

Request for Cabinet papers on review of Overseas Investment Act

Legislation	Official Information Act 1982, s 9(2)(f)(iv)
Agency	Minister of Finance
Ombudsman	Beverley Wakem
Case number(s)	285135
Date	August 2010

Disclosure would prejudice orderly and effective conduct of ongoing advisory and decision making processes

The Minister of Finance refused a request for all recent Cabinet papers on a review of the Overseas Investment Act, and the requester complained to the Chief Ombudsman.

The information at issue was a paper and attached draft policy document that had been considered by the Cabinet Economic Growth and Infrastructure Committee. Following consideration of the papers, the Cabinet Committee decided that further analysis of the overseas investment regime and any proposed amendments to that regime was required. The Treasury was engaged in further policy work, at the completion of which a further paper would be referred to Cabinet.

The Chief Ombudsman was satisfied, given the contentious nature of the issue of overseas investment in New Zealand, that disclosure of the information at issue would have prejudiced the ability of Cabinet to give undisturbed consideration to the advice tendered. Not all relevant advice was completed and to hand, which would have put Ministers at an unfair disadvantage in terms of adequately explaining publicly the issues that would likely stem from any disclosure.

The Chief Ombudsman acknowledged the public interest in disclosure of information related to the review of the Overseas Investment Act, but concluded the overall public interest would not be served by the disclosure of information that would undermine the ability of the Cabinet to receive and consider, in confidence, advice relating to the review. In coming to this view, she

had regard to the expectation that the policy advice relating to the review would be disclosed once decisions had been made, and that the public would have an opportunity to make submissions on any changes requiring legislative amendment through the Select Committee process.

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