

Government Information (Public Access) Act 2009

Explanatory Table

Inner West Light Rail Vehicle remediation deed

Capitalised terms in this table have the meanings given to them in the Inner West Light Rail Vehicle remediation deed unless the context indicates otherwise.

In preparing this explanatory table, TfNSW 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 key public interest considerations for disclosure including:
 - (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.	Clause 1.1 Definition "Remediation Price"	The information redacted is the Contractor's margin and the Stage 1 Remediation Works price	<p>Section 32(1)(a) and paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</p> <p>The disclosure of this information discloses the Contractor's cost structure or profit margins and would place CAF at a substantial commercial disadvantage in relation to other and potential contractors.</p> <p>Section 32(1)(d) and items 4(b) and 4(d) of the table in section 14</p> <p>The disclosure of this information could reasonably be expected to reveal commercial-in-confidence provisions of a government contract and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>TfNSW 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) disclosing the redacted information would reveal disclose the Contractor's cost structure and profit margin; b) disclosing the information would place the Contractor at a substantial commercial disadvantage in future projects of a similar nature, as the margin and the price would be readily accessible to potential future clients, competitors and sub-contractors. Therefore the disclosure of the information could prejudice the Contractor's legitimate business, commercial or financial interests; c) revealing the information could reasonably be expected to prejudice TfNSW's legitimate business, commercial or financial interests by making the margin it is prepared to accept in this transaction readily accessible to tenderers and other contractors on other TfNSW projects.
2.	Clause 1.1 Definition "Senior Management Representative"	The information redacted is a name.	<p>Section 32(1)(d) and item 3(a) of the table in section 14</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>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 would disclose the personal information of the Contractor's personnel..</p> <p>TfNSW considers that any public interest in favour of the disclosure is not significantly advanced by the disclosure of this</p>

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				information and is outweighed by the public interest against the disclosure as identified above.
3.	Clause 4.8(b)(C)(cc) "Further Cracking"	The information redacted is the Contractor's margin.	<p>Section 32(1)(a and, paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</p> <p>The disclosure of this information could reveal CAF's cost structure or profit margins and would place CAF at a substantial commercial disadvantage in relation to other contractors.</p> <p>Section 32(1)(d) and item 4(b) and (d) of the table in section 14</p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) revealing the redacted information would:</p> <ul style="list-style-type: none"> a. provide insight into the apportionment of financial risk the Contractor was willing to accept; b. reveal the Contractor's cost structure and profit margin; and <p>b) revealing the information would place the Contractor 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 prejudice the Contractor's legitimate business, commercial or financial interests; and</p> <p>c) revealing the information could reasonably be expected to prejudice TfNSW's legitimate business, commercial or financial interests by making the margin it was prepared to accept in this transaction readily accessible to tenderers and other contractors on other TfNSW projects.</p>
4.	Clause 5.6 "Compliance with AMB Requirements"	The information redacted is the regime for compliance with	<p>Section 32(1)(d) and, items 1(e) and 1(f) of the table in section 14</p> <p>The disclosure of this information could reveal a deliberation or consultation</p>	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 would

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		TfNSW's requirements.	<p>conducted or recommendation given in such a way as to prejudice a deliberative process of government or an agency and could prejudice the effective exercise by an agency of the agency's functions.</p> <p>There is an overriding public interest against disclosure.</p>	<p>reveal the manner in which TfNSW's Asset Management Branch applies the Asset Management Framework which would prejudice ongoing and future applications of that Framework.</p> <p>TfNSW 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>
5.	Clause 5.7 "Audit by Asset Management Branch"	The information redacted is the regime for an audit by TfNSW.	<p>Section 32(1)(d) and items 1(e) and 1(f) of the table in section 14</p> <p>The disclosure of this information could reveal a deliberation or consultation conducted or recommendation given in such a way as to prejudice a deliberative process of government or an agency and could prejudice the effective exercise by an agency of the agency's functions.</p> <p>There is an overriding public interest against disclosure.</p>	<p>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 would reveal the manner in which TfNSW's Asset Management Branch applies the Asset Management Framework which would prejudice the ongoing and future applications of that Framework.</p> <p>TfNSW 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>
6.	Clause 6.4(a) and 6.4(b)(i) "Liquidated Damages"	The information redacted is a monetary amount	Section 32(1)(a), paragraph (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4	TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:

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		and a monetary cap.	<p>The disclosure of this information would place CAF at a substantial commercial disadvantage in relation to other and potential contractors</p> <p>Section 32(1)(d) and items 4(b) and 4(d) of the table in section 14.</p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract 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 information (including commercially sensitive information) which includes the daily rate for payment of liquidated damages and the cap;</p> <p>b) the disclosure of the redacted information would:</p> <ul style="list-style-type: none"> a. reveal the apportionment of risk negotiated between the parties and provide insight into the level of risk which the Contractor was willing to price and accept; and b. reasonably be expected to prejudice TfNSW's legitimate business, commercial or financial interests by making the information readily accessible to potential future contractors on TfNSW projects..
7.	Clause 6.5(a) "Delay Costs"	The information redacted is a monetary amount.	<p>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</p> <p>The disclosure of this information would place the Contractor at a substantial commercial disadvantage in relation to other and potential contractors.</p> <p>Section 32(1)(d), items 4(b) and 4(d) of the table in section 14</p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract and prejudice a</p>	<p>TfNSW 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 provides the costs payable as delay costs and would provide insight into the Contractor's cost structure or profit margins; and</p> <p>b) the disclosure of the redacted information would:</p> <ul style="list-style-type: none"> a. reveal the apportionment of risk negotiated between the parties and provide insight into the level of risk which the Contractor was willing to price and accept; and <p>reasonably be expected to prejudice TfNSW's legitimate business, commercial or financial interests by making the information</p>

