

Government Information (Public Access) Act 2009

Explanatory Table

Martin Place Metro Station Deed of Variation (Pending Changes) Over Station Development Project Delivery Agreement

Capitalised terms in this table have the meanings given to them in the Martin Place Metro Station Deed of Variation (Pending Changes) Over Station Development Project Delivery Agreement (**DOV OSD PDA**), unless the context indicates otherwise.

In preparing this 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.

Sydney Metro notes that redactions made to the Initial OSD PDA have been reflected in the schedules to the DOV OSD PDA and the rationale for those redactions remains the same (including in relation to any varied provisions).

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
1.	Clause 3.1 – Amendment to Initial OSD PDA	The information redacted is part of the clause.	<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 a schedule that has been redacted in its entirety (Schedule E6 of the Initial OSD PDA); and b) the efficacy of the redaction to the relevant schedule is dependent on the references to that schedule also being redacted. The explanation for the redaction of this schedule is set out in the explanation in row 77 of the Explanatory Table for the Initial OSD PDA. <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>
2.	Clause 4.3 – Time and Delay Costs entitlement	The information redacted is a time period.	<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 would reveal the Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b),</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 details regarding the time period of the agreed Date for Practical Completion of Portion 1; b) exposing the redacted information would provide insight into Macquarie's and its Subcontractors' capabilities and would provide an insight to the risk that Macquarie had priced and accepted in relation to the agreed Date for Practical Completion of Portion 1; and 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

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			<p><i>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>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>
3.	Clause 4.8	The information redacted is part of the 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 1(f), 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</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information for the following reasons:</p> <ul style="list-style-type: none"> a) the redacted information relates to information that has been redacted in the Initial OSD PDA; b) the efficacy of the redaction to the relevant information is dependent on the references to that information also being redacted. The explanation for the redaction of this schedule is set out in the explanation in row 21 of the Explanatory Table for the Initial OSD PDA; c) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to certain obligations under the OSD PDA, and therefore the level of risk that Macquarie was willing to price and accept; and

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			<p>prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>d) 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 prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</p> <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>
4.	Clause 4.13	The information redacted is part of the clause.	<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> <p>a) the redacted information relates to a definition that has been redacted in its entirety (Schedule 1 – Amendments to the General Conditions - Clause 1.1); and</p> <p>b) the efficacy of the redaction to the relevant definition is dependent on the references to that definition also being redacted. The explanation for the redaction of this definition is set out in the explanation in row 5 of this table.</p> <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>
5.	Schedule 1 – Amendments to the General Conditions –	The information redacted is a definition.	<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</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) exposing the information redacted would disclose</p>

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	Clause 1.1		<p>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 would reveal Macquarie's cost structure and would place the parties at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</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</p>	<p>commercially sensitive information on entitlements for specific circumstances relating to payment under the OSD PDA and would ultimately expose risk allocation between the Principal and Macquarie under the OSD PDA; 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.</p> <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>

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			interest against disclosure.	
6.	Schedule 1 – Amendments to the General Conditions – Clause 15.3B	The information redacted is the entire clause.	<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 information that has been redacted in the OSD PDA general conditions; 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; c) the efficacy of the redaction to the relevant information is dependent on the references to that information also being redacted. The explanation for the redaction of this schedule is set out in the explanation in row 5 of this table. <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>
7.	Schedule 1 – Amendments to the General Conditions – Clause 15.10(b)(iv)	The information redacted is part of the clause.	<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</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 a definition that has been redacted in its entirety (Schedule 1 – Amendments to the General Conditions - Clause 1.1); and b) the efficacy of the redaction to the relevant definition is dependent on the references to that definition also being redacted. The explanation for the redaction of this definition is

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			<p>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>set out in the explanation in row 5 of this table.</p> <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>
8.	<p>Schedule 1 – Amendments to the General Conditions – Clause 17.5(a)(iv) – Cost of OSD Works; clause 20 and 20.1(e)</p>	<p>The information redacted is part of the clause.</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 would reveal Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and other contractors and provide visibility on Macquarie's profit margins.</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</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) exposing the redacted information would reveal the type of cost and margin for which Macquarie is entitled for certain events under the OSD PDA; b) exposing the redacted information would reveal the risk that Macquarie was willing to price and accept in relation to the OSD Works. It may also provide insight on Macquarie's capabilities, which would prejudice its legitimate business and commercial interests; and 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>Review: This information would be reviewed for disclosure as events and circumstances change.</p>

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			<p>prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	
9.	Schedule 1 – Amendments to the General Conditions – Clause 26.6B	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)(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 would reveal Macquarie's cost structure and would place the parties at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</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</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) exposing the information redacted would disclose commercially sensitive information on entitlements for specific circumstances relating to payment under the OSD PDA and would ultimately expose risk allocation between the Principal and Macquarie under the OSD PDA; 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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			<p>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>	
10.	Schedule 1 – Amendments to the General Conditions – Clause 26.16	The information redacted is the entire clause.	<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 because:</p> <ul style="list-style-type: none"> a) the redacted information describes commercially sensitive information agreed between Macquarie and the Principal concerning Macquarie's entitlements for specific circumstances in relation to Construction Site (Area 6); b) exposing the information would reveal the level of risk that the Principal was willing to accept and may also provide insight into Macquarie's views on its potential capabilities and likelihood of certain risks arising; and 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>Review: This information would be reviewed for disclosure as</p>

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				events and circumstances change.
11.	Schedule 7 – Initial Commercially Sensitive Information	The information redacted is the entire schedule.	<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 identifies clause, schedule and annexure references in the contract documents and particularises the aspects which Macquarie considers to be its commercially sensitive information; and b) revealing the information would provide an insight into sensitive commercial points for Macquarie and otherwise diminish the competitive commercial value of this information to Macquarie and prejudice its legitimate business, commercial or financial interests. <p>Review: This information would be reviewed for disclosure as events and circumstances change.</p>
12.	Execution page	The information redacted is the names and signatures of the signatories.	<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 of individuals, including names and signatures.</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>