



29 September 2021

OIAD-101

9(2)(a)

Dear 9(2)(a)

Thank you for your email of 04 August 2021 requesting the following under the Official Information Act 1982 (the Act):

I am requesting under the OIA:

Briefing 2021-B-07639 Next steps for the discussion document regarding iwi, hapū and Māori landowners' rights and interests in freshwater bodies.

I am all requested all other briefings and written material relating to the above, and the discussion document regarding iwi, hapu and Māori landowners' rights and interests in freshwater bodies.

I look forward to your response by Sept 1.

The Ministry for the Environment (the Ministry) wrote to you on 23 August 2021 notifying you of an extension of your request by 20 working days to allow necessary consultations.

The Ministry has identified 10 documents in scope of your request, as listed in the attached document schedule.

The Kāhui Wai Māori (KWM) meeting minutes are released in part to you, in accordance with section 16(e) of the Act - where the information requested by any person is comprised in a document, that information may be made available in 1 or more of the following ways: by giving an excerpt or summary of the contents.

The letter from Crown Law Office to the Ministry is withheld in full under section 9(2)(h) of the Act - to maintain legal professional privilege.

The letters to Minister Parker from KWM, and the letter from Minister Parker to KWM are withheld in full under 9(2)(f)(iv) of the Act - to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

The discussion document regarding iwi, hapū, and Māori landowners' rights and interests in freshwater bodies is withheld in full under 9(2)(f)(iv) of the Act - to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

The briefing 2021-B-07639 *Next steps for the discussion document regarding iwi, hapū and Māori landowners' rights and interests in freshwater bodies* is also withheld in full under section 9(2)(g)(i) of the Act - to maintain the effective conduct of public affairs through the free and frank expression of opinions between Ministers and officials.

In terms of section 9(1) of the Act, I am satisfied that, in the circumstances, the withholding of this information is not outweighed by other considerations that render it desirable to make the information available in the public interest.

You have the right to seek an investigation and review by the Office of the Ombudsman of my decision to withhold information relating to this request, in accordance with section 28(3) of the Act. The relevant details can be found on their website at: www.ombudsman.parliament.nz.

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our [OIA responses page](#) shortly after the response has been sent. If you have any queries about this, please feel free to contact our Ministerial Services team: ministerials@mfe.govt.nz.

Yours sincerely



Keita Kohere
Director – RM Reform

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the Official Information Act 1982

Document schedule

Document no.	Document date	Content	Decisions	OIA sections applied
1	19 Nov 2019	Draft Kāhui Wai Māori meeting minutes, 19 November 2019	Relevant excerpts released Out of scope information removed	16(e)
2	28 Feb 2020	Draft Kāhui Wai Māori meeting minutes, 28 February 2020	Relevant excerpts released Out of scope information removed	16(e)
3	22 Jul 2020	Draft Kāhui Wai Māori meeting minutes, 22 July 2020	Relevant excerpts released Out of scope information removed	16(e)
4	12 Oct 2020	Draft Kāhui Wai Māori meeting minutes, 12 October 2020	Relevant excerpts released Out of scope information removed	16(e)
5	20 Feb 2020	Letter from Crown Law Office to MfE	Withheld in full	9(2)(h)
6	21 Nov 2019	Letter to Minister Parker from KWM	Withheld in full	9(2)(f)(iv)
7	31 Jan 2020	Letter to Minister Parker from KWM	Withheld in full	9(2)(f)(iv)
8	26 Feb 2020	Letter to KWM from Minister Parker	Withheld in full	9(2)(f)(iv)

9	27 Jan 2021	Discussion Document Regarding iwi, hapū, and Māori landowners' rights and interests in freshwater bodies	Withheld in full	9(2)(f)(iv)
10		2021-B-07639 Next steps for the discussion document regarding iwi, hapū and Māori landowners' rights and interests in freshwater bodies	Withheld in full	9(2)(g)(i)

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As per s16(e) of the Official Information Act, an excerpt from the document within scope of this request has been provided below.

