

s 9(2)(a)

Dear s 9(2)(a)

Thank you for your email of 11 October 2018 requesting information under the Official Information Act 1982 for *briefings and advice to the Minister regarding the 5IAP since 2015 to evaluate the current status of the project.*

The interpreted scope of your request is all official information to the Minister of Climate Change related to the Five Iwi Afforestation Programme between 1 Jan 2015 and 11 October 2018.

A list of the titles of documents that fall within the scope of your request is provided below and a PDF of the relevant documents is attached. Redactions have been made to some words, lines or paragraphs that are out of scope of the request, or when a relevant withholding ground under the Official Information Act 1982 has been found to apply. We have redacted information under section 9(2)(a) in order to protect the privacy of natural persons.

The Ministry for the Environment will release responses to some selected requests for official information on our Official Information Act requests page soon after the requester has received their response.

Under section 28(3) of the OIA, you have the right to ask the Ombudsman to review my response to your request.

If you have any queries, please feel free to contact our Executive Relations team.

Sincerely



Roger Lincoln  
Director, Climate Change

**List of documents**

Document number	Document date	Content	Decisions	OIA sections applied
1	8/5/2017	Advice as requested Five Iwi – Waikato Tainui	Released in part	S 9(2)(a)
2	28/4/2017	Weekly update as requested	Released in part	S 9(2)(a)
3	28/4/2017	Update on Carbon Farming and Five Iwi projects	Released in part	

Released under the provision of  
the Official Information Act 1982

**From:** [REDACTED]  
**Sent:** Monday, 8 May 2017 2:40 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: ADVICE AS REQUESTED: Five Iwi - Waikato Tainui

Great thank you

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**From:** [REDACTED]  
**Sent:** Monday, 8 May 2017 2:36 p.m.  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: ADVICE AS REQUESTED: Five Iwi - Waikato Tainui

Hi [REDACTED]

Yes that is OK subject to the one change I made below.

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**From:** [REDACTED]  
**Sent:** Monday, 8 May 2017 2:33 p.m.  
**To:** [REDACTED]  
**Subject:** RE: ADVICE AS REQUESTED: Five Iwi - Waikato Tainui

How's this:

### Waikato Tainui and Five Iwi

Waikato-Tainui is one of the Five Iwi that claim their Treaty Settlements were devalued by the introduction of the NZ ETS. In case the Five Iwi matter is raised, here is some background information.

### Background

- Five Iwi (Ngāi Tahu, Waikato-Tainui, Te Uri o Hau, Ngāti Tūwharetoa ki Kawerau and Ngāti Awa) purchased Crown forest land through Treaty settlements before the NZ ETS was established.
- After the introduction of the NZ ETS in 2008, Five Iwi raised that the ETS may have devalued the forest they had purchased.
- Ngai Tahu estimated the gross financial loss incurred under the ETS devaluation on its land to be \$128.4 M at the time. Officials never agreed this figure.
- In 2009, without accepting fault, the Crown offered 35,000 hectares of Crown land to use for 70 years. The Crown offered this to avoid litigation and maintain relationships.
- The offer was not accepted by the Five Iwi. In 2012 discussions were put on hold by the previous Minister for Climate Change Issues and Five Iwi.
- The Crown has never accepted fault.

### Trees on Crown land

- The Five Iwi claim needs to be considered alongside any options to plant trees on Crown land.
- You will get advice in late-May on how to progress Five Iwi. The options will be to renegotiate (requiring a mandate from Cabinet) or do nothing.
- Advice will include an estimate of the impact of the ETS on the value of the Five Iwi forests.
- Iwi need to be consulted on any options before decisions are made.

### Recent discussion by Ministry for the Environment with Waikato Tainui

MfE spoke to Waikato Tainui recently about the Five Iwi matter in April 2017. Waikato Tainui indicated, on behalf of the Five Iwi

that they:

- are waiting to hear back from the Crown;
- are still seeking an economically viable solution; and
- think now is a good time to resolve the matter.

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**From:** [REDACTED]  
**Sent:** Monday, 8 May 2017 1:48 p.m.  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: ADVICE AS REQUESTED: Five Iwi - Waikato Tainui

Thanks [REDACTED]

Really useful, I'm going to edit to change it from QandA to info points, will send something back shortly. In the meantime where are we with the advice on this one? We say the Minister is seeking advice - can we give any dates and key process points?

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**From:** [REDACTED]  
**Sent:** Monday, 8 May 2017 1:34 p.m.  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** ADVICE AS REQUESTED: Five Iwi - Waikato Tainui

Hi [REDACTED]

As requested, here's some information about the Five Iwi for the Minister for Climate Change Issues. [REDACTED] asked me to email it right through. Sorry for the delay.

