

## **SUBMISSION PREPARED FOR SUNWATER**

### **Should the private sector remain outside the reach of the FOI Act?**

While it makes sense that commercially sensitive information should be excluded, there may be sound reasons for applying FOI processes or similar voluntary approaches in the private sector, such as policies for access to personal information for employees who may otherwise need to resort to court ordered discovery processes to obtain very straight forward information. This may result in a significant saving of court time and costs to individuals who need to acquire information about their personal records for legitimate reasons. However, the size and financial capacity of a private organisation may be a factor in whether an FOI process can be realistically made available in every workplace.

### **Should there be special provisions in the Act (and, if necessary, in other legislation) to ensure that when government services are contracted out to corporations, partnerships or individuals, that the contractor should be required to provide information that would be required under FOI if the services were being provided by an agency?**

Possibly yes, for the same reasons detailed in the answer above.

### **Should Government Owned Corporations (however constituted) be exempt from provisions of the Act covering agencies and, if so, to what extent?**

No, there is no significant reason for changing the current arrangements as applied to GOCs under the FOI Act from SunWater's experience.

### **If world's best practice in FOI Law is that FOI should extend to "any body that is exercising government functions" should any attempt be made to define what are government functions at a time when the responsibility for many such functions is being devolved to the private sector of GOCs?**

Yes, it would be essential that these services are defined and clearly limited so that there is no need to argue about the commercial functions of organisations such as GOCs that have both elements as part of general business. Such an approach would also save applicants time and costs in being put to the test to argue for the production of documents or information that might not clearly fall in one or other category in the absence of a clear and exclusive definition.

### **Should people be able to access their personal information held by organisations like GOCs that are ultimately controlled by government and, if so, to what extent?**

Yes, all files held by human resources departments should be accessible by an employee provided any such request is made on reasonable grounds. The only limitations that might be considered would be those that pertain to allegations of fraud or other possible criminal activity, the release of which may prejudice an investigation by the police or other regulatory body. It may be that the court discovery process is the better avenue for disclosure in those circumstances.