

Request for advice regarding proposals for the future of Christchurch education

Legislation	Official Information Act 1982, s 9(2)(f)(iv)
Agency	Minister of Education
Ombudsman	David McGee
Case number(s)	342796
Date	March 2013

Decision was not justified under s 9(2)(f)(iv) because Cabinet had already made high level decisions and the key elements of the plan had been announced—strong public interest in release

In September 2012, the Minister of Education publicly announced the Greater Christchurch Education Renewal Plan. This prompted a number of requests for the advice on which decisions had been based. Those requests were refused in full under sections 9(2)(f)(iv) and 9(2)(g)(i), and the requesters complained to the Ombudsman.

After the Ombudsman notified the complaints to the Minister, the Ministry advised that the decision to withhold was under review. It subsequently released the business case and associated Cabinet papers, with minor deletions, followed by a large number of education reports and aides memoire.

The Ombudsman formed an opinion on the remaining deletions and (given the importance of the principles involved) the original decision to withhold the information at issue in full.

The Ombudsman considered that minor deletions to the business case were warranted under section 9(2)(f)(iv). The deleted information related to matters on which no decisions had been made. Disclosure of that information would have pre-empted the ability of Ministers or Cabinet to deliberate on the advice received and decide how to proceed.

However, the original decision to withhold the information in full was not justified under section 9(2)(f)(iv). By that stage, Cabinet had made the high level decisions on the renewal of

the education system in greater Christchurch and the Minister had announced the key elements of the plan. In those circumstances, there was no reason to believe that the interest protected by section 9(2)(f)(iv) would have been harmed by the release of the documents.

In addition, the Ombudsman considered there was a strong public interest in the release of all information relevant to the proposals to close or merge schools, given that the Minister had initiated formal consultation with those schools and there was an obligation to comply with the legal requirements of good consultation.

In relation to business case, the Ministry stated that this was withheld at the time of the Minister's announcement because it was indicative only and a more detailed business case would follow. However, it was the business case which coordinated the education and property responses that had been running in parallel and set out a range of options that Cabinet decided on. It was also used to help finalise the document that was developed for consulting the sector and provided the basis for budget decisions. It was therefore a key document in the decision making process and its disclosure was crucial to enable the public's more effective participation in the making and administration of laws and policies, and to promote the accountability of Ministers of the Crown and officials, and thereby enhance respect for the law and to promote the good government of New Zealand (an object of the OIA expressed in section 4(a)).

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