***Government Information (Public Access) Act 2009***

**Explanatory Table**

**Project Cirrus – Framework Agreement**

Capitalised terms in this table have the meaning given to them in the document title “Project Cirrus – Framework Agreement” dated 4 March 2020 (**Framework Agreement**) unless the context indicated otherwise.

In preparing this redaction register (**Redaction Register**), Transport for NSW (**TfNSW**) has:

1. identified the reason(s) under the *Government Information (Public Access) Act 2009* (NSW) (**GIPA Act**) for each redaction; and
2. weighed each redaction against the key public interest considerations for disclosure, including:
3. promoting open discussion of public affairs, enhancing Government accountability or contributing to positive and informed debate on issues of public importance;
4. informing the public about the operations of the agency; and
5. ensuring effective oversight of the expenditure of public funds.

TfNSW has redacted the contractual provision referred to in the below table due to overriding public interest against disclosure. TfNSW will continue to review this information to ensure that where the prejudicial effect of disclosure will be removed due to a passage of time or change of circumstances, full disclosure will be made.

A reference in this table to the “contractor” is a reference to “Vertical First Pty Ltd (ABN 50 636 939 985) as trustee of the Vertical First Trust” or, in relation to Annexure 3 (Draft Project Development Agreement) to the Framework Agreement, the developer appointed by the contractor in accordance with the Framework Agreement.

| **Item** | **Page reference** | **Clause (and general description)** | **Information redacted** | **Reason(s) for redaction under GIPA Act** | **Public interest considerations** |
| --- | --- | --- | --- | --- | --- |
| **GENERAL CONDITIONS** |
|  | Contents 1 | Contents page | The information redacted is defined terms and clauses which have been redacted entirely in the general conditions. | *Section 32(1)(a), paragraphs (b) and (e)* *of the definition of "commercial-in-confidence provisions" at section 1 of Schedule 4* The disclosure of this information would reveal the contractor’s cost structure or profit margins and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors. *Section 32(1)(d), item 1(f) of the table in section 14* The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions. *Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14* The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests. There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because: 1. exposing the redacted information would reveal the apportionment of risk between TfNSW and the contractor in relation to certain provisions under the Framework Agreement, and therefore the level of risk that the parties were willing to accept in relation to the delivery of the project; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information would reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 1 | Recital C | The information redacted is the entire Recital.  | *Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. exposing the redacted information would reveal the apportionment of risk between DPC and the contractor in relation to certain third party arrangements; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of this information could prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 3 | Definition of “Adjoining Owner’s Agreement” in clause 1.1 of the General Conditions | The information redacted is the entire definition except for the title. | *Section 32(1)(d), Item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contracts, diminish the competitive value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the rights and obligations of the parties in relation to third party agreements;
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor’s and TfNSW’s, thereby prejudicing the contractor’s and TfNSW’s negotiating position; and
3. revealing the information could prejudice the parties’ legitimate business, commercial or financial interests and also prejudice the effective exercise by TfNSW of its functions.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 4  | Definition in clause 1.1 of the General Conditions | The information redacted is the entire definition. | *Section 32(1)(d), Item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contracts, diminish the competitive value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the rights and obligations of the parties in relation to third party agreements;
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
3. revealing the information could prejudice the parties’ legitimate business, commercial or financial interests and also prejudice the effective exercise by TfNSW of its functions.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 5 | Definition of “Assignment Tests” in clause 1.1 of the General Conditions | The information redacted is the entire definition except for the title. | *Section 32(1)(d), Item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contracts, diminish the competitive value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the rights and obligations of the parties in relation to third party agreements;
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
3. revealing the information could prejudice the parties’ legitimate business, commercial or financial interests and also prejudice the effective exercise by TfNSW of its functions.

**Review:** This information would be reviewed for disclosure as events and circumstances |
|  | 5 | Definition of “Atlassian Building” in clause 1.1 of the General Conditions | The information redacted is the GFA figures. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final design of the Atlassian Building is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. this definition contains commercial information which is intellectual property in which the contractor has an interest; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 6 | Definition of “Atlassian Unacceptable Condition” in clause 1.1 of the General Conditions | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with the applications process. The parties invested significant time developing this arrangement and might be expected to benefit from using a similar arrangement in the future. Revealing this information is therefore expected to diminish the value of that information and prejudice TfNSW’s and the contractor's business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to obligations that the contractor was prepared to accept in relation to the applications development process. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the parties and prejudice its business, commercial and financial interests; and
4. the public interest has been served by revealing the fact that the contractor may object to a Development Consent on the basis that it contains certain unacceptable conditions. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise unacceptable conditions.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 10 | Definition of “Condition Precedent Deadline Date” in clause 1.1 (Definitions) of the General Conditions | The information redacted is the date. | *Section 32(1)(d), Item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contracts, diminish the competitive value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk;
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. the public interest has been served by revealing the fact that there is a Conditions Precedent Deadline Date. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise date.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 11 | Definition of “Date for Construction Commencement” in clause 1.1 (Definitions) of the General Conditions | The information redacted is the date. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. the public interest has been served by revealing the fact that there is a Date for Construction Commencement. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise date.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 11 | Definition of “Date for Practical Completion of the Development Works” in clause 1.1 (Definitions) of the General Conditions | The information redacted is the date. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. the public interest has been served by revealing the fact that there is a Date for Practical Completion of the Development Works. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise date.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 11 | Definition of “Date for Practical Completion of the State Works” in clause 1.1 (Definitions) of the General Conditions | The information redacted is the date. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. the public interest has been served by revealing the fact that there is a Date for Practical Completion of the State Works. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise date.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 12 | Definition of “Design Documentation (Reviewable Development Works)” in clause 1.1 of the General Conditions | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with design development. Revealing this information is therefore expected to diminish the value of that information and prejudice TfNSW’s and the contractor's business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to obligations that the parties were prepared to price and accept in relation to design development. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the parties and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; an
5. the public interest has been served by revealing the fact that the there is certain design documentation relating to the Development Works that may be reviewed by TfNSW as part of the design development process under the Framework Agreement. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise design documentation that is reviewable.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 14 | Definition in clause 1.1 of the General Conditions | The information redacted is the entire definition. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the extent of the contractor’s responsibility and obligations for certain third party agreements;
2. exposing the redacted information would reveal the allocation of risk in respect of fulfilling the requirements of third party agreements; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors, and would place the contractor at a substantial commercial disadvantage in its negotiations with other contractors and third parties involving the same third party agreements. Therefore the disclosure of the information could prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 15 | Definition of “Excluded Consultants” in clause 1.1 of the General Conditions | The information redacted are the names, ABNs and addresses of the Excluded Consultants. | *Section 32(1)(d), items 4(c) and 4(d) of the table in section 14*The disclosure of this information could diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:1. the redacted information is the names of the Excluded Consultants under the Framework Agreement; and
2. if the redacted information were to be disclosed, potential third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiation position. Therefore disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 16  | Definition of “Financial Close Sunset Date” in clause 1.1 of the General Conditions  | The information redacted is the date. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. the public interest has been served by revealing the fact that there is a Financial Close Sunset Date. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 16 | Definition in clause 1.1 of the General Conditions | The information redacted is the entire definition. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information refers to existing tenancy arrangements with third parties; and
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 17 | Definition of “Guaranteed Obligations” in clause 1.1 of the General Conditions | The information redacted is the entire definition except for the title. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information would reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighted the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out commercially sensitive information regarding the scope of the guarantee provided by the guarantor;
2. exposing the information would reveal the apportionment of risk between TfNSW, the guarantor and the contractor in relation to the occurrence of particular events. Exposing this information may also provide insight into the contractor and the guarantor’s views on the likelihood of certain risks arising; and
3. revealing the information would place the parties at substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potentially future clients, competitors and contractors. Therefore the disclosure of information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 19 | Definition of “Land” in clause 1.1 of the General Conditions | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information relates to existing tenancy arrangements with third parties; and
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 19 | Definitions in clause 1.1 of the General Conditions | The information redacted is each entire definition. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information refers to existing tenancy arrangements with third parties; and
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 20 | Definition of “Material Adverse Effect” in clause 1.1 of the General Conditions | The information redacted is the entire definition except for the title. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information would reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests. | TfNSW weighted the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out commercially sensitive information regarding the scope of the guarantee provided by the guarantor;
2. exposing the information would reveal the apportionment of risk between TfNSW, the guarantor and the contractor in relation to the occurrence of particular events. Exposing this information may also provide insight into the contractor and the guarantor’s views on the likelihood of certain risks arising; and
3. revealing the information would place the parties at substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potentially future clients, competitors and contractors. Therefore the disclosure of information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 20 | Definition of “Material Deterioration (Builder)” in clause 1.1 of the General Conditions | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the procurement of third party builders;
2. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to prejudice its business, commercial and financial interests; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor, thereby prejudicing the contractor’s negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 21 | Definition of “Material Deterioration (Developer)” in clause 1.1 of the General Conditions | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the procurement of third party developers;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor, thereby prejudicing the contractor’s negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 21 | Definition in clause 1.1 of the General Conditions | The information redacted is the entire definition. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to develop pricing and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor and TfNSW. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising and the risks that the parties are willing to price and accept; and
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 26 | Definition of “Qualifying Application” in clause 1.1 of the General Conditions | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the application development and TfNSW’s review of applications;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor, thereby prejudicing the contractor’s negotiating position; and
5. the public interest has been served by revealing the fact that there is certain applications that may be reviewed by TfNSW as part of the application process under the Framework Agreement. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise applications that are reviewable.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 28 | Definition of “State Rejection Right” in clause 1.1 of the General Conditions | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the application process;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. the public interest has been served by revealing the fact that TfNSW may reject to certain applications as part of the application process under the Framework Agreeme. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise conditions.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 29 | Definition of “State Unacceptable Condition” in clause 1.1 of the General Conditions | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the application process;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. the public interest has been served by revealing the fact that TfNSW may object to a Development Consent on the basis that it contains certain unacceptable conditions. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise unacceptable conditions.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 30 | Definition of “Sunset Date (Commencement)” in clause 1.1 of the General Conditions  | The information redacted is the date. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. the public interest has been served by revealing the fact that there is a Sunset Date to commencement of the project. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 30 | Definition of “Sunset Date (Completion) – Development Works” in clause 1.1 of the General Conditions  | The information redacted is the date. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. the public interest has been served by revealing the fact that there is a Sunset Date to completion of the Development Works. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 30 | Definition of “Sunset Date (Completion) – State Works” in clause 1.1 of the General Conditions  | The information redacted is the date. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. the public interest has been served by revealing the fact that there is a Sunset Date for completion of the State Works. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 30 | Definition in clause 1.1 of the General Conditions | The information redacted is the entire definition. | *Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business interests.*Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by the agency of the agency’s functions.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information refers to a third party agreement that is not required to be disclosed; and
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 31 | Definition in clause 1.1 of the General Conditions | The information redacted is the entire definition. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the extent of the contractor’s responsibility and obligations for certain third party agreements;
2. exposing the redacted information would reveal the allocation of risk in respect of fulfilling the requirements of third party agreements; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors, and would place the contractor at a substantial commercial disadvantage in its negotiations with other contractors and third parties involving the same third party agreements. Therefore the disclosure of the information could prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 31 | Definition in clause 1.1 of the General Conditions | The information redacted is the entire definition. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to develop pricing and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor and TfNSW. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising and the risks that the parties are willing to price and accept; and
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 31 | Definition in clause 1.1 of the General Conditions | The information redacted is the entire definition. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with interface risk. The parties invested significant time developing this arrangement and might be expected to benefit from using a similar arrangement in the future. Revealing this information is therefore expected to diminish the value of that information and prejudice TfNSW’s and the contractor's business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor and TfNSW in relation to obligations that the contractor was prepared to price and accept in relation to interface risk. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 32 | Definition in clause 1.1 of the General Conditions | The information redacted is the entire definition. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by the contractor and a third party to manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor and a third party. Disclosing this information may provide insight into the contractor’s views on its potential capabilities and likelihood of certain risks arising and the risks that the contractor are willing to price and accept; and
3. revealing the contractor’s appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 36 | Clause 1.9(c) of the General Conditions | The information redacted is the entire sub-clause. | *Section 32(1)(d), items 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information concerns the risk profile as accepted by TfNSW and DPC in relation to their liability under the Framework Agreement. That is, this redacted information details the risk agreed to be assumed by TfNSW and DPC in relation to the agreement; and
2. revealing this information is expected to prejudice DPC’s and TfNSW’s commercial interests particularly in relation to future projects.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 38 | Clauses 3.1 and 3.2 of the General Conditions | The information redacted is each entire clause. | *Section 32(1)(d), items 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information concerns the risk profile as accepted by TfNSW and DPC in relation to their liability under the Framework Agreement; and
2. revealing this information is expected to prejudice DPC’s and TfNSW’s commercial interests particularly in relation to future projects.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 39 | Clause 3.3(b)(1) of the General Conditions | The information redacted is the time periods within this sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with ancillary documentation. Revealing this information is therefore expected to prejudice the parties’ business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor in relation to obligations that the contractor was prepared to accept in relation to ancillary document risk. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the project. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 39 | Clauses 4.1(a), (e) and (f) of the General Conditions | The information redacted is each entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with reaching financial close under the Framework Agreement. Revealing this information is therefore expected to prejudice the parties’ business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to obligations that the contractor was prepared to accept in relation to certain risks. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the projects. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 41-42 | Clauses 4.3(b), 4.3(d) of the General Conditions | The information redacted is each entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with reaching financial close under the Framework Agreement. Revealing this information is therefore expected to prejudice the parties’ business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to obligations that the contractor was prepared to accept in relation to certain risks. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the projects. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 42 | Clause 4.4(b) of the General Conditions | The information redacted is the entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. |  TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information relates to a third party agreements which has not been disclosed and which is commercial in confidence. **Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 43 | Clause 4.5(c) of the General Conditions | The information redacted is the entire sub-clause, including part of the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information relates to particular requirements of third party agreements which have not been disclosed or which are commercial in confidence. **Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 43 | Clause 4.6 of the General Conditions | The information redacted is the entire clause, except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with reaching financial close under the Framework Agreement. Revealing this information is therefore expected to prejudice the parties’ business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to obligations that the contractor was prepared to accept in relation to certain risks. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the projects. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 43 | Clause 4.9 of the General Conditions | The information redacted is the entire clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with reaching financial close. Revealing this information will prejudice TfNSW’s business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for similar projects; and
4. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 44 | Clause 5.1 of the General Conditions | The information redacted is the entire clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with reaching financial close. The parties invested significant time developing this arrangement and might be expected to benefit from using a similar arrangement in the future. Revealing this information is therefore expected to diminish the value of that information and prejudice the contractor's business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor in relation to obligations that the contractor was prepared to accept in relation to project risks. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the projects. This is expected to prejudice its business, commercial and financial interests; and
4. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 44 | Clause 5.2 of the General Conditions | The information redacted is the entire clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with the condition of the land. Revealing this information is therefore expected to prejudice the contractor's business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor in relation to obligations that the contractor was prepared to accept in relation to site conditions. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the project. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 46 | Clause 6(a)(2) of the General Conditions | The information redacted is the entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to engage the independent certifier;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 51 | Clause 9(a) of the General Conditions | The information redacted is the entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to engage the independent certifier;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. the public interest has been served by revealing the fact that there is a mechanism for engaging an independent certifier for the project. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise time frames.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 54 | Clause 12.2 of the General Conditions | The information redacted is the time periods within this clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor in relation to development consents under the Framework Agreement;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. the public interest has been served by revealing the fact that there is a mechanism for reviewing development consents under the Framework Agreement. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise time frames.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 58 | Clause 13.1(b)(1) of the General Conditions | The information redacted is the entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with project specific circumstances in which TfNSW may withhold consent to the submission of an application by the contractor. The parties invested significant time developing this arrangement and revealing this information is therefore expected to prejudice the contractor's business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor in relation to obligations that the contractor was prepared to accept in relation to project risks. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the projects. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 59, 60, 61 | Clauses 13.2, 13.5, 13.7 and 13.8 of the General Conditions | The information redacted is each entire clause except for the titles. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to TfNSW’s consent to applications under the Framework Agreement;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. the public interest has been served by revealing the fact that there is a mechanism for TfNSW to provide its consent to applications under the Framework Agreement. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise requirements and timing of proposed application.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 67 | Clauses 16.2(a) and (c) of the General Conditions | The information redacted is each entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to design development;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 69 – 78 | Clauses 16.3(d) 16.4, 16.5, 16.6, 16.7 of the General Conditions | The information redacted is each entire clause or sub-clause except for the titles. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to design development;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 79 | Clause 17(c) of the General Conditions | The information redacted is the entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information refers to existing tenancy arrangements with third parties; and
