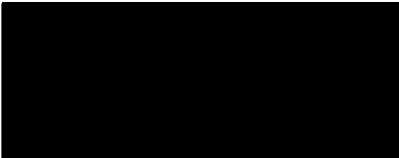




**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDD 49/16-17



Dear 

## **Decision on Freedom of Information Request – advice provided by Marsh Pty Ltd**

I am writing in relation to your access request, made under section 14 of the ACT *Freedom of Information Act 1989* (the Act) and received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 10 February 2017.

In your request you are specifically seeking:

*“...all documents and any information held by the Directorate relating to advice provided by Marsh Pty Ltd to the ACT Government, in particular:*

*All reports, documents and information provided by Marsh Pty Ltd to the ACT Government concerning 'technical advice';*

*All documents received by the ACT Government in exchange for the payment made to Marsh Pty Ltd on 12th January 2016”*

### **Decision Maker**

I am authorised under section 22 of the Act to make decisions on access to documents and liability for charges.

### **Charges**

I have decided, under section 29 of the Act, not to impose processing charges for this request.

### **Identification of Documents**

Your request identified a payment to Marsh Pty Ltd (Marsh) from CMTEDD on 12 January 2016. This payment of \$31,609.13 was for services rendered under a contract between the Territory and Marsh for the Provision of Services as Workers' Compensation Insurance Policy Advisor to the Territory (Contract number ACTGOVRFQ-1-306).

Chief Minister, Treasury and Economic Development

The documents identified as relevant to your request consist of two emails with attachments from Marsh representatives to CMTEDD officers providing deliverables under the aforementioned contract.

### **Decision on Access**

As I advised you in my letter of 8 March 2017, I have consulted with a third party and have given consideration to the third party's response in making my release decision.

I have decided to exempt all documents from release. My reasons for not providing access to these documents are detailed in the following statement of reasons and in the attached schedule.

### **Exemptions claimed**

#### Section 43 - Documents relating to business affairs etc

Section 43 of the Act provides:

- (1) *A document is an exempt document if its disclosure under this Act would disclose—*
- (a) *trade secrets; or*
  - (b) *any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed; or*
  - (c) *information (other than trade secrets or information to which paragraph (b) applies) concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, being information—*
    - (i) *the disclosure of which would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs.*
    - (ii) *the disclosure of which under this Act could reasonably be expected to prejudice the future supply of information to the Territory or an agency for the purpose of the administration of a law or the administration of matters administered by an agency.*

I have decided to exempt from release documents that are likely to adversely affect the business affairs of an organisation, as described in section 43(1) of the Act. The documents contain details of Marsh's methodology and processes including assessment tools. It is reasonable to expect that this information concerning Marsh's business processes could be utilised by other organisations to gain a competitive advantage.

The documents contain information gathered from insurer submissions provided to Marsh as part of a request for proposal. This information included the insurer's pricing and proposed terms. It is reasonable to expect that the insurers who provided submissions to Marsh would be affected by disclosure of their confidential business information. Release of this information would also affect the Territory and Marsh's ability to seek confidential submissions from insurers in future.

## Section 45 - Documents containing material obtained in confidence

Section 45 of the Act provides:

- (1) *A document is an exempt document if its disclosure under this Act would constitute a breach of confidence.*
- (2) *Subsection (1) does not apply to any document to the disclosure of which section 36 (1) (a) applies or would, but for section 36 (2), (3) or (4), apply, being a document prepared by—*
  - a) *a Minister; or*
  - b) *a member of the staff of a Minister or an officer of an agency in the course of his or her duties; or*
  - c) *a prescribed authority in the exercise of its functions;*
  - d) *for purposes relating to the affairs of an agency or the official affairs of a Minister unless the disclosure would constitute a breach of confidence owed to a person or body other than—*
  - e) *a person in the capacity of Minister, member of the staff of a Minister or officer of an agency; or*
  - f) *an agency or the Territory.*

As noted above, the documents identified as relevant to your request contain information that was obtained in confidence. Release of this information would constitute a breach of confidence as described in section 45(1) of the Act.

Insurers provided submissions to Marsh in confidence as part of a request for proposal. This information and Marsh's analysis and assessment of insurer proposals was provided to and received by the Directorate with the understanding that it would only be used for assessment purposes and internal analysis.

### **Your Right of Review**

#### Internal Review

Under section 59(1) of the Act, you may request a review of my decision. You have 28 days after receiving notice of my decision to ask for a review, or a further period as allowed by the Director-General.

Your request should be addressed to:

Director-General  
c/o Freedom of Information Co-ordinator  
Chief Minister, Treasury and Economic Development Directorate  
GPO Box 158  
CANBERRA ACT 2601

Via email: [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)

#### Complaints to the Ombudsman

Under section 54 of the Act, you may complain to the Ombudsman about administrative matters relating to the processing of your Freedom of Information request. There is no

fee for making a complaint. The Ombudsman will conduct an independent investigation into your complaint.

You can contact the Ombudsman either by telephone on 1300 362 072 or in writing to:  
The Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

### **Online FOI Policy**

I have assessed your request for information under the ACT Government's Online Freedom of Information Publication Policy and have determined that my decision on your request will be published online. Personal information or business information will not be made available under this policy.

A copy of the policy, with details about what information may be published on the Internet, is available online at: [http://www.cmd.act.gov.au/data/assets/pdf\\_file/0016/250333/FOI\\_Web\\_Release\\_Policy\\_-\\_Final.pdf](http://www.cmd.act.gov.au/data/assets/pdf_file/0016/250333/FOI_Web_Release_Policy_-_Final.pdf)

Should you have any queries regarding this matter, please contact me on (02) 6205 3095.

Yours sincerely



Michael Young  
Executive Director  
Workplace Safety and Industrial Relations

7 April 2017