|  |
| --- |
| Request for draft venue development strategy |
|  |
| Legislation Local Government Official Information and Meetings Act 1987, ss 7(2)(c)(i), 7(2)(f)(i) Agency Auckland Council Ombudsman Leo DonnellyCase number(s) 442484Date January 2018 |

*Draft venue development strategy prepared by consultant—refused because commercial and confidential—analysis preliminary and high-level—s 7(2)(f)(i) applies—public interest requires disclosure of a summary statement*

Auckland Mayor Phil Goff stated on NewsTalk ZB that Eden Park required upgrades worth $250 million in the next 15 years. A journalist requested a copy of the analysis supporting this figure. Auckland Council advised that it was based on an oral briefing provided by Regional Facilities Auckland (RFA), which was in turn based on a draft venue development strategy prepared by consultant architects and quantity surveyors. The Council declined to make the draft strategy available on the basis that it was commercial and confidential, and the requester complained to the Ombudsman.

The Council relied on section 7(2)(c)(i) of the LGOIMA, but the Ombudsman was not convinced an obligation of confidence was owed to the private consultants who were paid to prepare the strategy, or that release of the draft strategy would prejudice the supply of similar information from private consultants in the future. Rather, he considered that section 7(2)(f)(i) applied.

The analysis was contained in an early draft of the strategy, which had been shared with RFA for the purpose of receiving comments and feedback. The analysis was preliminary and high-level. The Ombudsman accepted that the drafting and feedback process the RFA was engaged in required the free and frank expression of opinions by staff and external consultants, and that *‘the protection of this ability to express ideas in draft form [was] necessary to maintain the effective conduct of public affairs’*. Release of the information would prejudice the future exchange of early drafts and the expression of free and frank opinions on early drafts, which would impact on the way reports are developed and the quality of the end product.

However, the Ombudsman also acknowledged the public interest in promoting accountability of the Mayor and the Council.

The Mayor had publicly referred to the $250 million figure and used this to back a new waterfront stadium for Auckland. The Mayor’s statement was based on a preliminary analysis, but created the impression that it was based on something more concrete. The public were entitled to know more about the basis for this figure, which the Mayor then relied on in advocating for a new stadium.

The Ombudsman concluded that the public interest did not require disclosure of the draft strategy, but would in this case be addressed by disclosure of a summary statement explaining the preliminary nature of the analysis and putting the Mayor’s comments in context. The Council agreed and released a summary statement to the Ombudsman’s satisfaction.

*This case note is published under the authority of the* [*Ombudsmen Rules 1989*](http://legislation.govt.nz/regulation/public/1989/0064/latest/DLM129834.html?src=qs)*. It sets out an Ombudsman’s view on the facts of a particular case. It should not be taken as establishing any legal precedent that would bind an Ombudsman in future.*