

**Government Information (Public Access) Act 2009
Explanatory Table - Gateway IV Deed - Stage 3**

Transport for NSW (**TfNSW**) has redacted the contractual provisions referred to below due to an overriding public interest against disclosure, in that disclosure of the information would prejudice the legitimate business and commercial interests of TfNSW, of Sydney Airport Corporation Limited (**Sydney Airport**), of John Holland Pty Ltd and Seymour Whyte Constructions Pty Ltd (together the **Contractor**) or of APP Corporation Pty Limited (the **Independent Verifier**), and/or reveal the commercial-in-confidence provisions of a contract. 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, further disclosures will be made.

Item	Clause (and general description)	Reason under Government Information (Public Access) Act 2009	Explanation of the Reasons under the Government Information (Public Access) Act 2009
1.	Clause 1.1 - the definition of Gateway Project Deed Attachment 1 - Project Documents: Item 8 Attachment 10 - Deed Poll in favour of Sydney Airport: Background, A Attachment 13 - Deed Poll in favour of Airport Building Controller: Background A	Section 32(1)(d) and Item 4(d) of the Table at Section 14. The disclosure of this information could reasonably be expected to prejudice the legitimate business interests of the parties.	The information not disclosed is the date of execution of the Gateway Project Deed. TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would prejudice TfNSW's and Sydney Airport's legitimate business, commercial, professional or financial interests.
2.	Clause 1.1 - the definition of Minimum Aboriginal Participation Spend	Section 32(1)(a) and paragraph (b) and (e) of the definition of "commercial-in-confidence provisions" (Clause 1, Schedule 4).	The information not disclosed is the proportion of the fee payable to the Independent Verifier that must be allocated under the Aboriginal Participation Plan under the contract.

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		The disclosure of this information would disclose commercial-in-confidence provisions of the contract.	The disclosure of this information would disclose the Independent Verifier's cost structure and would place the Independent Verifier at a substantial commercial disadvantage in comparison with other contractors.
3.	Clause 3.2(b) - Further acknowledgements and warranties Clause 4.1(c) - Independent Verifier to be independent	Section 32(1)(d) and Item 4(d) of the Table at Section 14. The disclosure of this information could reasonably be expected to prejudice the legitimate business interests of the parties.	The information not disclosed relates to the extent of the representations and warranties given by the Independent Verifier under the contract. TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would prejudice TfNSW's, Sydney Airport's and the Independent Verifier's legitimate business, commercial, professional or financial interests as it would place them at a disadvantage in negotiating with other parties in respect of future projects.
4.	Clause 3.3(d); Independent Verifier's Organisation and Personnel	Section 32(1)(d) and Item 3(a) of the Table at Section 14. The disclosure of this information could reasonably be expected to prejudice the effective exercise by TfNSW of TfNSW's functions.	The information not disclosed are the names of personnel of the Independent Verifier under the contract. TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would involve revealing an individual's personal information.
5.	Clause 3.3(f) - Independent Verifier's Organisation and Personnel	Section 32(1)(d) and Item 4(d) of the Table at Section 14. The disclosure of this information could reasonably be expected to prejudice the legitimate business interests of the parties.	The information not disclosed relates to a commercial regime under the contract and the design and construct contract that is not disclosed. TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would prejudice TfNSW's and the Contractor's legitimate business, commercial, professional or financial interests as it would place them at a disadvantage in negotiating with other parties in respect of future projects.
6.	Clause 3.4(c) - Subcontracting	Section 32(1)(a) and paragraph (e) of the definition of "commercial-in-confidence provisions" (Clause 1, Schedule 4).	The information not disclosed consists of the subcontractors that the Independent Verifier is to engage for specified services under the contract.

