

Date: 5 August 2020

Our Ref: SN942

Dr Susan Close MP  
Member for Port Adelaide  
Unit 1, 111 Lipson Street  
PORT ADELAIDE SA 5015

Via email: [ptadelaide@parliament.sa.gov.au](mailto:ptadelaide@parliament.sa.gov.au)

Dear Dr Close

**Freedom of Information – Determination**

I refer to your application pursuant to the South Australian Freedom of Information Act, 1991 ("the Act") received by SA Water on 19 February 2020, seeking access to:

"details of any external market research procured by or conducted on behalf of SA Water, including cost, results and summaries." Date range: 1 July 2018 to 18 February 2020.

On 2 March 2020, Mr Josh Vines of your office confirmed that you seek details of market research undertaken with customers or potential customers and that SA Water could provide this information in table form.

Therefore, in response to your request, SA Water has compiled the attached list of all external market research undertaken with customers or potential customers, including the details, costs, purpose of research and a summary of results, within the prescribed date range.

Based on my assessment of this information, I have determined to provide you partial access to this document.

Section 20 of the Act provides that an agency may refuse access to sections of a document, if the information is considered exempt pursuant to the provisions listed under Schedule 1 to the Act. The section of the document which I consider exempt and the reasons for the exemption are explained in more detail below.

**Business affairs**

Clause 7(1)(c) of Schedule 1 to the Act states that:

**7—Documents affecting business affairs**

(1) A document is an exempt document—

...

(c) if it contains matter—

(i) consisting of information (other than trade secrets or information referred to in paragraph (b)) concerning the business, professional, commercial or financial affairs of any agency or any other person; and

(ii) the disclosure of which—

- (A) could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of such information to the Government or to an agency; and
- (B) would, on balance, be contrary to the public interest.

The attached table provides a description of work undertaken by individual businesses and the costs associated with the delivery of those services. The service prices provided by Newfocus are at a heavily reduced rate. Taking into consideration advice provided during third party consultation, it is my opinion that disclosure of this information would have an adverse impact on the ability of Newfocus to negotiate pricing for future customers, thus jeopardising their commercial returns. Consequently, to remain commercially viable, Newfocus would likely need to increase the reduced rate specific to SA Water for future services.

Clause 7(1)(c) requires that I consider the balance of public interest factors when determining the release of this information. I have weighed the public interest factors in favour of disclosure, including the objects of the Act regarding openness and transparency. However, on balance, it is my view this is outweighed by the adverse earning capacity disclosure will have on Newfocus and the subsequent impact on current pricing arrangements with SA Water. It is in the public interest for SA Water to keep operational expenditure as low as possible, improving the financial viability of SA Water as a business and consequently keeping customer water and wastewater charges as low as possible. It is for this reason that I have determined that the pricing information provided by Newfocus is exempt pursuant to clause 7(1)(c).

#### **Rights of review**

If you are dissatisfied with this determination, you are entitled to exercise your rights to internal review and appeal as outlined under Section 29 of the Act. To apply for an internal review you must lodge an internal review application form with SA Water within 30 days from the date of this determination. Internal review applications should be addressed to the Principal Officer, GPO Box 1751, Adelaide SA 5001.

In accordance with the requirements of the Premier and Cabinet Circular PC045 - Disclosure Logs for Non-Personal Information Released through Freedom of Information, details of your FOI application, a copy of this notice of determination and the document to which you have been given access, will be published on the SA Water website FOI disclosure log. A copy of PC045 can be found at <http://dpc.sa.gov.au/what-we-do/services-for-government/premier-and-cabinet-circulars>.

If you have any queries in relation to the above, if you object to publication of your application on the disclosure log, or if you wish to obtain a copy of the internal review application form, please contact me on telephone (08) 7424 1366 or via email at [freedomofinformation@sawater.com.au](mailto:freedomofinformation@sawater.com.au).

Yours sincerely

James Geddes  
**ACCREDITED FREEDOM OF INFORMATION OFFICER**