

Request for Ministerial briefing on Auckland CBD rail loop

Legislation	Official Information Act 1982, s 9(2)(g)(i)
Agency	Ministry of Transport
Ombudsman	David McGee
Case number(s)	304314
Date	October 2011

Disclosure of ministerial briefing conveyed under pressure of time would inhibit future expression of free and frank opinions by officials—s 9(2)(g)(i) applied—public interest met by release of later document

A requester sought information about the Auckland CBD rail loop and complained to the Ombudsman when one ministerial briefing was withheld under section 9(2)(g)(i). The Ministry of Transport explained that:

- The briefing was created for the Minister in a very short timeframe (around a day) to enable the Minister to give an initial response to the Auckland Council's business case.
- The initial draft was prepared by the Minister's media advisor, who passed it on to the Ministry of Transport representative in the Minister's office. The document was then considered by the relevant people within the Ministry who provided comments in the form of tracked changes, and provided the document back to the media advisor.
- The Ministry and Minister's office were unsure whether the Minister actually considered the document itself. It appeared that at a minimum the Minister was briefed on its contents.
- The document was superseded by a more thorough briefing to the Minister within a week, which was provided to the requester in response to his request.

The Ministry was concerned that release of the quickly developed document would be likely to inhibit officials from providing quick and off the cuff advice in future.

The Ombudsman formed the opinion that release of the briefing would be likely to inhibit the ability of officials to communicate with the Minister in a free and frank manner in time sensitive situations. It is essential to the effective conduct of public affairs that Ministers receive urgent advice quickly.

The Ombudsman acknowledged a high public interest in the availability of advice based on which Ministerial decisions are made. However, in these circumstances (especially as it was unclear whether the Minister even saw the document), he considered the public interest was met by disclosure of the more considered and thorough briefing that was released to the requester.

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