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			<p>person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>readily accessible to potential future contractors on TfNSW projects.</p>
8.	<p>Clause 7.4 "Costs of Handover Activities"</p>	<p>The information redacted is scope</p>	<p>Section 32(1)(a) and paragraph (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</p> <p>The disclosure of this information would place the Contractor at a substantial commercial disadvantage in relation to other and potential contractors.</p> <p>Section 32(1)(d), items 4(b) and 4(d) of the table in section 14</p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>TfNSW 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 provides the scope to be absorbed by the Contractor; and b) revealing the information would place the Contractor at a commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors (including subcontractors). Therefore the disclosure of the information might prejudice its legitimate business, commercial or financial interests.
9.	<p>Clause 10.2</p>	<p>The information redacted is the process for allocating liability</p>	<p>Section 32(1)(a) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</p>	<p>TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because revealing the information:</p>

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	"Payment for the Remediation Works"	for payment for the repairs	<p>The disclosure of this information would place the Contractor at a substantial commercial disadvantage in relation to other and potential contractors.</p> <p>Section 32(1)(d), items 4(b) and 4(d) of the table in section 14</p> <p>This is information the disclosure of which could reasonably be expected to prejudice the Contractor's legitimate business, commercial, professional, or financial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>a) would place the Contractor at a substantial commercial disadvantage in relation to other potential contractors. Revealing the payment structure could place the Contractor at a substantial commercial disadvantage in future projects in NSW and worldwide, as the information would be readily accessible to competitors and other contractors which the Contractor may have to negotiate with or bid against, as well as to potential future clients, competitors and contractors; and</p> <p>b) would reveal the payment, cost, and risk exposure that the Contractor was willing to accept and the cash flow impacts on it of the Remediation Works and therefore could reasonably be expected to prejudice its legitimate business, commercial, or financial interests.</p>
10.	Clause 13.1 "Total aggregate liability"	The information redacted is a percentage and part of a clause.	<p>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</p> <p>The disclosure of this information could reveal C CAF's financing arrangements, cost structure or profit margins and would place CAF at a substantial commercial disadvantage in relation to other and potential contractors.</p>	<p>TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) exposing the redacted information would reveal the apportionment of risk between TfNSW and the Contractor and therefore the level of risk that the Contractor was willing to accept</p> <p>b) revealing the information would place the Contractor 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</p>

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			<p>Section 32(1)(d), items 4(b) and 4(d) of the table in section 14</p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract and prejudice a person's legitimate business and commercial interests.</p> <p><i>There is an overriding public interest against disclosure.</i></p>	<p>(including sub-contractors). Therefore the disclosure of the information could prejudice the Contractor's legitimate business, commercial or financial interests.</p> <p>c) revealing the information would place TfNSW at a substantial commercial disadvantage in future projects, as the information discloses TfNSW's acceptance of a particular liability cap and would be readily accessible to potential contractors in TfNSW projects. Therefore the disclosure of the information could prejudice TfNSW's legitimate business, commercial or financial interests.</p>
11.	Execution Pages	The information redacted are part of the execution blocks.	<p>Section 32(1)(d), item 3(a) of the table in section 14</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>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 would disclose personal information of individuals, including names and signatures.</p> <p>TfNSW 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>
12.	Schedule 1 LRV Cracking	The information redacted is a diagram	<p>Section 32(1)(d), item 4(b) and (d) of the table in section 14</p> <p>There is an overriding public interest against disclosure.</p>	<p>TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because revealing the information:</p> <ul style="list-style-type: none"> a) would diminish the competitive commercial value of the Contractor's technical designs; and b) could reasonably be expected to prejudice the Contractor's legitimate business, commercial, or financial interests.

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13.	Schedule 3 "Initial Remediation Program"	The information redacted is CAF's programme of works.	<p>Section 32(1)(a) and paragraph (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</p> <p>The disclosure of this information would place CAF at a substantial commercial disadvantage in relation to other and potential contractors.</p> <p>Section 32(1)(d), items 4(b) and 4(d) of the table in section 14</p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) disclosure of the redacted information would reveal how the Contract has programmed the work for the project in a level of detail that could place the Contractor at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to other contractors who CAF may have to negotiate with or bid against. Therefore the disclosure of the information could reasonably be expected to prejudice the CAF's legitimate business, commercial or financial interests.</p>
14.	Schedule 7 "Project Management and Interface Requirements"	The information redacted is individual personal information.	<p>Section 32(1)(d) and item 3(a) of the table in section 14</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>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 would disclose the personal information of the Contractor's personnel including names.</p> <p>TfNSW 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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