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 79 | Clause 18.1 of the General Conditions | The information redacted is the entire clause. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the extent of the contractor’s responsibility and obligations for certain third party agreements;
2. exposing the redacted information would reveal the allocation of risk in respect of fulfilling the requirements of third party agreements; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors, and would place the contractor at a substantial commercial disadvantage in its negotiations with other contractors and third parties involving the same third party agreements. Therefore the disclosure of the information could prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 81 | Clauses 18.2(c) and (f) of the General Conditions | The information redacted is each entire sub-clause. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the extent of the contractor’s responsibility and obligations for certain third party agreements;
2. exposing the redacted information would reveal the allocation of risk in respect of fulfilling the requirements of third party agreements; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors, and would place the contractor at a substantial commercial disadvantage in its negotiations with other contractors and third parties involving the same third party agreements. Therefore the disclosure of the information could prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 83 | Clause 20(d)(4) of the General Conditions | The information redacted is the entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to design development;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 85 | Clause 21.1(d)(5) of the General Conditions | The information redacted is the entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to design development;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 85–6 | Clause 21.2(c) of the General Conditions | The information redacted is the entire sub-clause. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the extent of the contractor’s responsibility and obligations for certain third party agreements;
2. exposing the redacted information would reveal the allocation of risk in respect of fulfilling the requirements of third party agreements; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors, and would place the contractor at a substantial commercial disadvantage in its negotiations with other contractors and third parties involving the same third party agreements. Therefore the disclosure of the information could prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 86 | Clause 21.3(a) of the General Conditions | The information redacted is the entire sub-clause. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the extent of the contractor’s responsibility and obligations for certain third party agreements;
2. exposing the redacted information would reveal the allocation of risk in respect of fulfilling the requirements of third party agreements; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors, and would place the contractor at a substantial commercial disadvantage in its negotiations with other contractors and third parties involving the same third party agreements. Therefore the disclosure of the information could prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 88–95 | Clause 24 of the General Conditions | The information redacted is each entire clause except for the titles. | *Section 32(1)(d), Item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency’s functions.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out sensitive information regarding the contractor’s liability in connection with the relevant insurance policies;
2. exposing the redacted information would reveal the level of insurance risk that the contractor was willing to accept; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 95–6 | Clause 25.2 of the General Conditions | The information redacted is the time periods within this clause. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the timeframes in which the contractor may remedy a default event; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 96 | Clauses 25.4 and 25.7 of the General Conditions | The information redacted is each entire clause except for the title. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14* The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests. There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. exposing the redacted information would reveal the apportionment of risk between TfNSW and the contractor in relation to certain termination events; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential clients, competitors and contractors. Therefore the disclosure of the information could reduce the information competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 97 | Clauses 25.5 and 25.6 of the General Conditions | The information redacted is each entire clause. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. exposing the redacted information would reveal the apportionment of risk between TfNSW and the contractor in relation to certain termination events;
2. the redacted information sets out the extent of the contractor’s responsibility and obligations for certain third party agreements;
3. exposing the redacted information would reveal the allocation of risk in respect of fulfilling the requirements of third party agreements; and
4. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors, and would place the contractor at a substantial commercial disadvantage in its negotiations with other contractors and third parties involving the same third party agreements. Therefore the disclosure of the information could prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 109–10 | Clause 30.13 of the General Conditions | The information redacted is the entire clause. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraphs (b) and (e) of the definition of “commercial-in-confidence provisions” in section 1 of Schedule 4*The disclosure of this information would place the parties a substantial commercial disadvantage in relation to other contractors.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:1. exposing the redacted information would reveal the apportionment of risk between the parties and therefore the risk that the parties were willing to accept. Exposing this information may also provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | 110 | Clause 31.1 of the General Conditions | The information redacted is the names and contact details of individual persons. | *Section 32(1)(d), item 3(a) of the table in section 14*The disclosure of this information would reveal an individual’s personal information.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information contains personal information, including the names and email addresses of individual persons.TfNSW considers that any public interest in favour of disclosure is not significantly advances by the disclosure of this information and is outweighed by the public interest against the disclosure as identified above. |
|  | N/A | Schedule 1 (Atlassian Building) | The information redacted is the entire schedule other than the title. | *Section 32(1)(a), paragraph (d) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information may reveal intellectual property in which the contractor has an interest.*Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of the information could prejudice the effective exercise by the agency of the agency’s functions.*Section 32(1)(d), items 4(b) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, and prejudice a person’s legitimate business, commercial or financial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. this schedule contains drawings which are intellectual property in which the contractor has an interest; and
2. revealing the information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Schedule 2 (Unacceptable Conditions) | The information redacted is the time periods within this schedule. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with the development applications process;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to obligations that the parties were prepared to accept in relation to the development applications process. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the parties and prejudice its business, commercial and financial interests; and
4. the public interest has been served by revealing the fact that the parties may object to a Development Consent on the basis that it contains certain unacceptable conditions. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise unacceptable conditions.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Schedule 3 (State Works Minimum Requirements) | The information redacted is the entire schedule other than the title. | *Section 32(1)(a), paragraph (d) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information may reveal intellectual property in which TfNSW has an interest.*Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of the information could prejudice the effective exercise by the agency of the agency’s functions.*Section 32(1)(d), items 4(b) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, and prejudice a person’s legitimate business, commercial or financial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. this schedule contains technical specifications which are intellectual property in which the parties have an interest; and
2. revealing the information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Schedule 4 (State Works Returnable Schedule) | The information redacted is the entire schedule other than the title. | *Section 32(1)(a), paragraph (d) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information may reveal intellectual property in which TfNSW has an interest.*Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of the information could prejudice the effective exercise by the agency of the agency’s functions.*Section 32(1)(d), items 4(b) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, and prejudice a person’s legitimate business, commercial or financial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. this schedule contains technical specifications which are intellectual property in which the parties have an interest; and
2. revealing the information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Schedule 5 (Site) | The information redacted is the entire schedule other than the title. | *Section 32(1)(a), paragraph (d) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information may reveal intellectual property in which the contractor has an interest.*Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of the information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), items 4(b) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, and prejudice a person’s legitimate business, commercial and financial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information shows information about the relevant site area and identifies proposed lots to be created in connection with the precinct. The draft lots remain subject to negotiation by the parties and subject to finalisation and registration with the NSW Land Registry Services, and the premature disclosure of this information may prejudice:
	1. the effective exercise by an agency of its functions;
	2. the parties’ legitimate business, commercial or interests in the event that the information is amended before being registered with the NSW Land Registry Services;
2. the information contains drawings which are intellectual property in which the contractor has interest; and
3. revealing this information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties’ legitimate business, commercial and financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Schedule 6 (Minimum Building Requirements) | The information redacted is the entire schedule other than the title. | *Section 32(1)(a), paragraph (d) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information may reveal intellectual property in which TfNSW has an interest.*Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of the information could prejudice the effective exercise by the agency of the agency’s functions.*Section 32(1)(d), items 4(b) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, and prejudice a person’s legitimate business, commercial or financial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. this schedule contains technical specifications which are intellectual property in which the parties have an interest; and
2. revealing the information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Schedule 7 (TfNSW Requirements) | The information redacted is the entire schedule other than the title. | *Section 32(1)(a), paragraph (d) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information may reveal intellectual property in which TfNSW has an interest.*Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of the information could prejudice the effective exercise by the agency of the agency’s functions.*Section 32(1)(d), items 4(b) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, and prejudice a person’s legitimate business, commercial or financial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. this schedule contains technical specifications which are intellectual property in which the parties have an interest; and
