



CABINET OFFICE

16 February 2021

Nicholas Lee  
fyi-request-14262-d9040ee9@requests.fyi.org.nz

Ref: OIA-2020/21-0343

Dear Nicholas Lee

**Official Information Act request: Advice regarding Mill Road as part of the New Zealand Upgrade Programme Cabinet Office**

Thank you for your Official Information Act (the Act) request received on 2 February 2021. You requested:

*“...information about what members of Cabinet actually considered in making the funding decision. Regardless of whether other agencies hold relevant reports or advice, the question of what Cabinet considered is a matter that only Cabinet can answer.*

*I therefore require a specific response on behalf Cabinet. The response needs to address directly whether Cabinet gave specific consideration to any information, reports or advice in relation to the matters identified in the request. The response should also include any documents recording Cabinet's reasons for the funding decision.”*

Your request responds to the transfer of your initial official information request of 15 January 2021 to Waka Kotahi New Zealand Transport Agency and Auckland Council on 27 January 2021.

**Documents recording Cabinet's decision on the New Zealand Upgrade Programme**

Papers are submitted to Cabinet committees and Cabinet to enable Ministers to make collective decisions based on sound information and analysis. Cabinet papers are written by Ministers and their departments on issues concerning their portfolios. Cabinet minutes are the official record of decisions made at Cabinet and Cabinet committees on the items relating to the papers.

Although the Department of the Prime Minister and Cabinet holds Cabinet records in the Cabinet Office, we are unable to make decisions on the release of Cabinet material – including Cabinet papers and minutes – as we are not the subject-matter experts. The Cabinet Office supports Ministers' collective decision making by providing secretariat

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services for Cabinet and Cabinet committees. Ministers hold the authority to approve the public release of Cabinet material within their own portfolios.

In this case, I have decided under section 14(b)(i) of the Act to transfer this part of your request to the Ministry of Transport, as the Department responsible for the Transport portfolio, as I believe it is more closely connected with the Department's functions.

**Information, reports or advice considered by Cabinet**

In response to the part of your request for "*whether Cabinet gave specific consideration to any information, reports or advice in relation to the matters identified in the request*", I note that discussions between Ministers on business before Cabinet are inherently confidential. The detail of discussion at Cabinet and Cabinet committee meetings is not formally recorded or included in the minutes. The Office of the Ombudsman has recognised that there is a strong public interest in the protection of such discussions as a core constitutional requirement. I therefore decline this part of your request for information under 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.

In making my decision, I have taken the public interest considerations in section 9(1) of the Act into account.

You have the right to ask the Ombudsman to investigate and review my decision under section 28(3) of the Act.

Yours sincerely



Michael Webster  
**Secretary of the Cabinet**