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		The disclosure of this information would disclose commercial-in-confidence provisions of the contract.	The disclosure of this information would disclose elements of the Independent Verifier's contracting arrangements and would place it at a substantial commercial disadvantage in negotiations as against other contractors or with suppliers and subcontractors.
7.	Clause 3.13(d)(i) - Aboriginal participation in construction	<p>Section 32(1)(a) and paragraph (b) and (e) of the definition of "commercial-in-confidence provisions" (Clause 1, Schedule 4).</p> <p>The disclosure of this information would disclose commercial-in-confidence provisions of the contract.</p>	<p>The information not disclosed is the dollar amount that must be allocated under the Aboriginal Participation Plan under the contract.</p> <p>The disclosure of this information would disclose the Independent Verifier's cost structure and would place the Independent Verifier at a substantial commercial disadvantage in relation to subcontractors and suppliers, and in comparison with other contractors.</p>
8.	Clause 6.1 - Limitation of liability	<p>Section 32(1)(d) and Item 4(d) of the Table at Section 14.</p> <p>The disclosure of this information could reasonably be expected to prejudice the legitimate business interests of the parties.</p>	<p>The information not disclosed sets out various elements of the limitation on the Independent Verifier's aggregate liability under the contract.</p> <p>TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would prejudice TfNSW's and the Independent Verifier's legitimate business, commercial, professional or financial interests as it would place them at a disadvantage in negotiating with other parties in respect of future projects.</p>
9.	<p>Clause 6.3(d) - Insurances</p> <p>Clause 6.4(a); Clause 6.4(b) - Notice of matter affecting insurance</p> <p>Clause 6.5(a) - Provision of information</p>	<p>Section 32(1)(d) and Item 4(d) of the Table at Section 14.</p> <p>The disclosure of this information could reasonably be expected to prejudice the legitimate business interests of the parties.</p>	<p>The information not disclosed sets out various elements of the risk allocation in relation to insurances under the contract.</p> <p>TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would prejudice TfNSW's and the Independent Verifier's legitimate business, commercial, professional or financial interests as it would place them at a disadvantage in negotiating with other parties in respect of future projects.</p>

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10.	Clause 6.8 - Indemnity	<p>Section 32(1)(d) and Item 4(d) of the Table at Section 14.</p> <p>The disclosure of this information could reasonably be expected to prejudice the legitimate business interests of the parties.</p>	<p>The information not disclosed consists of specific details of the Independent Verifier's indemnity in favour of TfNSW and the Contractor.</p> <p>TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would prejudice TfNSW's, Sydney Airport's, the Contractor's and the Independent Verifier's legitimate business, commercial, professional or financial interests as it would place them at a disadvantage in negotiating with other parties in respect of future projects.</p>
11.	Clause 9.2(a)(ii) - Notices	<p>Section 32(1)(d) and Item 3(a) of the Table at Section 14.</p> <p>The disclosure of this information could reasonably be expected to prejudice the effective exercise by TfNSW of TfNSW's functions.</p>	<p>The information not disclosed are the names and contact details of personnel of TfNSW, Sydney Airport, the Contractor and the Independent Verifier.</p> <p>TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would involve revealing an individual's personal information.</p>
12.	Attachment 2 - Independent Verifier Services: Item 1, Item 4	<p>Section 32(1)(d) and Item 4(d) of the Table at Section 14.</p> <p>The disclosure of this information could reasonably be expected to prejudice the legitimate business interests of the parties.</p>	<p>The information not disclosed relates to commercial regimes under the design and construct contract that have not been disclosed.</p> <p>TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would prejudice TfNSW's and the Contractor's legitimate business, commercial, professional or financial interests as it would place them at a disadvantage in negotiating with other parties in respect of future projects.</p>
13.	Attachment 3 - Payment Schedule: Item 4(a); Item 4(b)(iv)-(v); Item 5; Item 6(a)(ii); Item 6(c)(iii); Item 7	<p>Section 32(1)(a) and paragraphs (a), (b) and (e) of the definition of "commercial-in-confidence provisions" (Clause 1, Schedule 4).</p> <p>The disclosure of this information would disclose commercial-in-confidence provisions of the contract.</p>	<p>The information not disclosed is the base fee and the nature and extent of the disbursements payable to the Independent Verifier under the contract and the adjustment to the base fee permitted under the contract.</p> <p>The disclosure of this information would disclose elements of the Independent Verifier's cost structure and profit margin and would place it at a substantial commercial disadvantage in negotiations as against other contractors or with suppliers and subcontractors.</p>

