

30 April 2024

Alex Olsen  
[fyi-request-26168-f59ffa02@requests.fyi.org.nz](mailto:fyi-request-26168-f59ffa02@requests.fyi.org.nz)

Dear Mr Olsen

Thank you for your request of 20 March 2024, to Kāinga Ora - Homes and Communities, requesting further information under the Official Information Act 1982 (the Act), for:

- 1. What has been the cost to Kāinga Ora so far of legal fees associated with Winton Land's lawsuit over their Sunfield development?*
- 2. How many staff hours have been spent on the lawsuit? If you cannot provide an estimate please explain what actions have been undertaken to address the lawsuit and how many staff were involved?*
- 3. Over the past five years how much has Kāinga Ora paid to Winton or its associated companies? And, what were these payments for?*
- 4. Please provide copies of any reports, emails, briefings or other documents Kāinga Ora provided to Minister Bishop or his Office about the Winton lawsuit.*

I will address your requests in order.

- 1. What has been the cost to Kāinga Ora so far of legal fees associated with Winton Land's lawsuit over their Sunfield development?*

Winton Land Limited, and one of its subsidiaries Sunfield Developments Limited, commenced a proceeding against Kāinga Ora in the High Court claiming that Kāinga Ora has breached section 36 of the Commerce Act 1986 in relation to its urban development functions. The litigation commenced in November 2022 and Kāinga Ora has filed its defence strongly denying the claims made.

As at 31 March 2024, the total cost to Kāinga Ora associated with this case has been \$4,996,407 (ex GST).

This cost is a reflection of the large number of documents Kāinga Ora has collated and disclosed to the plaintiffs in accordance with its discovery obligations - which was a significant task. In addition to external discovery provider fees, significant time and resourcing was required by our external counsel to review the 7.5 million documents within the discovery timeframes set by the High Court.

The cost also covers procedural steps taken in the litigation so far, including preparing our defence together with initial disclosure, negotiating a timetable with the other parties, and preparing for and attending case management conferences. The next steps in this litigation include inspection of discovered documents and preparation of evidence.

*2. How many staff hours have been spent on the lawsuit? If you cannot provide an estimate please explain what actions have been undertaken to address the lawsuit and how many staff were involved?*

This part of your request is refused under section 18(g) of the Act as the information requested is not held by Kāinga Ora. We have not recorded the number of staff, nor the number of hours, involved in responding to the Winton Litigation.

While Kāinga Ora hasn't recorded staff hours involved in responding to the litigation, for the discovery process we have some relevant information. Discovery covered an extremely broad range of document categories which required more than 100 custodians (people at Kāinga Ora that, because of their role or the work that they do, were likely to hold relevant information) to search for, and collate, documents. The custodians reported spending more than 1,200 hours retrieving 5.1 terabytes of data, including approximately 7.5 million potentially discoverable documents. That did not include the time involved in meetings that were held to facilitate the discovery process, or time spent by non-custodians (such as members of the Kāinga Ora technology team, support staff, or in-house legal team members) who supported the discovery process.

*3. Over the past five years how much has Kāinga Ora paid to Winton or its associated companies? And, what were these payments for?*

On 26 March 2024 we contacted you to clarify what you meant by associated companies, and if you were referencing the companies involved in the litigation. We did not receive a response from you. We have searched our records for payments to Winton Land Limited or Sunfield Developments Limited in the past five years, and there have been no payments.

While conducting those searches, we did find results for payments to Winton Capital Limited. I can confirm that over the past five years Kāinga Ora has paid \$345,431.32 to Winton Capital Limited. These were contributions to maintenance costs for the Lakeside Development in Te Kauwhata, Waikato. These are business as usual payments as per the Land Supply Partnership Agreement for the Lakeside Development, and are unrelated to the litigation.

*4. Please provide copies of any reports, emails, briefings or other documents Kāinga Ora provided to Minister Bishop or his Office about the Winton lawsuit.*

We provided some information in the Briefing to the Incoming Minister, which is publicly available here: <https://kaingaora.govt.nz/en/NZ/publications/minister-publications/briefing-to-the-incoming-minister/>. We also sent an update to the Minister on 1 February in the Weekly Report, which is attached.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Please note that Kāinga Ora proactively releases our responses to official information requests where possible. Our response to your request may be published at <https://kaingaora.govt.nz/publications/official-information-requests> with your personal information removed.

Yours sincerely



Gareth Stiven  
**General Manager – Strategy, Finance and Policy**