Joint Work Programme

Out of Scope



14. KWM members discussed whether they would need to request a change in their Terms of Reference to produce a discussion paper on Māori freshwater rights and interests. They agreed to send a letter to Minister Parker by COB Thursday 21 November outlining their proposal.

Out of Scope



Agreed dates

17. The table below outlines the dates that were discussed during the course of the hui:

Date	Event
Thursday 21 November 2019	KWM to send Minister Parker a letter outlining their proposal to produce a discussion document on Māori freshwater rights and interests.
Out of Scope	

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Out of Scope



Out of Scope



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Appendix A: Action points

Out of Scope			
8	Provide Ministers with a letter outlining KWM's proposal to prepare a discussion document on Māori freshwater rights and interests	Ms Wikaira	Done (21/11/2019)
Out of Scope			



As per s16(e) of the Official Information Act, an excerpt from the document within scope of this request has been provided below.

Draft Kahui Wai Māori meeting minutes, 28 February 2020

Te Mana o te Wai and Māori compulsory values

27. KWM members queried the extent to which the recommendations of the Independent Advisory Panel (IAP) will influence Ministers' decisions. While officials were unable to comment on what Ministers will decide, they confirmed that they will continue to offer their own advice, some of which will differ to the recommendations of the IAP. Specific areas of difference concerning Te Mana o te Wai and compulsory Māori values policies include:
- Officials consider that the 'give effect to' direction should be retained.
 - Officials consider that the hierarchy should be retained.
 - Officials consider that tangata whenua should be engaged at every stage of the NOF process.
28. Officials noted that the Government has made a commitment to the Iwi Chairs Forum (ICF) to develop a joint work programme to address Māori proprietary rights in freshwater. This work programme, which will be prepared by officials and iwi advisors, is supposed to be ready for review by the ICF in May. Officials noted that this work programme could have some overlaps with the comprehensive review of the resource management system as the first report of the RMRP is scheduled to be released in May.
29. Officials highlighted that there may be a role for KWM in the discussion on proprietary rights. KWM members emphasised that they do not have a mandate to make an agreement on behalf of iwi and hapū. Officials confirmed that Minister Parker sent a letter to the Chair of KWM, offering to meet KWM to discuss their proposal to produce a discussion document on Māori rights and interests in freshwater.



As per s16(e) of the Official Information Act, an excerpt from the document within scope of this request has been provided below.

Kāhui Wai Māori Meeting with the Minister Minutes – 22 July 2020


Rights and Interests / Allocation

13. KWM members voiced the urgent need to begin designing the principles for allocation, so catchments can start addressing these issues.
14. The Minister, KWM and ILG will need to agree on a fair approach to address rights and interests, and come together to best support iwi / hapū and whānau.
15. KWM members strongly recommend the need for a discussion document on these matters to be circulated amongst all iwi and hapū.

Minister Parker departed 9:45am

KWM Members and Officials continued to discuss the future role of KWM and allocation issues.

Out of Scope



17. KWM members expressed concerns about the timeframes for achieving a robust and enduring settlement of freshwater allocation issues, feeling strongly that more time is required to develop a discussion document which can be taken out to the people to support them in this major decision.



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Kāhui Wai Māori Meeting - 12 October 2020

Rights and interests

3. To achieve a successful allocation programme, MfE will need to look at practical ways for Iwi to be involved, including what processes and outcomes will achieve recognition of rights and interests.
4. Members suggested that, from a legal perspective, it's important that MfE is able to identify a commonality between the values all New Zealanders have and Māori connections to the water.
5. Members suggested that a well-informed, respectfully written discussion document is important, and urgency needs to be placed on preparing this discussion document for consultation and engagement with communities.
6. MfE is considering case studies to model the implications of different policy options for freshwater allocation reform. KWM members recommended that Poroti Springs is included as one of these catchment case studies.
7. Advice will be provided to the Ministers, once the new government is formed on the members proposal to commission two papers
 - A legal rights paper
 - A practical paper about addressing rights and interests through allocation. This paper would include:
 - i. Where implication fall;
 - ii. Visionary option ;
 - iii. Intergenerational understanding; and
 - iv. Kaupapa Māori framework

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