



PROTOCOL ON DEALING WITH OIA REQUESTS INVOLVING MINISTERS

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2. Background and purpose

- 2.1 The parties to this protocol are Waka Kotahi New Zealand Transport Agency (Waka Kotahi) and the Minister of Transport (the Minister).
- 2.2 This protocol is effective from 19 July 2021.
- 2.3 This protocol was updated on 25 November 2022 to incorporate proactive releases (refer section 9).
- 2.4 The purpose of this protocol is to set out how Waka Kotahi and the Minister, and his office, will deal with *OIA requests involving the Minister* made to Waka Kotahi.
- 2.5 *OIA requests involving the Minister* are ones where there is the potential for the Minister to be affected by release of the requested information because:
 - it relates to their functions or activities as a Minister; or
 - they may be required to prepare for the possibility of public or political commentary.

3. Context and principles

- 3.1 Waka Kotahi and the Minister acknowledge the principle of availability which underpins the OIA and means that official information must be made available on request unless there is good reason, in terms of the Act, for withholding it.¹
- 3.2 Waka Kotahi and the Minister, and the office, will apply this protocol in a way that does not interfere with their statutory obligations to make and communicate decisions on requests for official information as soon as reasonably practicable and within 20 working days² (subject to extension only where necessary),³ and to release official information without undue delay.⁴

¹ See [s 5](#) OIA.

² See [s 15\(1\)](#) OIA.

³ See [s 15A](#) OIA.

⁴ See [s 28\(5\)](#) OIA.

- 3.3 Waka Kotahi is responsible for making decisions on OIA requests it receives, unless those requests are required to be transferred to the Minister in accordance with [section 14](#) of the OIA.
- 3.4 Waka Kotahi recognises that the Minister may need to make, be involved in, or know about decisions on *OIA requests involving the Minister*.
- 3.5 Waka Kotahi will work with the office of the Minister to identify *OIA requests involving the Minister* and decide the appropriate mechanism for dealing with them:
- transfer;
 - consultation; or
 - notification of the decision.

4. Transfer

- 4.1 Waka Kotahi will transfer all or part of an OIA request to the Minister when that is required under [section 14](#) of the OIA—that is:
- when the requested information is not held by Waka Kotahi but is believed by the person dealing with the request to be held by the Minister; or
 - when the requested information is believed by the person dealing with the request to be more closely connected with the functions of the Minister.
- 4.2 The need for transfer will be determined on the facts of the particular case, with regard to the specific information at issue and the functions of the Minister, and in consultation with the office of the Minister.
- 4.3 The Minister will likewise transfer all or part of an OIA request to Waka Kotahi when that is required under [section 14](#) of the OIA.

5. Consultation

- 5.1 Waka Kotahi will work with the Minister's office to identify requests requiring consultation.
- 5.2 Consultation may be required with the Minister where for example:
- they supplied the information;
 - it is about their functions or activities; or
 - release could affect their functions or activities or legitimate interests.
- 5.3 Waka Kotahi will provide the Minister's office with all information necessary for informed consultation, including the request, the information at issue, and the decision Waka Kotahi proposes to take. Waka Kotahi will allow a minimum 5 working days for consultation to take place, unless the circumstances of the particular request demand a shorter period of time.

- 5.4 The Minister's office will respond to all consultations as expeditiously as possible. The office will let Waka Kotahi know if more time is required so that Waka Kotahi can consider whether it is necessary to extend the maximum 20 working days for making a decision on the request.
- 5.5 Waka Kotahi will consider the input of the Minister's office on an OIA request in good faith and with an open mind, before deciding whether that input provides a reasonable basis for changing its proposed decision on the request. Waka Kotahi may proceed to make a decision on an OIA request if the Minister's office does not respond to the consultation or advise that further time is required.

6. Notification of decisions

- 6.1 Waka Kotahi will work with the office of the Minister to identify decisions requiring notification. Notification may be required where the requested information is:
- sensitive or controversial in nature; or
 - likely to be published in the news media or debated in the house.
- 6.2 Notification to the Minister will be done at the same time as the decision is communicated to the requestor.

7. Record keeping

- 7.1 Waka Kotahi and the Minister's office will keep full and accurate records of interactions in relation to OIA requests, in accordance with normal prudent business practice, as required by [section 17\(1\)](#) of the Public Records Act 2005.

8. Disputes

- 8.1 Where disputes arise between the parties regarding the proper application of the OIA or this protocol, these should be referred to the Senior Manager Government and the Minister or his named delegate.

9. Proactive releases

- 9.1 Waka Kotahi, the Minister and the office acknowledge that the proactive release of information promotes transparency of Government and accountability for decisions taken and helps the public to participate in decisions making. The proactive release of information will be considered in line with the OIA's purpose to make official information more freely available.
- 9.2 Waka Kotahi will work with the office of the Minister to reach decisions on the proactive release of information, in line with this protocol, relevant grounds of the OIA and guidance issued by the Ombudsman and Te Kawa Mataaho - Public Service Commission.

10. Assistance

10.1 The Office of the Ombudsman offers an advisory service on the operation of the OIA. They can be contacted by email info@ombudsman.parliament.nz or freephone 0800 802 602. The Office should be contacted as early as possible to ensure it can answer any queries without delaying the response to a request for official information.

Signed by:



Hon Michael Wood

Minister of Transport

Date 24 September 2021



Nicole Rosie

Chief Executive Waka Kotahi

Date:24 September 2021