

6 November 2024

s9(2)(a)

Via email: s9(2)(a)

Dear s9(2)(a)

Thank you for your further Official Information Act request, received on 8 October 2024. You requested:

"...So another OIA question. When will you release the redacted sections that we, the NZ taxpayer, paid 1/4 million for?"

Your further correspondence of 9 October 2024 stated:

"Having re-read your letter [of 8 October 2024], I note you are withholding [sic] information under 3 sections of the act, and you say there is no public interest. I would point to protests in Dunedin recently. There is very strong public interest. None of your chosen grounds stand up to scrutiny. Further: This OIA relates to a report produced from public funds about a public building. We the people of New Zealand are paying for both. In the interests of transparency, there should be full disclosure. I invite you to reconsider, or face possible legal consequences."

Health New Zealand (Health NZ) has been the lead agency for the New Dunedin Hospital project, with the Ministry of Health, the Treasury and the New Zealand Infrastructure Commission (the Commission) as monitors. Before signing a construction contract for the New Dunedin Hospital inpatient building, the Government wanted to ensure the project was set up for success and deliverable within budget. So, as well as the standard Health NZ due diligence processes, it asked the Commission to facilitate an independent review of the project. The review culminated in the Report specified in your original OIA request of 28 September 2024.

Before proactively publishing this Report, the Commission consulted with Health NZ, the Ministry of Health and the Treasury on the content to be published. At the time, officials agreed that it was necessary to withhold some commercially sensitive information to allow commercial negotiations to continue. This includes some financial figures and some commentary relating to the sensitive information.

Officials have reviewed the redactions in the Report to determine whether this information can now be released. We have decided it is necessary to continue withholding the redacted information under the following sections of the Official Information Act:

Section of Act	Reason to withhold
9(2)(b)(ii)	to avoid prejudice to the commercial position of another party
9(2)(g)(i)	to protect the free and frank expression of opinions by departments
9(2)(j)	to avoid prejudice to negotiations

In making this decision, officials have re-visited the redactions in the published report and, for each redaction, have weighed up the public interest considerations in section 9(1) of the Official Information Act. In the circumstances, the public interest in the redacted information is outweighed by the need to continue withholding this information.

In the future, Health NZ will be negotiating commercial contracts associated with the build and re-development of Dunedin hospital. There is a strong public interest consideration to ensure no information is released which could undermine these future commercial negotiations. Accordingly, we are unable to release the redacted information.

The timeframes for future contract negotiations are unclear so we are unable to answer your question about when the commercially sensitive information in the Report can be released.

While we are unable to meet your request, I can assure you that further information about the decisions related to the new Dunedin hospital will soon be publicly available. Officials are currently preparing the key documents and advice about the Dunedin hospital upgrades for proactive publication. Health NZ is coordinating this material and will soon be publishing it on their website here: <https://www.tewhatauora.govt.nz/health-services-and-programmes/infrastructure-and-investment/new-dunedin-hospital-whakatuputupu>. We encourage you to view this material once it is available.

You may also wish to read the recent written questions to Ministers about the New Dunedin Hospital project and their replies. These can be found on Parliament's website here: <https://www.parliament.nz/en/pb/order-paper-questions/written-questions/>.

Please note that this letter (with your personal details removed) may be published on our website.

You have the right to seek an investigation and review of my response by the Ombudsman, in accordance with section 28(3) of the Act.

Yours sincerely



Barbara Tebbs
General Manager – Policy