



EXECUTIVE COUNCIL CHAMBERS

25 November 2015

Kyle Levenberg

By email: fyi-request-3130-1bb5d9d7@requests.fyi.org.nz

Dear Mr Levenberg

Information request: Flag Consideration Panel

Our ref: DPMC 120-2015

1 Your email of 8 September 2015 requested information under the Official Information Act 1982 (“OIA”) relating to the Flag Consideration Panel (“Panel”) and its design selection process. Your request was for:

“The full records of the Flag Consideration Panel made during the course of their selection of the short list.”

2 My response of 6 October 2015:

2.1 declined your request under section 18(d) of the OIA to the extent that the information requested was or would soon be publicly available; and

2.2 extended any remaining part of your request to 27 November 2015.

3 The Panel’s meeting papers (including material concerning the Panel’s design selection process) have now been published on the Department of the Prime Minister and Cabinet’s (“DPMC’s”) website (www.dPMC.govt.nz/dPMC/publications/nzflag-process). Some of this information falls within the scope of your request.

4 Redactions have been made to some of the information published on DPMC’s website (as marked). These redactions have been made on the following grounds of the OIA:

4.1 section 9(2)(a), to protect the privacy of natural persons;

4.2 section 9(2)(ba)(i), to protect information which is subject to an obligation of confidence where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied;

4.3 section 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employers of any department or organisation in the course of their duty; and

4.4 section 9(2)(h), to maintain legal professional privilege.

5 I do not consider that the withholding of this information is outweighed by other considerations which render it desirable, in the public interest, to make that information available.

6 The remainder of the information that falls within the scope of your request constitutes:

6.1 reports provided by consultants to the Panel;

6.2 email correspondence between the Secretariat and the Panel; and

6.3 email correspondence between the Secretariat and the flag designers.

Reports provided by consultants

7 Two documents provided by individual members of the Flag Selection Advisory Group to the Panel fall within the scope of your request.

8 I am withholding this information pursuant to section 9(2)(ba)(i), to protect information which is subject to an obligation of confidence, where the making available of the information would be likely to prejudice the supply of similar information and it is in the public interest that such information should continue to be supplied. As noted on the Flag Consideration Project's website, the technical feedback by members of the Advisory Group was confidential (see: <https://www.govt.nz/browse/engaging-with-government/the-nz-flag-your-chance-to-decide/more-information/>).

9 I also hold advice from the Panel's intellectual property lawyers AJ Park that falls within the scope of your request. I am withholding this advice under section 9(2)(h) of the OIA, to maintain legal professional privilege.

10 I do not consider that the withholding of the above information is outweighed by other considerations which render it desirable, in the public interest, to make that information available.

Email correspondence between the Secretariat and the Panel

11 Further information that falls within the scope of your request constitutes email correspondence between the Secretariat (that supports the Panel) and the Panel. This correspondence is included in the material **enclosed**, with redactions as marked under the following grounds:

11.1 section 9(2)(a), to protect the privacy of natural persons;

11.2 section 9(2)(ba)(i), to protect information which is subject to an obligation of confidence where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied;

11.3 section 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employers of any department or organisation in the course of their duty; and

11.4 section 9(2)(h), to maintain legal professional privilege.

12 I do not consider that the withholding of the above information is outweighed by other considerations which render it desirable, in the public interest, to make that information available.

Email correspondence between the Secretariat and designers

13 Some of the correspondence between the Secretariat and designers was used by the Panel in their deliberations.

14 A questionnaire was sent to designers to complete, requesting information about them and their designs. This questionnaire is **enclosed**. The Secretariat, in a few instances, followed this initial communication with correspondence clarifying some information. For example, there was correspondence seeking information on licensing agreements and queries about the possible influence of other, similar, designs on specific designers.

15 I am withholding the completed questionnaires and subsequent correspondence under section 9(2)(ba)(i) of the OIA, to protect information which is subject to an obligation of confidence, where the making available of the information would be likely to prejudice the supply of similar information and it is in the public interest that such information should continue to be supplied.

16 I do not consider that the withholding of the information referred to above is outweighed by other considerations which render it desirable, in the public interest, to make that information available.

17 Please note that you have the right to complain about these decisions to the Office of the Ombudsman under section 28(3) of the OIA.

Yours sincerely



Michael Webster
Clerk of the Executive Council