



28 AUG 2017

File Ref: OIA 35515

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Thank you for your Official Information Act request, received on 12 June 2017. You requested the following information:

"Since 1 May 2017

- 1. Copies of all reports, briefings, memos, meeting notes and other relevant papers regarding water allocation with Iwi on the Waikato River.*
- 2. Copies of all correspondence to and from the Waikato River Authority water allocation with Iwi on the Waikato River."*

I apologise for the delay in responding.

Seven documents have been identified containing some information in scope of the first part of your request. In accordance with section 16(e) of the Act, I am providing the relevant excerpts from the documents. The information is in the table attached as Appendix A.

Some information in document 5 *'Annotated Agenda provided to the Minister of Māori Development to support his attendance at the annual Ministerial forum with Te Arawa River Iwi on 11 May 2017'* has been withheld in accordance with section 9(2)(g)(i) of the Act, which applies to protect the free and frank expression of opinion. In making my decision to withhold some information, I have considered the public interest considerations in section 9(1) of the Act.

With regard to the second part of your request, Te Puni Kōkiri does not hold any correspondence to, or from, the Waikato River Authority regarding water allocation with Iwi on the Waikato River since 1 May 2017.



Item	Date	Document description	Excerpt in accordance with 16(e)
1.	3/5/17	<p>Annotated Agenda provided to the Minister of Māori Development to support his attendance at the annual Ministerial forum with Waikato Tainui on 10 May 2017.</p> <p>Appended to a briefing paper to the Minister of Māori Development dated 3 May.</p> <p>This excerpt is a set of additional taking points not covered by a specific agenda item</p>	<p>Additional talking points < if raised >...</p> <p><i>...Council Controlled Organisations</i></p> <ul style="list-style-type: none"> I understand that discussions are ongoing with regards to a proposed Council Controlled Organisation to manage water and wastewater services. I am informed that the proposal does not affect freshwater rights and interests. It does not create any new or different rights to use or discharge waters within the Waikato River catchment. I recognise, nonetheless, that you have strong interest in the outcomes of this issue. Since this matter is a responsibility of the Minister for the Environment and the Minister for Local Government, I will defer to them (or their delegates) for a response.
2.	9/5/17	<p>Agenda item and additional issues briefs provided to Ministers attending the annual Ministerial forum with Waikato Tainui on 10 May 2017</p>	<p>2 Freshwater</p> <p>This agenda item predominantly relates to the portfolio interests of the Minister for the Environment and the Minister for Primary Industries.</p> <p>We are informed that the work to develop options for the allocation system is ongoing. The key elements of the officials' water allocation work programme for 2017 are:</p> <ul style="list-style-type: none"> developing the detail of the allocation systems for further analysis officials are focussing on this with Iwi Advisors Group (IAG) technicians and a Technical Advisory Group qualitative analysis using representative catchments quantitative analysis using nationwide modelling transition analysis and design of measures to allow smooth transition

		<p>The CCO is not a commercial entity – it is to be a not-for-profit organisation, so there is no prospect of commercial gain arising.</p> <p>Existing opportunities for councils and Waikato-Tainui to collaborate, such as under the current JMAs, should be unaffected by the decision whether or not to establish a CCO. The establishment and operation of a CCO is a decision for the councils themselves, not the Crown.</p> <p>The CCO was proposed under existing law. The Government is not an active partner in the process. It is correct that the Local Government Act 2002 Amendment Bill (No 2) makes provisions to better enable this type of proposal to proceed, but the Bill does not, in the view of officials, create a process for creating or disposing of property rights in the River, either directly or indirectly.</p> <p>If a resource consent is a property right, then the right to transfer that to a CCO already exists in current law.</p>
3.	<p>Waikato Tainui handout for Ministers at the annual Ministerial forum 10 May 2017</p>	<p>See attached</p>
4.	<p>Draft record of proceedings for the annual Ministerial forum with Waikato-Tainui on 10 May 2017</p>	<p>1. FRESHWATER</p> <p>[text that is not relevant to the request has been deleted]</p> <p>...Waikato-Tainui explained that the volume of water used commercially for bottling was an important issue for to the Iwi and they are concerned that the freshwater programme will erode the rights of Iwi to water. They stated that they are doing some internal thinking on the impacts of the freshwater programme on Waikato-Tainui...</p> <p>[text that is not relevant to the request has been deleted]</p> <p>2. COUNCIL CONTROLLED ORGANISATIONS AND URBAN DEVELOPMENT AUTHORITIES</p> <p>Waikato-Tainui stated that they were concerned that Council Controlled Organisations (CCOs) and Urban Development Authorities could be viewed as circumventing their settlement provisions, including with regards to freshwater. Waikato-Tainui explained that the joint management agreements with councils and other co-</p>