2. revealing the information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Schedule 9 (State Works) | The information redacted is the entire schedule other than the title. | *Section 32(1)(a), paragraph (d) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information may reveal intellectual property in which the contractor has an interest.*Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of the information could prejudice the effective exercise by the agency of the agency’s functions.*Section 32(1)(d), items 4(b) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, and prejudice a person’s legitimate business, commercial or financial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. this schedule contains drawings which are intellectual property in which the contractor has an interest; and
2. revealing the information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Schedule 11 (Payments and commercial matters) | The information redacted is the entire schedule other than the title. | *Section 32(1)(a), paragraphs (b), (c) and (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would provide visibility of the contractor’s cost structure, profit margins or full base case financial model and would place the contractor at a substantial commercial disadvantage in relation to potential competitors or other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of the information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out payment arrangements for the works and services delivered under the Framework Agreement and associated documents;
2. the information is commercial-in-confidence as its disclosure would provide visibility on the contractor’s profit margins in relation to the work; and
3. disclosure of the redacted information may provide insight on how the contractor priced and accepted the work for the project. If this information were revealed, it could place the contractors at a substantial disadvantage in future projects of a similar nature, as the information would be readily accessible to other parties who the parties may have to negotiate with. Therefore the disclosure of the information could reduce the information’s commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change, |
|  | N/A | Schedule 14 (Shared Digital Engineering Principles) | The information redacted is the entire schedule other than the title. | *Section 32(1)(a), paragraph (d) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information may reveal intellectual property in which TfNSW has an interest.*Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of the information could prejudice the effective exercise by the agency of the agency’s functions.*Section 32(1)(d), items 4(b) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, and prejudice a person’s legitimate business, commercial or financial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. this schedule contains technical specifications which are intellectual property in which the parties have an interest; and
2. revealing the information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Annexure 1 (Initial Development Program) | The information redacted is the entire annexure other than the title. | *Section 32(1)(a), paragraphs (b), (d) and (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, the contractor’s cost structure or margins, and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of the information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person, or prejudice a person’s legitimate business or commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out sensitive information regarding the contractor’s program;
2. revealing the information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information would reduce the competitive commercial value of the information and prejudice the parties’ legitimate business, commercial or financial interests; and
3. TfNSW considers that any public interest in favour of disclosure is not significantly advanced by the disclosure of this information, and is outweighed by the public interest against the disclosure as identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Cover page and details page of Annexure 2 (Draft Call Option Deed) | The information redacted is the drafting note. | *Section 32(1)(d), item (1) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraph (b), (d) and (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, the contractor’s cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person, or prejudice a person’s legitimate business or commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed call option deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. revealing this information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests; and
3. the disclosure of the information may diminish the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Table of Contents of Annexure 2 (Draft Call Option Deed) | The information redacted is defined terms and clauses which have been redacted entirely in the general conditions. | *Section 32(1)(a), paragraphs (b) and (e)* *of the definition of "commercial-in-confidence provisions" at section 1 of Schedule 4* The disclosure of this information would reveal the contractor’s cost structure or profit margins and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors. *Section 32(1)(d), item 1(f) of the table in section 14* The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions. *Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14* The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests. There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because: 1. exposing the redacted information would reveal the apportionment of risk between TfNSW and the contractor in relation to certain provisions under the draft Call Option Deed, and therefore the level of risk that the parties were willing to accept in relation to the delivery of the project; and
2. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed call option deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Call Option Sunset Date” in Annexure 2 (Draft Call Option Deed) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed call option deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position; and
3. the public interest has been served by revealing the fact that there is a Sunset Date for the call option deed. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Call Option Fee” in Annexure 2 (Draft Call Option Deed) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project;
2. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed call option deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position; and
3. the public interest has been served by revealing the fact that there is a Call Option Fee. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  |  | Definition of “Grantor’s Solicitor” in Annexure 2 (Draft Call Option Deed) | The information redacted is the names and contact details of individual persons. | *Section 32(1)(d), item 3(a) of the table in section 14*The disclosure of this information would reveal an individual’s personal information.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information contains personal information, including the names and email addresses of individual persons.TfNSW considers that any public interest in favour of disclosure is not significantly advances by the disclosure of this information and is outweighed by the public interest against the disclosure as identified above. |
|  | N/A | Clause 3.1 of Annexure 2 (Draft Call Option Deed) | The information redacted is the entire clause except for the title. | *Section 32(1)(d), Item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contracts, diminish the competitive value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to delivery the project and manage risk;
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. the public interest has been served by revealing the fact that the Call Option Deed is subject to conditions precedent. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise date.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 7.2 of Annexure 2 (Draft Call Option Deed) | The information redacted is the drafting note. | *Section 32(1)(d), item (1) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraph (b), (d) and (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, the contractor’s cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person, or prejudice a person’s legitimate business or commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed call option deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. revealing this information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests; and
3. the disclosure of the information may diminish the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 14 of Annexure 2 (Draft Call Option Deed) | The information redacted is the entire clause. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. exposing the redacted information would reveal the apportionment of risk between TfNSW and the contractor in relation to certain termination events;
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors, and would place the contractor at a substantial commercial disadvantage in its negotiations with other contractors and third parties involving the same third party agreements. Therefore the disclosure of the information could prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 16 of Annexure 2 (Draft Call Option Deed) | The information redacted is the drafting note. | *Section 32(1)(d), item (1) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraph (b), (d) and (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, the contractor’s cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person, or prejudice a person’s legitimate business or commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed call option deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. revealing this information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests; and
3. the disclosure of the information may diminish the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Attachment 3 to Annexure 2 (Draft Call Option Deed)  | The information redacted is the “date for completion” and the accompanying drafting notes in the contract for sale. | *Section 32(1)(d), Item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contracts, diminish the competitive value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to delivery the project;
2. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed call option deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 16 of Attachment 3 to Annexure 2 (Draft Call Option Deed) | The information redacted is the entire clause except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the stamp duty mechanism; and
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Contents page of Annexure 3 (Draft Project Development Agreement) | The information redacted is defined terms and clauses which have been redacted entirely in the general conditions. | *Section 32(1)(a), paragraphs (b) and (e)* *of the definition of "commercial-in-confidence provisions" at section 1 of Schedule 4* The disclosure of this information would reveal the contractor’s cost structure or profit margins and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors. *Section 32(1)(d), item 1(f) of the table in section 14* The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions. *Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14* The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests. There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because: 1. exposing the redacted information would reveal the apportionment of risk between TfNSW and the contractor in relation to certain provisions under the Draft Project Development Agreement, and therefore the level of risk that the parties were willing to accept in relation to the delivery of the project; and
2. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed project development agreement is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Recital B of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire Recital.  | *Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. exposing the redacted information would reveal the apportionment of risk between DPC and the contractor in relation to certain third party arrangements; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of this information could prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Recital F(c) of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire Recital and drafting note. | *Section 32(1)(d), items 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed Project Development Agreement is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position; and
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Adjoining Owner’s Agreements” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(d), Item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the rights and obligations of the parties in relation to third party agreements;
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor, thereby prejudicing the contractor’s negotiating position; and
3. revealing the information could prejudice the parties’ legitimate business, commercial or financial interests and also prejudice the effective exercise by TfNSW of its functions.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Ambulance Avenue Vacation Date” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Contract) | The information redacted is the date. | *Section 32(1)(d), Item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk;
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. the public interest has been served by revealing the fact that there is a date upon which Ambulance Avenue must be vacated. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Asset Management Plan” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the drafting note. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14, clause 5(1) of schedule 1.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects). Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to negotiating the Project Development Agreement;
2. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to prejudice its business, commercial and financial interests; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor, thereby prejudicing the contractor’s negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Assignment Tests” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(d), Item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contracts, diminish the competitive value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the rights and obligations of the parties in relation to third party agreements;
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
3. revealing the information could prejudice the parties’ legitimate business, commercial or financial interests and also prejudice the effective exercise by TfNSW of its functions.

