

31 July 2023



**Official Information Act #22.169 - Response**

1. We refer to your request received on 2 May 2023 and clarified on 4 May 2023 for information relating to the Commerce Commission (the Commission) residential building supplies market study.
2. You have requested all correspondence between the following parties and the Commission in the period 2 October 2022 to 6 December 2022.
  - 2.1 Building Industry Federation
  - 2.2 Fletchers
  - 2.3 Carters
  - 2.4 Incumbent material suppliers
  - 2.5 BRANZ.
3. As discussed, we have agreed with you that:
  - 3.1 administrative emails, such as cover emails, administrative emails to all stakeholders, or emails to and from parties checking the confidentiality status of information prior to final report publication, are out of scope of the request and will not be provided; and
  - 3.2 your reference to “incumbent materials suppliers” is intended to refer to any industry participants / secondary parties / interested parties who are suppliers of building products (not just the major building supplies merchants).

4. On 30 May 2023 the Commission extended the time frame to communicate our decision on your request to 31 July 2023.

### **Our response**

5. We identified a set of documents within scope of your request and then consulted with the relevant parties.
6. We are releasing to you the documents listed in **Appendix A** below.
7. As indicated in Appendix A, we have redacted certain information in some documents as we consider good reasons exist to:
  - 7.1 protect the privacy of natural persons (section 9(2)(a) of the OIA); and/or
  - 7.2 protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information (section 9(2)(b)(ii) of the OIA).
8. We have withheld two documents in full. These documents are listed in **Appendix B** below.
  - 8.1 We have withheld one document under section 6(c) of the OIA as it relates to an ongoing investigation. We consider good reasons exist to withhold this document as release would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial.
  - 8.2 We have withheld one document in full under section 9(2)(b)(ii) of the OIA as release would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.
9. We consider that good reasons exist for withholding information under section 9 and this is not outweighed by other considerations which would make it desirable, in the public interest, to make the information available (section 9(1) of the OIA).

### **Mitre 10**

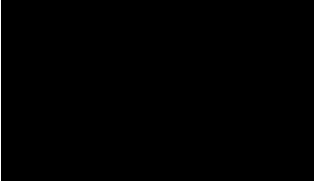
10. We are currently finalising our response to you regarding our correspondence with Mitre 10. We will release the remainder of our response to you without undue delay.

### **Further information**

11. If you are not satisfied with the Commission's response to your OIA request, section 28(3) of the OIA provides you with the right to ask an Ombudsman to investigate and review this response. However, we would welcome the opportunity to discuss any concerns with you first.

12. Please note the Commission will be publishing this response to your request on its website. Your personal details will be redacted from the published response.
13. Please do not hesitate to contact us at [oa@comcom.govt.nz](mailto:oa@comcom.govt.nz) if you have any questions about this response.

Yours sincerely



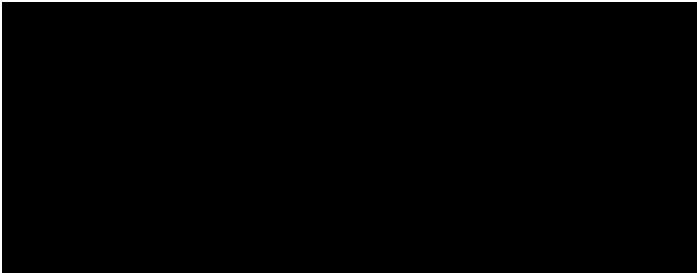
OIA and Information Coordinator

<b>Appendix A</b>			
<b>Document number</b>	<b>Date</b>	<b>Document</b>	<b>Redactions</b>
<b>Bunnings</b>			
CC.00000803	21 November 2022	Email	No redactions
<b>Carter Holt Harvey</b>			
CC.00000243	06 October 2022	Email	No redactions
CC.00000107	13 October 2022	Email	No redactions
CC.00001169	28 October 2022	Email	No redactions
CC.00001410	01 November 2022	Email	No redactions
CC.00001410.0001	01 November 2022	Letter Attached to CC.00001410	No redactions
CC.00001488	07 November 2022	Email	Sections 9(2)(a) and 9(2)(b)(ii)
<b>Fletcher</b>			
CC.00000116.0001	28 October 2022	Letter	No redactions
CC.00001786	28 October 2022	Response Attached to CC.00000116.0001	Section 9(2)(b)(ii)
CC.00001285	28 November 2022	Letter	No redactions
<b>ITM</b>			
CC.00000178	05 October 2022	Email	No redactions
CC.00001504	12 October 2022	Email	No redactions
CC.00000200	13 October 2022	Email	No redactions
CC.00000734	14 October 2022	Email	Section 9(2)(b)(ii)
CC.00000831	28 October 2022	Email	No redactions
CC.00001301	31 October 2022	Email	No redactions