6.	9/5/17	<p>Agenda item brief provided to Ministers attending the annual Ministerial forum with Te Arawa River Iwi on 11 May 2017</p>	<p>Water Allocation Update Contents</p> <p>The work to develop options for the allocation system is ongoing.</p> <p>The key elements of the officials' water allocation work programme for 2017 are:</p> <ul style="list-style-type: none"> • developing the detail of the allocation systems for further analysis - officials are focussing on this with Iwi Advisors Group (IAG) technicians and a Technical Advisory Group • qualitative analysis using representative catchments • quantitative analysis using nationwide modelling • transition analysis and design of measures to allow smooth transition. <p>In parallel with the water allocation work programme undertaken by officials, the IAG are also working on a parallel water allocation work programme.</p> <p>These work programmes are linked and complementary.</p> <p>Te Mana o Te Wai is a key overarching principle in the design of the water management system. By assessing options for allocation within different catchments in the context of Te Mana o Te Wai, is an integral and overarching framework for analysis.</p> <p>Officials propose the completion of a draft Cabinet paper with recommendations on water allocation options be provided at the end of February 2018.</p>
7.	11/5/17	<p>Draft record of proceedings for the annual Ministerial forum with Te Arawa River Iwi on 11 May 2017</p> <p><i>They went water ok</i></p>	<p>2. WATER ALLOCATION</p> <p>Te Arawa River Iwi noted there has been over allocation of water to some individuals and companies who secured rights to more water than required because of the poor model. Grandparenting may be appropriate in some catchments but not in those with large numbers of Māori land holdings. Te Arawa River Iwi asked the Minister for the Environment to consider a specialised team dedicated to working on equitable water and nutrient allocation and ensuring that the hard issues are dealt with and not just easy solutions considered. They noted sensitivities for Iwi and industry, and that certainty is needed.</p> <p>The Minister for the Environment noted the work currently underway on water allocation and acknowledged there is broad agreement that the 'first in first served' approach is not always the best, however, there is not yet agreement on an alternative. A technical advisory group on water allocation was established late last year and is due to report back later this year. The Minister noted the 'first in first served' approach is appropriate in areas where water supply is not an issue. He discussed the Australian experience, which was</p>

Waikato Tainui Position

Item 3 as noted in the response letter

Minister for the Environment

Freshwater

Freshwater is a substantive issue for Waikato-Tainui and our waterways are considered to be a taonga of significance. For many centuries, Waikato-Tainui have maintained a strong and intrinsic relationship with our Awa Tuupuna, the Waikato River. Within this relationship existed mana whakahaere (roles and responsibilities), mana whanake (development interests) all working to support Mana o te Awa (which focus on the health and wellbeing of our waterways)

Integral to this is wai, our freshwater – which is inseparable from our identity as whaanau, hapuu and iwi. Waikato-Tainui, freshwater has the ability to create and sustain life. It is no coincidence that Waikato-Tainui marae were established alongside or near freshwater bodies. Wai is required to sustain the functions of the marae, hapuu, and the people. Without wai there is no hauanga kai for our people. No wharebaiting, no catching tuna, no access to our plants for making our kete, no safe drinking water for our marae and our people and no economic outcomes or benefits. Wai drives our existence culturally, spiritually and physically. Appropriately recognising and providing for Waikato-Tainui rights and interests in freshwater is critical to developing a durable and sustainable water management regime that provides the certainty required for ongoing investment in the economy.

Leadership at a national and regional level is required for this to occur.

Iwi rights and interests must be provided for in tandem with addressing water quality and quantity challenge across the country. Waikato-Tainui seeks an outcome where cultural, social, environmental and economic aspirations work hand in hand.

Given our Awa is over allocated, it is anticipated that any headroom created through efficiency gains (e.g. the reasonable use test and good management practice) will most likely be required to meet instream limits. Through the Healthy Rivers Process and other current initiatives, work is being made to improve the health and wellbeing of our waterways. Highlighting the importance there must be a range of solutions to generate adequate headroom to provide for an allocation for Waikato-Tainui.

Therefore, all options for an allocation system must be considered if we are to find an innovative way to navigate through the complexities inherent within the system, despite (but remaining cognisant of), the Government bottom-lines.

For all of the allocation options, transition to addressing Waikato-Tainui rights and interests will require a robust framework for the distribution of benefits in a way that which is considered to be relative and fair. This work must start now.

There are a number of freshwater developments underway in the Waikato region which has the potential to impact directly on the rights and interests of Waikato-Tainui in freshwater including:

- Initiatives establishing a regime of tradable rights or tradable permits in water,
- Establishing management or use rights of a nature and/or duration that in effect create rights of property in the waters of the Waikato River,
- Development of policy which has no real consideration on how to resolve or consider Waikato-Tainui rights and interests.

Waikato-Tainui must be engaged in good faith in relation to those matters.

Waikato-Tainui believes that the rights being distributed to consent users are in effect creating rights of property in the waters of the Waikato River. Waikato-Tainui also believes that there are opportunities, within the Waikato catchment, to take further steps in recognising our right to freshwater.

Effectively, The Settlement provides that if the Crown creates or disposes of any property right or interest in the Waikato River or creates a statutory or other process to create or dispose of any property right then the tribe must be engaged. This is a mechanism that is yet to be tested.