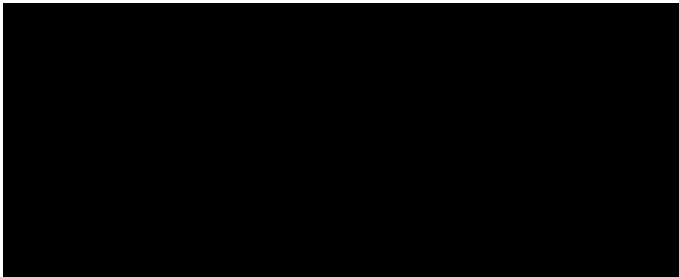


22 February 2023



Official Information Act #22.095 - Response

1. We refer to your request received on 6 December 2022 for details of all land covenants identified in the Commerce Commission's (the Commission) building supplies market study.
2. We have treated this as a request for information under the Official Information Act 1982 (OIA).
3. On 20 January 2023, the Commission extended the time frame to communicate our decision on your request to 22 February 2023.

Our response

4. As part of the market study into residential building supplies, we asked merchants to provide information relating to covenants:
 - 4.1 Has [the merchant] given, or required to be given, or is [the merchant] the beneficiary of, any restrictive covenants?¹
 - 4.1.1 If so, please list the physical addresses over which these apply to.
5. We subsequently asked merchants to confirm whether their earlier responses included both store covenants² and land development covenants.³ If updated

¹ Restrictive covenants were defined as: "covenants on land containing clauses or terms which prevent or restrict the operation of businesses which sell key building supplies".

² Store covenants were defined as "covenants on land containing clauses or terms which prevent or restrict the site from being used for operating a business which sells key building supplies".

³ Land development covenants were defined as "covenants on land zoned for residential housing, which contain clauses or terms which give a building supplies merchant preferential rights to supply key building supplies for any housing to be constructed on the land".

responses were required, we asked for the physical addresses to which these covenants applied, amongst other details.

6. The information we hold falling within the scope of your request is the information disclosed to the Commission in 2022 by five merchants in response to the above questions. This is the information relevant for the findings on covenants in our residential building supplies market study. As noted below, some of these merchants have made changes to their covenants since the market study, or covenants have expired. As such, if you require a list of covenants currently in effect, you may wish to contact the merchants for this information.

Bunnings Limited (NZ)

7. In respect of Bunnings Limited (NZ), (Bunnings) we attach a list of store covenants (CC.BUN.0129) provided to the Commission by Bunnings on 6 May 2022 and 23 June 2022.
8. We have redacted columns D, E and J as being out of scope of the request. These columns contain Bunnings' commentary on the covenants or links to extracts of clauses.

Carter Holt Harvey Group

9. In respect of Carter Holt Harvey Group, (Carters) we attach a list of store covenants (CC.CAR.0068) provided to the Commission by Carters on 5 May 2022 and 21 June 2022.
10. We note that in consultation on your request, Carters advised that it has commenced the process of terminating the covenants.

Fletcher Building Limited


11. In respect of Fletcher Building Limited, (PlaceMakers) we attach a list of PlaceMakers store covenants (CC.PM.0394) provided to the Commission by PlaceMakers on 23 June 2022.
12. We note that in consultation on your request, PlaceMakers advised that its 23 June 2022 response included existing encumbrances registered on third party landowners' records of title, as well as expired encumbrances. If you require any further information, please contact [REDACTED] on [REDACTED]

Mitre 10 (New Zealand) Limited

13. In respect of Mitre 10 (New Zealand) Limited, (Mitre 10) we attach a list of store covenants and other responses relating to sale and purchase agreements (CC.M10.0172, CC.M10.0182 and CC.M10.0183) provided to the Commission by Mitre 10 on 5 May 2022 and 23 June 2022.

14. Following consultation, we redacted the following as being out of scope of the request:
- 14.1 column I in CC.M10.0172. This column contains details relating to the term, scope and duration of the covenant; and
 - 14.2 parts of CC.M10.0182. The redacted material contains Mitre 10's commentary on the store covenants.
15. CC.M10.0183 lists developments where the store owner of MEGA Hastings and MEGA Napier entered into sale and purchase agreements (SPAs) containing clauses similar to land development covenants. These SPAs are discussed in paragraphs 7.73 to 7.74 of the residential building supplies market study [final report](#).

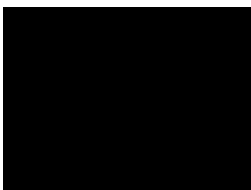
TUMU Group

16. In respect of TUMU Merchants Limited, (TUMU) we attach a list of land development covenants (CC.TUM.0001) provided to the Commission by TUMU on 2 September 2022.
17. We note that in consultation on your request, TUMU advised that an updated version of CC.TUM.0001 is available as certain titles no longer include a building material supply covenant and one development was omitted. We have not included a copy on the basis that it is not the information held by the Commission for the purpose of the residential building supplies market study. For a copy, you can contact 

Further information

18. 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.
19. The Commission will be publishing this response to your request in the OIA register on our website.⁴ Your personal information will be redacted.
20. Please do not hesitate to contact us at ويا@comcom.govt.nz if you have any questions about this response.

Yours sincerely



OIA and Information Coordinator

⁴ <https://comcom.govt.nz/about-us/requesting-official-information/oia-register>