



Request for Defence Force National Real Estate Review

Legislation	Official Information Act 1982, s 9(2)(f)(iv)
Agency	Minister of Defence
Ombudsman	Anand Satyanand
Case number(s)	W41576
Date	September 1999

Request for Defence Force National Real Estate Review—information withheld on basis of need to protect confidentiality of advice—report prepared by external consultants and submitted to Minister—information not advice tendered by officials—recommendation that report be released—report released with contextual statement

In the course of investigating and reviewing the decision of the Minister of Defence to decline to make available information relating to the New Zealand Defence Force National Real Estate Review, consideration was given to whether section 9(2)(f)(iv) of the OIA could be said to apply to a report prepared by external consultants as part of that review. Before that provision could be said to apply to the information, it would have to be demonstrated that it constituted '*advice tendered by ... officials*' and that it was necessary to protect the confidentiality of that advice to enable the process of government to operate in an effective and orderly manner.

In this case, the consultants had been commissioned to prepare '*a long-term property strategy for the NZDF's major base facility and property requirements*'. The consultant's report had been presented to the Minister and, although the Defence Force had participated in the formulation of a series of options for the reconfiguration of the base structure, the analysis and recommendations made in the report were clearly those of the consultants. There was no evidence to suggest that the Defence Force had adopted the report as its own advice, nor did the report reveal what views the Defence Force had on the proposals contained in it.

Accordingly, it did not appear that the information could be said to constitute '*advice tendered ... by officials*'. This meant in turn that release of the report, on its own, would not prejudice the confidentiality of advice tendered by officials and thereby affect the orderly process of government. Any concerns expressed about possible misconceptions arising from release of the report could be covered by releasing the report with a contextual statement clarifying those issues.

It was therefore recommended to the Minister that the report be released. The Minister accepted the recommendation and released it together with contextual statement.

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