**Review:** This information would be reviewed for disclosure as events and circumstances |
|  | N/A | Definition of “Atlassian Building” in clause 1. of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information to be redacted is the GFA figures and the accompanying drafting note. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final design of the Atlassian Building is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. this definition contains commercial information which is intellectual property in which the contractor has an interest; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Atlassian Project Documents” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition and drafting note. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the extent of the contractor’s responsibility and obligations for certain third party agreements; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors, and would place the contractor at a substantial commercial disadvantage in its negotiations with other contractors and third parties involving the same third party agreements. Therefore the disclosure of the information could prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Building Contract” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the drafting note. | *Section 32(1)(d), item (1) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraph (b), (d) and (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, the contractor’s cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person, or prejudice a person’s legitimate business or commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed call option deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. revealing this information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests; and
3. the disclosure of the information may diminish the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Change in Law” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out the specific definition of Change in Law;
2. exposing the redacted information would reveal the apportionment of risk between the TfNSW and the contractor in relation to the relief providing for changes in Law, and therefore the level of risk that the parties were willing to price and accept;
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of this information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests; and
4. the public interest has been served by revealing the fact that there is a ‘Change in Law’ regime which provides relief. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise definition.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Commence Construction” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. the public interest has been served by revealing the fact that there is construction commencement requirements. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Date for Construction Commencement” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the date. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. the public interest has been served by revealing the fact that there is a Date for Construction Commencement. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Date for Practical Completion of the Development Works” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the date and the accompanying drafting note. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. the public interest has been served by revealing the fact that there is a Date for Practical Completion of the Development Works. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Date for Practical Completion of the State Works” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the date and the accompanying drafting note. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. the public interest has been served by revealing the fact that there is a Date for Practical Completion of the State Works. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Defects Liability Period” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information to be redacted is the time periods in paragraph (a) and (b), and the post amble of the definition. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out the Defects Liability Period for the Works;
2. exposing the redacted information would reveal the apportionment of risk between the TfNSW and the contractor in relation to the rectification of defects, and therefore the level of risk that the parties were willing to price and accept. Exposing this information may also provide insight into the contractor’s views on its potential capabilities and likelihood of ongoing defects arising;
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of this information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests; and
4. the public interest has been served by revealing the fact that there is a Defects Liability Period. In light of the disclosure of this information there Is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Design Documentation (Reviewable Development Works)” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with design development. Revealing this information is therefore expected to diminish the value of that information and prejudice TfNSW’s and the contractor's business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to obligations that the parties were prepared to price and accept in relation to design development. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the parties and prejudice its business, commercial and financial interests; and
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Developer Unacceptable Condition” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with the Applications process. The parties invested significant time developing this arrangement and might be expected to benefit from using a similar arrangement in the future. Revealing this information is therefore expected to diminish the value of that information and prejudice TfNSW’s and the contractor's business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to obligations that the contractor was prepared to accept in relation to the Applications development process. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising; and
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the parties and prejudice its business, commercial and financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Developer’s Rejection Right” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the Application process;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Development Consent (Project)” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the drafting note. | *Section 32(1)(d), item (1) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraph (b), (d) and (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, the contractor’s cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person, or prejudice a person’s legitimate business or commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed call option deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. revealing this information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests; and
3. the disclosure of the information may diminish the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Development Rights Fee” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition and drafting note, except for the title. | *Section 32(1)(d), items 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed Project Development Agreement is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position; and
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition and drafting note. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information refers to a third party agreement and sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the delivery of the project;
2. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed Project Development Agreement is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Disclosure Material” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is drafting note. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information refers to a third party agreement and sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the delivery of the project;
2. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed Project Development Agreement is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Discriminatory Change in Law” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition, except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out the specific definition of Discriminatory Change in Law;
2. exposing the redacted information would reveal the apportionment of risk between the TfNSW and the contractor in relation to the relief providing for discriminatory changes in Law, and therefore the level of risk that the parties were willing to price and accept;
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of this information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests; and
4. the public interest has been served by revealing the fact that there is a ‘Discriminatory Change in Law’ regime which provides relief. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise definition.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Existing Lease” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information refers to existing tenancy arrangements with third parties; and
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Force Majeure” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information to be redacted is the entirety of the definition, except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out the specific definition of Force Majeure;
2. exposing the redacted information would reveal the apportionment of risk between the TfNSW and the contractor in relation to the relief provided for Force Majeure, and therefore the level of risk that the parties were willing to price and accept;
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of this information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests; and
4. the public interest has been served by revealing the fact that there is a ‘Force Majeure’ regime which provides relief. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise definition.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Fit for Purpose” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the delivery of the project;
2. the redacted information is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed Project Development Agreement is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Guaranteed Obligations” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information would reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighted the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out commercially sensitive information regarding the scope of the guarantee provided by the guarantor;
2. exposing the information would reveal the apportionment of risk between TfNSW, the guarantor and the contractor in relation to the occurrence of particular events. Exposing this information may also provide insight into the contractor and the guarantor’s views on the likelihood of certain risks arising; and
3. revealing the information would place the parties at substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potentially future clients, competitors and contractors. Therefore the disclosure of information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Indemnified Persons” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by the agency of the agency’s functions.*Section 32(1), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determine that there was an overriding public interest against disclosure of this information because:1. The redacted information sets out commercially sensitive information regarding the scope of the indemnity provide by the contractor;
2. exposing this information would reveal the apportionment of risk between TfNSW and the contractor in relation to the occurrence of particular events. Exposing this information may also provide insight into the contractor’s views on the likelihood of certain risks arising; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. There the disclosure of this information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Land” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement)  | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information relates to existing tenancy arrangements with third parties; and
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definitions in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is each entire definition. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information refers to existing tenancy arrangements with third parties; and
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Material Adverse Effect” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information would reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests. | TfNSW weighted the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out commercially sensitive information regarding the scope of the guarantee provided by the guarantor;
2. exposing the information would reveal the apportionment of risk between TfNSW, the guarantor and the contractor in relation to the occurrence of particular events. Exposing this information may also provide insight into the contractor and the guarantor’s views on the likelihood of certain risks arising; and
3. revealing the information would place the parties at substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potentially future clients, competitors and contractors. Therefore the disclosure of information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Material Deterioration” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the procurement of third party builders;
2. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to prejudice its business, commercial and financial interests; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor, thereby prejudicing the contractor’s negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Material Provision” in clause 1.1 of the General Terms of Annexure C (Draft Project Development Agreement) | The information redacted is the entire definition and drafting note, except for the title. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the extent of the contractor’s responsibility and obligations for certain third party agreements;
2. exposing the redacted information would reveal the allocation of risk in respect of fulfilling the requirements of third party agreements;
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors, and would place the contractor at a substantial commercial disadvantage in its negotiations with other contractors and third parties involving the same third party agreements. Therefore the disclosure of the information could prejudice the parties’ legitimate business, commercial or financial interests; and
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor, thereby prejudicing the contractor’s negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Milestone Date” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. the public interest has been served by revealing the fact that there are Milestone Dates for this project. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise date.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. the public interest has been served by revealing the fact that there are Milestones for this project. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise date.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Precinct Lease” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information refers to existing tenancy arrangements with third parties; and
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Qualifying Application” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the Applications process;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor, thereby prejudicing the contractor’s negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Security” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition and drafting note, except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information outlines the form and percentage of the contract sum that is to be held in Security;
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests; and
