

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

## **Explanatory Table**

### **Sydney Metro Western Sydney Airport – Station Boxes and Tunnelling Works Design and Construction Deed Contract Number: WSA-200-SBT –**

#### **Pre-Agreed Changes**

Capitalised terms in this table have the meaning given to them in the Sydney Metro Western Sydney Airport Station Boxes and Tunnelling Works Design and Construction (**SBT Deed**), unless the context indicates otherwise.

In preparing this explanatory table, Sydney Metro 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	Pre Agreed Changes	The information redacted is the entire document.	<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)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information discloses the SBT Contractor's cost structure or profit margins and would place the SBT Contractor at a substantial commercial disadvantage in relation to potential contractors and provide visibility on the SBT Contractor's profit margins.</p> <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 for the following reasons:</p> <ul style="list-style-type: none"> <li>a) the redacted schedule concerns the Pre-Agreed Changes under the SBT Deed. The information redacted includes: <ul style="list-style-type: none"> <li>i. a description of the Pre-Agreed Changes that the Principal has a right to exercise;</li> <li>ii. the date by which the Principal has a right to exercise that Pre-Agreed Change;</li> <li>iii. the amendments to the SBT Deed and the SBT Specification if the Principal chooses to exercise the Pre-Agreed Change; and</li> <li>iv. adjustments to the Project Contract Sum if the Principal chooses to exercise the Pre-Agreed Change;</li> </ul> </li> <li>b) in setting out the SBT Contractor's entitlement in relation to each Pre-Agreed Change, the schedule provides visibility on the SBT Contractor's profit margins. The information also reveals the apportionment of risk that the SBT Contractor is willing to price and accept for each Pre-Agreed Change; and</li> <li>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.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>