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		<p>Section 32(1)(d) and Item 4(d) of the Table at Section 14.</p> <p>The disclosure of this information could reasonably be expected to prejudice the legitimate business interests of the parties.</p> <p>Section 32(1)(d) and Item 3(a) of the Table at Section 14.</p> <p>The disclosure of this information could reasonably be expected to prejudice the effective exercise by TfNSW of TfNSW's functions.</p>	<p>TfNSW also considers that there is an overriding public interest against disclosure of this information because it would prejudice TfNSW's and the Independent Verifier's legitimate business, commercial, professional or financial interests as it would place them at a disadvantage in negotiating with other parties in respect of future projects.</p> <p>In addition, in respect of Item 5, TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would involve revealing an individual's personal information.</p>
14.	Attachment 5 - Minimum Surveillance by Independent Verifier during the Contractor's Activities, Schedule 48 (Solid Waste)	<p>Section 32(1)(d) and Item 4(d) of the Table at Section 14.</p> <p>The disclosure of this information could reasonably be expected to prejudice the legitimate business interests of the parties.</p>	<p>The information not disclosed relates to a commercial regime under the design and construct contract covering the management of solid waste that is not disclosed.</p> <p>TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would prejudice TfNSW's and the Contractor's legitimate business, commercial, professional or financial interests as it would place them at a disadvantage in negotiating with other parties in respect of future projects.</p>
15.	Attachment 7 - Insurance Schedule: Item 1; Item 2; Item 3 Exhibit B - Insurance Policy Wording: Limits of Legal Liability; Limits of Covered Operations and	<p>Section 32(1)(d) and Item 4(d) of the Table at Section 14.</p> <p>The disclosure of this information could reasonably be expected to prejudice the legitimate business interests of the parties.</p>	<p>The information not disclosed relates to obligations on TfNSW and the Independent Verifier to take out insurances under the contract.</p> <p>TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would prejudice TfNSW's and the Independent Verifier's legitimate business, commercial, professional or financial interests as it would place them at a disadvantage in negotiating with other parties in respect of future projects.</p>

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	Completed Operations Liability; Excess		
16.	Attachment 9 - Independent Verifier's Personnel: Item 1; Item 1.1; Item 1.2	<p>Section 32(1)(a) and paragraphs (a), (b) and (e) of the definition of "commercial-in-confidence provisions" (Clause 1, Schedule 4).</p> <p>The disclosure of this information would disclose commercial-in-confidence provisions of the contract.</p> <p>Section 32(1)(d) and Item 4(d) of the Table at Section 14.</p> <p>The disclosure of this information could reasonably be expected to prejudice the legitimate business interests of the parties.</p> <p>Section 32(1)(d) and Item 3(a) of the Table at Section 14.</p> <p>The disclosure of this information could reasonably be expected to prejudice the effective exercise by TfNSW of TfNSW's functions.</p>	<p>The information not disclosed is details of the minimum resources committed by the Independent Verifier to provide the services under the contract.</p> <p>The disclosure of this information would disclose elements of the Independent Verifier's cost structure and profit margin and would place it at a substantial commercial disadvantage in negotiations as against other contractors or with suppliers and subcontractors.</p> <p>TfNSW also considers that there is an overriding public interest against disclosure of this information because it would prejudice TfNSW's and the Independent Verifier's legitimate business, commercial, professional or financial interests as it would place them at a disadvantage in negotiating with other parties in respect of future projects.</p> <p>In addition, in respect of Items 1.1 and 1.2, TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would involve revealing an individual's personal information.</p>
17.	Attachment 14 - Performance Regime: Item 4, Item 5; Item 6; Item 7	<p>Section 32(1)(d) and Items 4(d) of the Table at Section 14.</p> <p>The disclosure of this information could reasonably be expected to prejudice the legitimate business interests of the parties.</p>	<p>The information not disclosed is part of a clause that relates to a commercial regime in the contract.</p> <p>TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would prejudice TfNSW's and the Independent Verifier's legitimate business,</p>

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			commercial, professional or financial interests as it would place them at a disadvantage in negotiating with other parties in respect of future projects.
18.	Exhibit A - Aboriginal Participation Plan	<p>Section 32(1)(d) and Items 4(d) of the Table at Section 14.</p> <p>The disclosure of this information could reasonably be expected to prejudice the legitimate business interests of the parties.</p>	<p>The information not disclosed is part of a clause that relates to a commercial regime in the contract.</p> <p>TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would prejudice TfNSW's and the Independent Verifier's legitimate business, commercial, professional or financial interests as it would place them at a disadvantage in negotiating with other parties in respect of future projects.</p>
19.	Exhibit C - Initial Verification and Monitoring Plan	<p>Section 32(1)(d) and Items 4(d) of the Table at Section 14.</p> <p>The disclosure of this information could reasonably be expected to prejudice the legitimate business interests of the parties.</p>	<p>The information not disclosed is part of a clause that relates to a commercial regime in the contract.</p> <p>TfNSW weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because it would prejudice TfNSW's and the Independent Verifier's legitimate business, commercial, professional or financial interests as it would place them at a disadvantage in negotiating with other parties in respect of future projects.</p>