3. the public interest has been served by revealing the fact that Security is required from the contractor.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “State Rejection Right” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the Application process;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor, thereby prejudicing the contractor’s negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “State Unacceptable Condition” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the application process;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor, thereby prejudicing the contractor’s negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “State Works Construction Cost” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the drafting note. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. the public interest has been served by revealing the fact that there is a Sunset Date (Commencement). In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Sunset Date (Commencement)” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information to be redacted is the date. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. the public interest has been served by revealing the fact that there is a Sunset Date (Commencement). In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Sunset Date (Completion) – Development Works” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information to be redacted is the date. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. the public interest has been served by revealing the fact that there is a sunset date for completion of the Development Works. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Sunset Date (Completion) – State Works” in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information to be redacted is the date. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. the public interest has been served by revealing the fact that there is a sunset date for completion of the State Works. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition. | *Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business interests.*Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by the agency of the agency’s functions.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information refers to a third party agreement that is not required to be disclosed; and
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition and drafting note. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information, as well as other information that has been redacted, sets out the extent of the contractor’s responsibility and obligations for certain third party agreements;
2. exposing the redacted information would reveal the allocation of risk in respect of fulfilling the requirements of third party agreements; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors, and would place the contractor at a substantial commercial disadvantage in its negotiations with other contractors and third parties involving the same third party agreements. Therefore the disclosure of the information could prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition of “Unspent Funding” in clause 1.1 of the general Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the drafting note. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. the public interest has been served by revealing the fact that there is a Sunset Date (Commencement). In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Definition in clause 1.1 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by the contractor and a third party to manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor and a third party. Disclosing this information may provide insight into the contractor’s views on its potential capabilities and likelihood of certain risks arising and the risks that the contractor are willing to price and accept; and
3. revealing the contractor’s appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 1.10(c) of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire sub-clause, including part of the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information relates to particular requirements of third party agreements which have not been disclosed or which are commercial in confidence. **Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 2.2 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to proportion and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to prejudice its business, commercial and financial interests; and
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 2.3 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to prejudice its business, commercial and financial interests; and
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 3 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire definition except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 4.2 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the time periods within the clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with the development applications process;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to obligations that the parties were prepared to accept in relation to the development applications process. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the parties and prejudice its business, commercial and financial interests; and
4. the public interest has been served by revealing the fact that the parties may object to a Development Consent on the basis that it contains certain unacceptable conditions. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise unacceptable conditions.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 4.2(f) and (g) of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is each entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with the applications process. Revealing this information is therefore expected to prejudice TfNSW’s and the contractor's business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to obligations that the contractor was prepared to accept in relation to the applications development process. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 5.1 and 5.2 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is each entire clause and drafting note. | *Section 32(1)(d), items 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed Project Development Agreement is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position; and
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 6.2(d) of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to design development;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 6.3(b)(ii), 6.4, 6.5(b)(ii) and 6.6 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is each entire clause or sub-clause except for the titles. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to design development;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 8.1 and 8.2 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is each entire clause and drafting note, except for the titles. | *Section 32(1)(d), Item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contracts, diminish the competitive value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the rights and obligations of the parties in relation to third party agreements;
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor’s and TfNSW’s, thereby prejudicing the contractor’s and TfNSW’s negotiating position; and
3. revealing the information could prejudice the parties’ legitimate business, commercial or financial interests and also prejudice the effective exercise by TfNSW of its functions.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 10.1(c)(i), 10.2, 10.5 and 10.7 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is each entire clause or sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with project specific circumstances in which TfNSW may withhold consent to the submission of an application by the contractor. The parties invested significant time developing this arrangement and revealing this information is therefore expected to prejudice the contractor's business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor in relation to obligations that the contractor was prepared to accept in relation to project risks. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the project. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 10.8 (b) and (c) of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is each entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with project specific circumstances in which TfNSW will procure landowner consent to Qualifying Applications. The parties invested significant time developing this arrangement and revealing this information is therefore expected to prejudice the contractor's business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor in relation to obligations that the contractor was prepared to accept in relation to project risks. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the project. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 15.4(b) of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire sub-clause. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the extent of the contractor’s responsibility and obligations for certain third party agreements;
2. exposing the redacted information would reveal the allocation of risk in respect of fulfilling the requirements of third party agreements; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors, and would place the contractor at a substantial commercial disadvantage in its negotiations with other contractors and third parties involving the same third party agreement. Therefore the disclosure of the information could prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 15.6(a) of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire sub-clause. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the extent of the contractor’s responsibility and obligations for certain third party agreements;
2. exposing the redacted information would reveal the allocation of risk in respect of fulfilling the requirements of third party agreements; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors, and would place the contractor at a substantial commercial disadvantage in its negotiations with other contractors and third parties involving the same third party agreements. Therefore the disclosure of the information could prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 16.1 and 16.2 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is each entire clause and drafting note, except for the title. | *Section 32(1)(d), item (1) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraph (b), (d) and (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, the contractor’s cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person, or prejudice a person’s legitimate business or commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed Project Development Agreement is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. the redacted information refers to existing tenancy arrangements with third parties and if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
3. revealing this information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 16.7 (b) and (e) of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the time period within each sub-clause. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the timeframe in which the contractor must provide a draft staging plan; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 17.2(a) of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the time periods within the sub-clause. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the timeframe in which the contractor must provide the PCG Report; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 17.6(d) of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with project specific requirements of Plans to be developed and provided by the contractor;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor in relation to obligations that the contractor was prepared to accept in relation to project risks and obligations. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the project. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 19.3(c) of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the time period within the sub-clause. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the timeframe in which the contractor and TfNSW must procure the independent certifier to issue to progress certificate to the contractor and TfNSW; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 19.8 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire clause. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraphs (b) and (e) of the definition of “commercial-in-confidence provisions” in section 1 of Schedule 4*The disclosure of this information would place the parties a substantial commercial disadvantage in relation to other contractors.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:1. exposing the redacted information would reveal the apportionment of risk between the parties and therefore the risk that the parties were willing to accept. Exposing this information may also provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 19.10 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire clause except for the title. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraphs (b) and (e) of the definition of “commercial-in-confidence provisions” in section 1 of Schedule 4*The disclosure of this information would place the parties a substantial commercial disadvantage in relation to other contractors.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:1. The redacted information sets out TfNSW’s step-in rights under the Project Development Agreement;
2. exposing the redacted information would reveal the apportionment of risk between the parties and therefore the risk that the parties were willing to accept. Exposing this information may also provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 21.2(a) and 31.4 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the time periods within the clauses or sub-clauses. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the timeframe in which the contractor must provide TfNSW and the Independent Certifier with its notice of anticipated practical completion and the Independent Certifier must certify completion; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 22.2 and 22.3 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is each entire clause except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with project specific circumstances in which the contractor may make an extension of time claim. The parties invested significant time developing this arrangement and revealing this information is therefore expected to prejudice the contractor's business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor in relation to obligations that the contractor was prepared to accept in relation to project risks. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the project. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 22.9(a) & (e) of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the drafting notes within these sub-clauses. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out the anticipated amount of liquidated damages under the draft Project Development Agreement and is subject to future negotiation by the parties. Revealing this information is therefore expected to prejudice the parties’ business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to obligations that the contractor was prepared to accept in relation to certain risks. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the projects. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 23.1(a), (c), 23.3 and 23.4 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is each entire clause or sub-clause and drafting notes, except for the titles. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with project specific circumstances relating to surrender of the lessee’s interests in an Existing Lease. The parties invested significant time developing this arrangement and revealing this information is therefore expected to prejudice the contractor's business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor in relation to obligations that the contractor was prepared to accept in relation to project risks. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the project. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 23.10 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire clause and drafting note, except for the title. | *Section 32(1)(d), Item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contracts, diminish the competitive value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the rights and obligations of the parties in relation to third party agreements;
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor’s and TfNSW’s, thereby prejudicing the contractor’s and TfNSW’s negotiating position; and
3. revealing the information could prejudice the parties’ legitimate business, commercial or financial interests and also prejudice the effective exercise by TfNSW of its functions.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 23.11 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the drafting note within this clause. | *Section 32(1)(d), Item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contracts, diminish the competitive value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the rights and obligations of the parties in relation to third party agreements;
