

7 December 2023

Barry Murphy
fyi-request-24063-df37253e@requests.fyi.org.nz

Tēnā koe Mr Murphy

Thank you for your request to Kāinga Ora – Homes and Communities, dated 30 October 2023, under the Official Information Act 1982 (the Act):

"The emails regarding Mr Tait only go to 12 August, my request was on 6th September, so there is information missing between 12th August - 6th September; so I consider this question unanswered as the emails you provided were already provided to a colleague of mine. Please provide all the emails between 12 August - 6th September and please do so immediately as I consider this to be a breach post 2nd November deadline.

Questions from your responses.

I Refer to your response to question 6 "There is no need for Kāinga Ora to be involved with Council's operations." When developers or home owners decide to buy a property, they use solicitors and obtain lim reports to ensure policy and process has been followed before purchasing. I would expect Kainga Ora to follow a process when purchasing land (to which a S&P agreement exists) before committing to the purchase, else there could be liability or claims made against KO.

This is not "involved with councils operations" rather doing due diligence on the purchase of land.

1./ Did Kainga Ora seek legal advice on the purchase of Teitei Drive, if so please provide any evidence and advice obtained, considering the contract is signed as of April 2023 I expect this can now be released.

2./ In the investigations of the land, did Kainga Ora consider the Local Government Act and the policies and rules set out; if so please provide emails or evidence to support the purchase and due diligence. I would expect there to be other evidence, other than Ruapehu District Councils word on the matter.

3./ What process does council follow when purchasing land off councils or developers?

4./ Does the process differ when buying off a council or a private/commercial land owner?

5./ Does Kainga Ora intend to make a profit from the individual lot sales?

6./ Will Kainga Ora make a loss from any individual lot sales?

6.1./ And if so how is this covered or paid for, i.e. where does the funding come from

On 28 November 2023, the due date for response was extended by eight working days under section 15A(1)(b) of the Act, due to consultations necessary to make a decision on the request.

Kāinga Ora is responding to the respective parts of the request in an asked and answered format.

"The emails regarding Mr Tait only go to 12 August, my request was on 6th September, so there is information missing between 12th August - 6th September; so I consider this question unanswered as the emails you provided were already provided to a colleague of mine. Please provide all the emails between 12 August - 6th September and please do so immediately as I consider this to be a breach post 2nd November deadline.

Kāinga Ora has searched for any additional email correspondence between 12 August 2023 and 6 September 2023. Please find the attached material released to you in a combined document. Some information has been withheld under section 9(2)(a) of the Act, to protect the privacy of natural persons.

A two page email chain with draft versions of the content for an email sent on 31 August 2023 (which is page four of the email correspondence released to you) is withheld in its entirety 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 by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty.

I do not consider the withholding of the information is outweighed by public interest considerations in making that information available.

***I Refer to your response to question 6 "There is no need for Kāinga Ora to be involved with Council's operations." When developers or home owners decide to buy a property, they use solicitors and obtain lim reports to ensure policy and process has been followed before purchasing. I would expect Kainga Ora to follow a process when purchasing land (to which a S&P agreement exists) before committing to the purchase, else there could be liability or claims made against KO.
This is not "involved with councils operations" rather doing due diligence on the purchase of land.***

The above contains general statements and assertions. There is no actual request for official information.

1./ Did Kainga Ora seek legal advice on the purchase of Teitei Drive, if so please provide any evidence and advice obtained, considering the contract is signed as of April 2023 I expect this can now be released.

Kāinga Ora used internal legal resource. All legal advice is subject to legal professional privilege, and therefore is withheld under section 9(2)(h) of the Act, to maintain legal professional privilege. I do not consider the withholding of the information is outweighed by public interest considerations in making that information available.

2./ In the investigations of the land, did Kainga Ora consider the Local Government Act and the policies and rules set out; if so please provide emails or evidence to support the purchase and due diligence. I would expect there to be other evidence, other than Ruapehu District Councils word on the matter.

No, Kāinga Ora is not subject to the Local Government Act.

3./ What process does council follow when purchasing land off councils or developers?

Kāinga Ora has interpreted this part of the request to be asking Kāinga Ora what process it follows, rather than the council (as is asked). Kāinga Ora is not responsible for processes that councils adopt and follow in the course of their operations.

As it pertains to Kāinga Ora and the Teitei Drive proposed development, the potential land acquisition was presented to and approved by the Kāinga Ora Land Committee. The Committee approval authorised Kāinga Ora to enter into a conditional contract for the purchase of the land. If the conditions are all met the contract will go unconditional by 30 June 2024.

4./ Does the process differ when buying off a council or a private/commercial land owner?

No.

5./ Does Kainga Ora intend to make a profit from the individual lot sales?

No.

6./ Will Kainga Ora make a loss from any individual lot sales?

6.1./ And if so how is this covered or paid for, i.e. where does the funding come from

Final budgets have not been confirmed and as a result no information exists/is held in relation to these parts of the request. Therefore, these parts of the request are refused under section 18(e) of the Act, that the requested information does not exist.

I trust you find the information provided helpful.

Under section 28(3) of the Act, you have the right to seek an investigation and review by the Ombudsman of this response. Contact details for the Ombudsman can be found at www.ombudsman.parliament.nz.

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

Nāku noa, nā



Mark Fraser
General Manager – Urban Development and Delivery