

Government Information (Public Access) Act 2009

Explanatory Table

Sydney Metro City & Southwest – Variation to the OTS2 Early Works Deed – MTR Corporation (Sydney) SMCSW Pty Limited

Capitalised terms in this table have the meaning given to them in the Variation to the OTS2 Early Works Deed executed on 21 November 2019 unless the context indicates otherwise.

In preparing this explanatory table (**Explanatory Table**), the Principal has:

- (a) identified the reason(s) under the *Government Information (Public Access) Act 2009* (NSW) (**GIPA Act**) for each redaction; and
- (b) weighed each redaction against the following key public interest considerations for disclosure:
 - (i) promoting open discussion of public affairs, enhancing Government accountability or contributing to positive and informed debate on issues of public importance;
 - (ii) creating public awareness and understanding on issues of public importance;
 - (iii) enhancing government transparency and accountability;
 - (iv) informing the public about the operations of the agency;
 - (v) ensuring effective oversight of the expenditure of public funds and the best use of public resources; and
 - (vi) ensuring fair commercial competition within the economy.

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
1.	Address panel of letter	The information redacted is a person's name	<p><i>Section 32(1)(d), item 3(a) of the table in section 14</i></p> <p>The disclosure of this information would reveal an individual's personal information.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information specifies an individual's name in relation to the organisation the individual works for.</p> <p>The Principal 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.</p>
2.	Clause 4 – MTR Parent Company Guarantee	The information redacted is the name of the guarantor.	<p><i>Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14</i></p> <p>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.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> a) the redacted information sets out the identity of the guarantor providing the MTR Parent Company Guarantee; b) exposing this information may provide insight into the guarantor's potential financial liability and 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 c) the public interest has been served by revealing the fact that a guarantee is required. In light of the disclosure of this

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				<p>information there is an overriding public interest against the disclosure of the precise identity of the guarantor providing the MTR Parent Company Guarantee.</p> <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>
3.	Clause 8 - Notices	The information redacted is a name and email address	<p><i>Section 32(1)(d), item 3(a) of the table in section 14</i></p> <p>The disclosure of this information would reveal an individual's personal information.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information would disclose personal information, including the names and email addresses of individual persons.</p> <p>The Principal considers that any public interest in favour of the disclosure is not significantly advanced by the disclosure of this information, and is outweighed by the public interest against the disclosure as identified above.</p>
4.	Execution page	The information redacted is the signature blocks.	<p><i>Section 32(1)(d), item 3(a) of the table in section 14</i></p> <p>The disclosure of this information would reveal an individual's personal information.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information would disclose personal information, including names and signatures of individual persons.</p> <p>The Principal considers that any public interest in favour of the disclosure is not significantly advanced by the disclosure of this information, and is outweighed by the public interest against the disclosure as identified above.</p>

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5.	Schedule 1 – Early Works Deed Amendments – clause 5 – amendments to Schedule 2 (Scope of Early Works)	The information redacted is the entire clause.	<p><i>Section 32(1)(a) (paragraph (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4)</i></p> <p>The disclosure of this information would place the parties at a substantial commercial disadvantage in relation to other contractors or potential contractors.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14)</i></p> <p>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.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> a) the redacted information relates to the scope of the Early Works, and the redacted information provides particulars of the scope of work to be performed and the dates for performance; and b) 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. <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>

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6.	Schedule 1 – Early Works Deed Amendments – clause 3 – amendments to Schedule 5 (Early Works Payments)	The information redacted is the entire clause.	<p><i>Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14</i></p> <p>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.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> a) the redacted information sets out sensitive information in relation to payment arrangements under the contract; and b) 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 also prejudice the effective exercise by the Principal of its functions. <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>
7.	Schedule 1 – Early Works Deed Amendments – clause 4 – amendments to Schedule 12 (Early Works Milestones)	The information redacted is the entire clause.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d) (items 4(b), 4(c), and 4(d) of the table in</i></p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> a) the redacted information sets out: <ul style="list-style-type: none"> a. the description of certain Milestones; and b. the Date for Milestone Achievement of each Milestone; and b) revealing the information would place the parties at a

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			<p><i>section 14)</i></p> <p>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.</p> <p>There is an overriding public interest against disclosure.</p>	<p>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</p> <p>c) the public interest has been served by revealing the obligation of MTR to achieve Milestone Achievement of the relevant Milestones by the relevant Date for Milestone Achievement. In light of this disclosure there is an overriding public interest against the disclosure of the precise dates and dollar amounts.</p> <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>
8.	Schedule 1 – Early Works Deed Amendments – clause 5 – amendments to Schedule 11 (Nominated Subcontract Work)	The information redacted is the entire clause.	<p><i>Section 32(1)(d), items 4(c) and 4(d) of the table in section 14)</i></p> <p>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.</p> <p>There is an overriding public interest against disclosure</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:</p> <p>a) the redacted information is the description for each Milestone;</p> <p>b) if the redacted information was disclosed, potential subcontractors may be able to use that information to their advantage in negotiations with the parties, thereby prejudicing negotiations. 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</p>

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				<p>c) 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.</p> <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>
9.	Schedule 2 – Payment for Interim Early Works	The information redacted is the entire schedule.	<p><i>Section 32(1)(d), item 4(b), (c) and (d) of the table in section 14</i></p> <p>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.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) the redacted information sets out sensitive information in relation to payment arrangements under the contract; and</p> <p>b) 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 also prejudice the effective exercise by the Principal of its functions.</p> <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>

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10.	Schedule 3 – Checkpoint Milestones (SM) achieved and certified	The information redacted is part of the schedule.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d) (items 4(b), 4(c), and 4(d) of the table in section 14)</i></p> <p>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.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> a) the redacted information sets out the status of certain Milestones and the corresponding payments; b) 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 c) the public interest has been served by revealing the obligation of the Significant Contractor to achieve Milestone Achievement of the relevant Milestones by the relevant Date for Achievement. In light of this disclosure there is an overriding public interest against the disclosure of the precise dates and dollar amounts. <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>
11.	Schedule 4 – Checkpoint Milestones (SM)	The information redacted is part of the schedule.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p>

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	achieved but not certified		<p>information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d) (items 4(b), 4(c), and 4(d) of the table in section 14)</i></p> <p>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.</p> <p>There is an overriding public interest against disclosure.</p>	<p>a) the redacted information sets out the status of certain Milestones and the corresponding payments;</p> <p>b) 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</p> <p>c) the public interest has been served by revealing the obligation of the Significant Contractor to achieve Milestone Achievement of the relevant Milestones by the relevant Date for Achievement. In light of this disclosure there is an overriding public interest against the disclosure of the precise dates and dollar amounts.</p> <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>
12.	Schedule 5 – Outstanding Checkpoint Milestones (SM)	The information redacted is part of the schedule.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) the redacted information sets out the status of certain Milestones and the corresponding payments;</p> <p>b) revealing the information would place the parties at a</p>

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			<p><i>Section 32(1)(d) (items 4(b), 4(c), and 4(d) of the table in section 14)</i></p> <p>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.</p> <p>There is an overriding public interest against disclosure.</p>	<p>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</p> <p>c) the public interest has been served by revealing the obligation of the Significant Contractor to achieve Milestone Achievement of the relevant Milestones by the relevant Date for Achievement. In light of this disclosure there is an overriding public interest against the disclosure of the precise dates and dollar amounts.</p> <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>