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor’s and TfNSW’s, thereby prejudicing the contractor’s and TfNSW’s negotiating position; and
3. revealing the information could prejudice the parties’ legitimate business, commercial or financial interests and also prejudice the effective exercise by TfNSW of its functions.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 24.9(c) and (d) of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is each entire sub-clause and drafting notes. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraphs (b) and (e) of the definition of “commercial-in-confidence provisions” in section 1 of Schedule 4*The disclosure of this information would place the parties a substantial commercial disadvantage in relation to other contractors.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed Project Development Agreement is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. exposing the redacted information would reveal the apportionment of risk between the parties and therefore the risk that the parties were willing to accept. Exposing this information may also provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests; and
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor’s and TfNSW’s, thereby prejudicing the contractor’s and TfNSW’s negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 24.10 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the drafting note within this clause. | *Section 32(1)(a), paragraph (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the extent of the contractor’s responsibility and obligations for certain third party agreements;
2. exposing the redacted information would reveal the allocation of risk in respect of fulfilling the requirements of third party agreements; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors, and would place the contractor at a substantial commercial disadvantage in its negotiations with other contractors and third parties involving the same third party agreements. Therefore the disclosure of the information could prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 26.2, 26.4 and 26.8 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is each entire clause and drafting note, except for the titles. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraphs (b) and (e) of the definition of “commercial-in-confidence provisions” in section 1 of Schedule 4*The disclosure of this information would place the parties a substantial commercial disadvantage in relation to other contractors.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed Project Development Agreement is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. exposing the redacted information would reveal the apportionment of risk between the parties and therefore the risk that the parties were willing to accept. Exposing this information may also provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 28.5 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information to be redacted is the entirety of the clause except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out the specific regime for Changes in Law;
2. exposing the redacted information would reveal the apportionment of risk between the TfNSW and the contractor in relation to the relief provided for changes in Law, and therefore the level of risk that the parties were willing to price and accept;
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of this information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests; and
4. the public interest has been served by revealing the fact that there is a ‘Change in Law’ regime which provides relief. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise definition.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 29 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire clause and drafting notes, except for the titles. | *Section 32(1)(d), Item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency’s functions.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out sensitive information regarding the contractor’s liability in connection with the relevant insurance policies;
2. exposing the redacted information would reveal the level of insurance risk that the contractor was willing to accept; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 33.6 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire clause except for the title. | *Section 32(1)(d), Item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency’s functions.*Section 32(1)(d), item 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out sensitive information regarding the release of the contractor’s security;
2. exposing the redacted information would reveal the level of risk that the contractor was willing to accept; and
3. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 34.3 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the drafting note. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. the public interest has been served by revealing the fact that there is a Sunset Date (Commencement). In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 38.4 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the time period within the clause. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the timeframe in which the executives must meet following the issue of a Dispute Notice; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 38.17(a)(ii) of the General Terms of Annexure 3 (Draft Project Development Agreement)  | The information redacted is the drafting note. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. the public interest has been served by revealing the fact that there is a Sunset Date (Commencement). In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 38.21(b) of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the dollar amount and the drafting note. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. the public interest has been served by revealing the fact that there is a Sunset Date (Commencement). In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 39.1(c) of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the time period within the clause. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information sets out the timeframe in which the executives must meet following the issue of a Dispute Notice; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 41.1, 41.2, 41.5, 41.6 and 41.7 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is each entire clause and drafting notes, except for the title. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraphs (b) and (e) of the definition of “commercial-in-confidence provisions” in section 1 of Schedule 4*The disclosure of this information would place the parties a substantial commercial disadvantage in relation to other contractors.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:1. exposing the redacted information would reveal the apportionment of risk between the parties and therefore the risk that the parties were willing to accept. Exposing this information may also provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information’s competitive commercial value and prejudice the parties’ legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 51.22 of the General Terms of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire clause except for the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the stamp duty mechanism;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests; and
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Schedule 5 (Site Access Schedule) of Annexure 3 (Draft Project Development Agreement) | The information redacted is the drafting note within this schedule. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information refers to existing tenancy arrangements with third parties; and
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Schedule 8 (Unacceptable Conditions) of Annexure 3 (Draft Project Development Agreement) | The information redacted is the time periods within this schedule. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with the development applications process;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to obligations that the parties were prepared to accept in relation to the development applications process. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature. This is expected to reduce the value of that information to the parties and prejudice its business, commercial and financial interests; and
4. the public interest has been served by revealing the fact that the parties may object to a Development Consent on the basis that it contains certain unacceptable conditions. In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise unacceptable conditions.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Cover page of Schedule 13 (Draft Financier’s Side Deed) of Annexure 3 (Draft Project Development Agreement) | The information redacted is the drafting note. | *Section 32(1)(a), paragraphs (b) and (e)* *of the definition of "commercial-in-confidence provisions" at section 1 of Schedule 4* The disclosure of this information would reveal the contractor’s cost structure or profit margins and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors. *Section 32(1)(d), item 1(f) of the table in section 14* The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions. *Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14* The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests. There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed Financier’s Side Deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. exposing the redacted information would reveal the apportionment of risk between the parties and therefore the risk that the parties were willing to accept. Exposing this information may also provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Contents page of Schedule 13 (Draft Financier’s Side Deed) of Annexure 3 (Draft Project Development Agreement) | The information redacted is defined terms and clauses which have been redacted entirely in the general conditions. | *Section 32(1)(a), paragraphs (b) and (e)* *of the definition of "commercial-in-confidence provisions" at section 1 of Schedule 4* The disclosure of this information would reveal the contractor’s cost structure or profit margins and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors. *Section 32(1)(d), item 1(f) of the table in section 14* The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions. *Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14* The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests. There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed Financier’s Side Deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. exposing the redacted information would reveal the apportionment of risk between the parties and therefore the risk that the parties were willing to accept. Exposing this information may also provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 10 of Schedule 13 (Draft Financier’s Side Deed) of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire clause. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraphs (b) and (e) of the definition of “commercial-in-confidence provisions” in section 1 of Schedule 4*The disclosure of this information would place the parties a substantial commercial disadvantage in relation to other contractors.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed Financier’s Side Deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. exposing the redacted information would reveal the apportionment of risk between the parties and therefore the risk that the parties were willing to accept. Exposing this information may also provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Cover page of Schedule 14 (Draft Builders Side Deed) of Annexure 3 (Draft Project Development Agreement) | The information redacted is the drafting note. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out project-specific information and a unique commercial arrangement designed by TfNSW and the contractor to deliver the project and manage risk;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks and events arising;
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. the public interest has been served by revealing the fact that there is a Sunset Date (Commencement). In light of the disclosure of this information there is an overriding public interest against the disclosure of the precise dates.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Contents page of Schedule 14 (Draft Builders Side Deed) of Annexure 3 (Draft Project Development Agreement) | The information redacted is defined terms and clauses which have been redacted entirely in the general conditions. | *Section 32(1)(a), paragraphs (b) and (e)* *of the definition of "commercial-in-confidence provisions" at section 1 of Schedule 4* The disclosure of this information would reveal the contractor’s cost structure or profit margins and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors. *Section 32(1)(d), item 1(f) of the table in section 14* The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions. *Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14* The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests. There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed Financier’s Side Deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. exposing the redacted information would reveal the apportionment of risk between the parties and therefore the risk that the parties were willing to accept. Exposing this information may also provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 10 of Schedule 14 (Draft Builders Side Deed) of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire clause. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraphs (b) and (e) of the definition of “commercial-in-confidence provisions” in section 1 of Schedule 4*The disclosure of this information would place the parties a substantial commercial disadvantage in relation to other contractors.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed Financier’s Side Deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. exposing the redacted information would reveal the apportionment of risk between the parties and therefore the risk that the parties were willing to accept. Exposing this information may also provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 11 of Schedule 14 (Draft Builders Side Deed) of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire clause. | *Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraphs (b) and (e) of the definition of “commercial-in-confidence provisions” in section 1 of Schedule 4*The disclosure of this information would place the parties a substantial commercial disadvantage in relation to other contractors.*Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed Financier’s Side Deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. exposing the redacted information would reveal the apportionment of risk between the parties and therefore the risk that the parties were willing to accept. Exposing this information may also provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Schedule 22 of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire schedule other than the title. | *Section 32(1)(a), paragraph (d) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information may reveal intellectual property in which TfNSW has an interest.*Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of the information could prejudice the effective exercise by the agency of the agency’s functions.*Section 32(1)(d), items 4(b) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, and prejudice a person’s legitimate business, commercial or financial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. this schedule contains technical specifications which are intellectual property in which the parties have an interest; and
2. revealing the information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Schedule 23 (Subdivision Strategy) of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire schedule other than the title. | *Section 32(1)(a), paragraph (d) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information may reveal intellectual property in which the contractor has interest.*Section 32(1)(d), item (1) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraph (b), (d) and € of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, the contractor’s cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person, or prejudice a person’s legitimate business or commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information is the draft form of the subdivision strategy;
2. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed subdivision strategy is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
3. this schedule contains commercial information which is intellectual property in which the contractor has an interest;
4. revealing this information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests; and
5. the disclosure of the information may diminish the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Schedule 24 (Shared Digital Engineering Principles) of Annexure 3 (Draft Project Development Agreement) | The information redacted is the entire schedule other than the title. | *Section 32(1)(a), paragraph (d) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information may reveal intellectual property in which TfNSW has an interest.*Section 32(1)(d), item 1(f) of the table in section 14*The disclosure of the information could prejudice the effective exercise by the agency of the agency’s functions.*Section 32(1)(d), items 4(b) and 4(d) of the table in section 14*The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, and prejudice a person’s legitimate business, commercial or financial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. this schedule contains technical specifications which are intellectual property in which the parties have an interest; and
2. revealing the information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Annexure 4 (Draft Subdivision Strategy) | The information redacted is the entire annexure other than the title. | *Section 32(1)(a), paragraph (d) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of this information may reveal intellectual property in which the contractor has interest.*Section 32(1)(d), item (1) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraph (b), (d) and € of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, the contractor’s cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person, or prejudice a person’s legitimate business or commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the redacted information is the draft form of the subdivision strategy;
2. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed subdivision strategy is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
3. this schedule contains commercial information which is intellectual property in which the contractor has an interest;
4. revealing this information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests; and
5. the disclosure of the information may diminish the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Cover page of Annexure 5 (Independent Certifier Deed) | The information redacted is the drafting note. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with engaging the independent certifier. The parties invested significant time developing this arrangement and revealing this information is therefore expected to prejudice the contractor's business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to obligations that the parties were prepared to accept in relation to project risks relating to the independent certifier. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the project. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Contents page | The information redacted is defined terms and clauses which have been redacted entirely in the general conditions. | *Section 32(1)(a), paragraphs (b) and (e)* *of the definition of "commercial-in-confidence provisions" at section 1 of Schedule 4* The disclosure of this information would reveal the contractor’s cost structure or profit margins and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors. *Section 32(1)(d), item 1(f) of the table in section 14* The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions. *Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14* The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests. There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because: 1. exposing the redacted information would reveal the apportionment of risk between TfNSW and the contractor in relation to certain provisions under the draft Independent Certifier Deed, and therefore the level of risk that the parties were willing to accept in relation to the delivery of the project; and
2. revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information would reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 4.3(b) and (c) of Annexure 5 (Independent Certifier Deed)  | The information redacted is each entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with project specific circumstances relating to engaging the independent certifier;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor in relation to obligations that the contractor was prepared to accept in relation to project risks. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in negotiating with third parties for the project. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 6.3 of Annexure 5 (Independent Certifier Deed) | The information redacted is the time periods within this clause. | *Section 32(1)(d), item (1) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraph (b), (d) and (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, the contractor’s cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person, or prejudice a person’s legitimate business or commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed independent certifier deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. revealing this information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests; and
3. the disclosure of the information may diminish the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clauses 7.2, 7.4(a) and (b) of Annexure 5 (Independent Certifier Deed) | The information redacted is the time periods within these clauses or sub-clauses. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with project specific circumstances relating to engaging the independent certifier;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor in relation to obligations that the contractor was prepared to accept in relation to project risks. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the project. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 7.3(e) of Annexure 5 (Independent Certifier Deed) | The information redacted is the entire sub-clause. | *Section 32(1)(d), item (1) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraph (b), (d) and (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, the contractor’s cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person, or prejudice a person’s legitimate business or commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed independent certifier deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. revealing this information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests; and
3. the disclosure of the information may diminish the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 7.5 of Annexure 5 (Independent Certifier Deed) | The information redacted is the entire clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with project specific circumstances relating to engaging the independent certifier. The parties invested significant time developing this arrangement and revealing this information is therefore expected to prejudice the contractor's business, financial and commercial interests;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor in relation to obligations that the contractor was prepared to accept in relation to project risks. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising;
3. revealing the contractor's appetite for risk and providing insight into its views on the likelihood of certain risks would place the contractor at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the project. This is expected to reduce the value of that information to the contractor and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 9.2(d) of Annexure 5 (Independent Certifier Deed) | The information redacted is the entire sub-clause. | *Section 32(1)(d), item (1) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraph (b), (d) and (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, the contractor’s cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person, or prejudice a person’s legitimate business or commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed independent certifier deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. revealing this information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests; and
3. the disclosure of the information may diminish the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 9.3 of Annexure 5 (Independent Certifier Deed) | The information redacted is the time period within the clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with project specific circumstances relating to engaging the independent certifier;
2. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
3. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 9.5 of Annexure 5 (Independent Certifier Deed) | The information redacted is the entire clause except for the title. | *Section 32(1)(d), item (1) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraph (b), (d) and (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, the contractor’s cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person, or prejudice a person’s legitimate business or commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed independent certifier deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. revealing this information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests; and
3. the disclosure of the information may diminish the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 10.1(b) of Annexure 5 (Independent Certifier Deed) | The information redacted is the entire sub-clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with project specific circumstances relating to default by the independent certifier;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to project risks. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. revealing the parties’ appetite for risk and providing insight into its views on the likelihood of certain risks would place the parties at a substantial commercial disadvantage in projects of a similar nature and in negotiating with third parties for the project. This is expected to reduce the value of that information to the parties and prejudice its business, commercial and financial interests;
4. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
5. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 10.2(a), 10.4(e) and 10.5(a) of Annexure 5 (Independent Certifier Deed) | The information redacted is the time periods within these sub-clauses. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with project specific circumstances relating to engaging the independent certifier;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to project risks. Disclosing this information may provide insight into the parties’ views on the likelihood of certain risks arising;
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 15.1 of Annexure 5 (Independent Certifier Deed) | The information redacted is the drafting note within this clause. | *Section 32(1)(d), item (1) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraph (b), (d) and (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, the contractor’s cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person, or prejudice a person’s legitimate business or commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed independent certifier deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. revealing this information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests; and
3. the disclosure of the information may diminish the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Clause 16.2 of Annexure 5 9Independent Certifier Deed) | The information redacted is the time periods within this clause. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risks associated with project specific circumstances relating to engaging the independent certifier;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the parties in relation to project risks. Disclosing this information may provide insight into the parties’ views on its potential capabilities and likelihood of certain risks arising;
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing the parties’ negotiating position; and
4. TfNSW considers that any public interest in favour of the disclosure of this information is outweighed by the public interests against disclosure identified above.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Schedule 1 and Schedule 2 of Annexure 5 (Independent Certifier Deed) | The information redacted is the entire schedules, except the titles. | *Section 32(1)(d), item (1) of the table in section 14*The disclosure of this information could prejudice the effective exercise by an agency of the agency’s functions.*Section 32(1)(a), paragraph (b), (d) and (e) of the definition of “commercial-in-confidence provisions” at section 1 of Schedule 4*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, the contractor’s cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to potential competitors and other contractors.*Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14*The disclosure of the information may reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person, or prejudice a person’s legitimate business or commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:1. the entirety of the redacted information is information which is still in draft form and remains to be resolved by the parties. The disclosure of the information at this stage would provide a reference point which may prejudice the parties' legitimate business, commercial or financial interests in the event the final agreed independent certifier deed is made available as future clients, competitors, and contractors could make an assessment of the parties' relative strengths and weaknesses as evidenced by the final negotiated position;
2. revealing this information could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests; and
3. the disclosure of the information may diminish the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Annexure 6 (Developer Approval Information Requirements) | The information redacted is the entire annexure other than the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the procurement of third party developers;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor, thereby prejudicing the contractor’s negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Annexure 7 (Builder Approval Information Requirements) | The information redacted is the entire annexure other than the title. | *Section 32(1)(a)*, *paragraph (e) of the definition of “commercial-in-confidence provisions” at clause 1 of Schedule 4.*The disclosure of this information would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential subcontractors, whether present or in the future.*Section 32(1)(d), items 1(f) and 4(b), (c) and (d) of the table in section 14.*The disclosure of this information could reasonably prejudice the effective exercise by an agency of the agency’s functions (being the procurement of major projects).Further, the disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person’s legitimate business and commercial interests.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:1. the redacted information, together with other information which has also been redacted, sets out a unique commercial arrangement designed by TfNSW and the contractor to apportion and manage risk in relation to the procurement of third party developers;
2. disclosing the redacted information would provide insight into the apportionment of risks assumed by the contractor. Disclosing this information may provide insight into the contractor's views on its potential capabilities and likelihood of certain risks arising; and
3. if the redacted information were disclosed, third parties may be able to use that information to their advantage in negotiations with the contractor, thereby prejudicing the contractor’s negotiating position.

**Review:** This information would be reviewed for disclosure as events and circumstances change. |
|  | N/A | Execution page | The information redacted is the names and signatures of the signatories  | *Section 32(1)(d), item 3(a) of the table in section 14*The disclosure of this information would reveal individual’s personal information.There is an overriding public interest against disclosure. | TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information discloses personal information of individual’s names and signatures. TfNSW considers that any public interest in favour of the disclosure is not significantly advanced by the disclosure of this information, and it outweighed by the public interest against the disclosure as identified above. |