any Power of Attorney under which it is signed) must be received at an address given below by **5:00pm (Sydney time) by Wednesday 12 September 2018**, to enable this Proxy Form to be delivered to the responsible entity of the APDC Trust by no later than 11.00am (Sydney time) on Thursday 13 September 2018. Any Proxy Form received by the responsible entity of the APDC Trust after that time will not be valid for the scheduled Meeting.

Proxy Forms may be lodged using the reply paid envelope or:



#### BY MAIL

Asia Pacific Data Centre Limited  
C/- Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235  
Australia



#### BY FAX

+61 2 9287 0309



#### BY HAND

delivering it to Link Market Services Limited\*  
1A Homebush Bay Drive  
Rhodes NSW 2138  
or  
Level 12  
680 George Street  
Sydney NSW 2000

\* During business hours (Monday to Friday, 9:00am–5:00pm)

### LODGEMENT OF A PROXY FORM - OPTION 2

This Proxy Form (and any Power of Attorney under which it is signed) may also be sent to the address given below, being the registered address of the responsible entity of the APDC Trust, by no later than 11.00am on Thursday 13 September 2018.

#### Asia Pacific Data Centre Limited

Level 11, 20 Hunter Street  
Sydney NSW 2000

**IF YOU WOULD LIKE TO ATTEND AND VOTE AT THE GENERAL MEETING, PLEASE BRING THIS FORM WITH YOU.  
THIS WILL ASSIST IN REGISTERING YOUR ATTENDANCE.**