I understand that the Minister is meeting with Waikato-Tainui soon. Waikato-Tainui is one of the Five Iwi that claim their Treaty Settlements were devalued by the introduction of the NZ ETS. In case the Five Iwi matter is raised, here is some background information.

#### **Possible questions and answers**

***Is the Crown is going to re-negotiate with the Five Iwi about our claim that the New Zealand Emissions Trading Scheme devalued our Treaty Settlement?***

- I understand that the previous Minister for Climate Change Issues and the Five Iwi decided to leave the matter unresolved.
- I understand that you seek an economically viable resolution.
- I am seeking advice.

***Is the Government considering afforestation options on Crown land? When will the Five Iwi be consulted?***

- I understand that there is a claim by Five Iwi including Waikato Tainui that the Crown needs to consider alongside any options to plant trees on Crown land.
- I am getting some advice from officials on this soon.
- I understand that Ministry for the Environment officials have spoken to Waikato Tainui about what Waikato Tainui's interests are on this matter.
- Iwi will be consulted on any options before any possible decisions are made.

#### **Background**

- Through Treaty Settlements, Crown forest was set aside for Iwi to purchase.
- Five Iwi (Ngāi Tahu, Waikato-Tainui, Te Uri o Hau, Ngāti Tūwharetoa ki Kawerau and Ngāti Awa) purchased Crown forest

land before the NZ ETS was established.

- In 2009, without accepting fault, the Crown offered 35,000 hectares of Crown land, to use for 70 years. The Crown offered this to avoid litigation and maintain relationships. The offer was not accepted by the Five Iwi because they didn't think it was economically viable. Discussions were then put on hold.
- The Crown has never accepted fault.

#### Recent discussion by Ministry for the Environment with Waikato Tainui

We spoke to Waikato Tainui recently about the Five Iwi matter, to find out what Waikato Tainui were interested in. Waikato Tainui indicated, on behalf of the Five Iwi (Ngai Tahu, Waikato Tainui, Te Uri o Hau, Ngati Awa, and Ngati Tuwharetoa ki Kawerau) that they:

- are waiting to hear back from the Crown
- are still seeking an economically viable solution, and
- believe now is a good time to resolve the matter.

Kind regards

██████████ **Senior Policy Analyst, Climate Change Policy**

Ministry for the Environment – Manatū Mō Te Taiao

████████████████████ Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)

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Manatū Mō Te Taiao



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**From:** [REDACTED]  
**Sent:** Friday, 28 April 2017 3:30 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** WEEKLY UPDATE AS REQUESTED: Carbon Farming and Five Iwi  
**Attachments:** 17-B-00538 Update on [REDACTED] and Five Iwi projects 28 April 2017\_.docx

Hi [REDACTED]

Please find the weekly update on [REDACTED] and five iwi attached. Briefing number 17-B-00538 for our records.

Kind regards

[REDACTED] **Senior Policy Analyst, Climate Change Policy**  
Ministry for the Environment – Manatū Mō Te Taiao

[REDACTED] Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)

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**Weekly update on [REDACTED] and Five Iwi projects**

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**Purpose:** update you on the [REDACTED] and Five Iwi projects. The questions we seek answers to are:

- [REDACTED]
- [REDACTED]

[REDACTED]

There are three workstreams:

- 1) [REDACTED]
- 2) [REDACTED]
- 3) The Five Iwi project (to remove risks to the other two streams)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

**Five Iwi project****What is this?**

- If the Crown were to seek private investment to plant trees on Crown land, the Crown would need to consider the litigation and relationship management risks of the Five Iwi project.
- Through Treaty Settlements, Crown forest was set aside for Iwi to purchase. Five Iwi (Ngāi Tahu, Waikato-Tainui, Te Uri o Hau, Ngāti Tūwharetoa ki Kawerau and Ngāti Awa) purchased Crown forest land before the NZ ETS was established. In 2009, without accepting fault, the Crown offered 35,000 hectares of Crown land, to use for 70 years. The Crown offered this to avoid litigation and maintain relationships. While land was identified by the Crown, it was not accepted by the five Iwi because they didn't think it was economically viable. Discussions were then put on hold.

**Progress:**

- We'd previously phoned Ngāi Tahu.
  - Ngāi Tahu want the matter resolved. Objectives are to be presented with an economically viable option that also has broader environmental co-benefits.
- This week, we rang Waikato-Tainui:
  - Waikato-Tainui also want the matter resolved, and an economically viable solution. Waikato-Tainui are waiting to hear back from the Crown, and are of the view that now is a good time to resolve the matter.
- We are seeking legal advice – specifically, what has changed, if anything, to the degree of legal risks.

**Next steps:**

- Assess legal advice
- Provide you with policy advice on next steps (eg, seek new mandate, status quo).