CC.00000929	07 November 2022	Email	Section 9(2)(b)(ii)
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<b>Appendix B</b>			
<b>Document number</b>	<b>Date</b>	<b>Document</b>	<b>Withheld in full</b>
<b>Fletcher Building</b>			
CC.00000129	29 November 2022	File note	Section 6(c)
<b>ITM</b>			
CC.00000929.0001	7 November 2022	Proposal Attached to CC.00000929	Section 9(2)(b)(ii)

4 August 2023



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  - 2.1 Building Industry Federation
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  - 2.5 BRANZ.
3. As discussed, we have agreed with you that:
  - 3.1 administrative emails, such as cover emails, administrative emails to all stakeholders, or emails to and from parties checking the confidentiality status of information prior to final report publication, are out of scope of the request and will not be provided; and
  - 3.2 your reference to “incumbent materials suppliers” is intended to refer to any industry participants / secondary parties / interested parties who are suppliers of building products (not just the major building supplies merchants).

4. On 30 May 2023 the Commission extended the time frame to communicate our decision on your request to 31 July 2023.
5. On 31 July 2023 we communicated our decision to you and provided you with a set of documents. We noted that we were finalising our response regarding our correspondence with Mitre 10 and that we would release the remainder of our response to you without undue delay.

### **Our response**

6. We are releasing to you the documents listed in **Appendix A** below, which is our correspondence with Mitre 10.
7. As indicated in Appendix A, we have redacted certain information in some documents as we consider good reasons exist to:
  - 7.1 protect the privacy of natural persons (section 9(2)(a) of the OIA); and/or
  - 7.2 protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information (section 9(2)(b)(ii) of the OIA); and/or
  - 7.3 protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied (section 9(2)(ba)(i) of the OIA).
8. We have withheld two documents in full to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information (section 9(2)(b)(ii) of the OIA). These documents are listed in **Appendix B** below.
9. We consider that good reasons exist for withholding information under section 9 of the OIA and this is not outweighed by other considerations which would make it desirable, in the public interest, to make the information available (section 9(1) of the OIA).
10. We do not hold any further information responsive to your request.

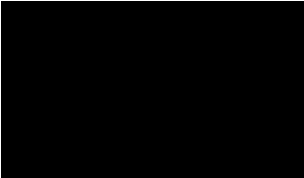
### **Further information**

11. If you are not satisfied with the Commission's response to your OIA request, section 28(3) of the OIA provides you with the right to ask an Ombudsman to investigate and review this response. However, we would welcome the opportunity to discuss any concerns with you first.



12. Please note the Commission will be publishing this response to your request on its website. Your personal details will be redacted from the published response.
13. Please do not hesitate to contact us at [oa@comcom.govt.nz](mailto:oa@comcom.govt.nz) if you have any questions about this response.

Yours sincerely



OIA and Information Coordinator

<b>Appendix A</b>			
<b>Document number</b>	<b>Date</b>	<b>Document</b>	<b>Redactions</b>
<b>Mitre 10</b>			
CC.00000372	18 October 2022	Email	Sections 9(2)(a) and 9(2)(b)(ii)
CC.00000372.0001	18 October 2022	Letter Attached to CC.00000372	Sections 9(2)(a) and 9(2)(b)(ii)
CC.00001061	18 October 2022	Email	Section 9(2)(a)
CC.00001061.0001	18 October 2022	Attachment to CC.00001061	Sections 9(2)(a) and 9(2)(b)(ii)
CC.00001015	4 November 2022	Email	Sections 9(2)(a), 9(2)(b)(ii) and 9(2)(ba)(i)
CC.00001015.0001	4 November 2022	Letter Attached to CC.00001015	Sections 9(2)(a), 9(2)(b)(ii) and 9(2)(ba)(i)

<b>Appendix B</b>			
<b>Document number</b>	<b>Date</b>	<b>Document</b>	<b>Withheld in full</b>
<b>Mitre 10</b>			
CC.00001061.0002	18 October 2022	Sale and Purchase Agreement Attached to CC.00001061	Section 9(2)(b)(ii)
CC.00001061.0003	18 October 2022	Sale and Purchase Agreement Attached to CC.00001061	Section 9(2)(b)(ii)