


27 August 2024

File Ref: OIA 49210

Tēnā koe 

Official Information Act request

Thank you for your information requests dated 19 and 24 July 2024. You asked for the following information:

- *Under the official Information Act request can I please request TPK's feedback on the Cabinet paper that provided an agreement to establish Expert Independent Review of the Public Works Acts (received 19 July).*
- *Te Puni Kōkiri's advisement on the reduced terms of reference for the review and that it would not address tensions between Whenua Māori and the Public Works Act 1981 (received 24 July).*

Your requests were originally made to the Office of Hon Tama Potaka, Minister for Māori Development. On 2 August 2024 the Office of the Minister for Māori Development transferred your request to Te Puni Kōkiri for a response.

Your request has been considered in accordance with the Official Information Act 1982 (the Act).

Te Puni Kōkiri's feedback dated 28 May 2024 on the Initiating a review of the Public Works Act 1981 paper has been identified as in scope of your requests. A copy of this advice is included.

Some information has been withheld in accordance with section 9(2)(a) of the Act, to protect the privacy of natural persons.

In making the decision to withhold information, I have considered the public interest considerations in section 9(1) of the Act.

I trust my response satisfies your request.

You have the right to seek an investigation and review by the Ombudsman of this response. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that Te Puni Kōkiri publishes some of its OIA responses on its website, after the response is sent to the requester. The responses published are those that are considered to have a high level of public interest. We will not publish your name, address or contact details.

If you wish to discuss any aspect of your request with us, including this decision, please feel free to contact us at oa@tpk.govt.nz.

Ngā mihi

A handwritten signature in blue ink, appearing to read 'Paula Rawiri'.

Paula Rawiri
Hautū, Te Puni Kaupapa | Deputy Secretary, Policy

From: Sija Soman <9(2)(a)@tpk.govt.nz>

Sent: Tuesday, May 28, 2024 4:18 PM

To: 9(2)(a)

Cc: Tikitu Tutua-Nathan <9(2)(a)@tpk.govt.nz>; Toni Wi <9(2)(a)@tpk.govt.nz>

Subject: RE: Public Works Act Cabinet Paper Update

Kia ora 9(2)(a)

Thank you for clarifying our concerns regarding the PWA Cabinet paper update in the hui this morning. Please find below our comments, key issues and suggestions for your consideration:

- Te Puni Kokiri provided agency comment on the previous draft Cabinet paper on “Initiating a review of the Public Works Act 1981” and advice on the Ministerial Consultation. We appreciate that our previous suggestion and advice, particularly on acknowledging the Treaty obligations and incorporating statistics on past Māori freehold land acquisitions are reflected in the updated Cabinet paper.
- The advice that we provided earlier emphasised the importance of robust engagement with iwi, hapū and Māori landowners, to have their views and aspirations included in the review proposal. The early timeline set for the delivery of public infrastructure and enactment of the bill by the end of 2025 may impede meaningful engagement with iwi, hapū and Māori entities and customary rights holders. This approach could be perceived by Māori and their entities as a lack of good faith engagement, possibly resulting in inequitable outcomes for owners of Māori land, particularly its impacts on their property rights and the relationship that they have with their whenua.
- The paper indicates narrowing the scope of the review in order to meet the timeline. This includes a shift in focus towards addressing acquisition and compensation issues while completely removing the disposal considerations. The omission overlooks previously identified risks and vulnerabilities for iwi, hapū and Māori entities, such as valuation of Māori freehold land compared to other land tenures (compensation) and ensuring alignment of "offer back" practices with multiple ownership structures associated with Māori freehold land (disposal). We suggest that the paper include an analysis on the risks and impacts of this approach for owners of whenua Māori and owners of general land owned by Māori.
- The paper proposes that an Expert Advisory Panel is established to provide independent, specialist advice and to engage with critical stakeholders ahead of any reforms. We recommend specifying a timeframe for this engagement to allow iwi, hapū and Māori entities to have the opportunity to voice their concerns and ensure that they are addressed as part of the review process. It is also noted that the Panel will be comprised of members having the necessary technical expertise, including issues unique to Māori land. Having the right membership with expertise and knowledge on the intricacies of the Māori land tenure system and Treaty of Waitangi obligations will be critical for the Panel going forward.
- We note the following points that we previously raised in response to the earlier versions of the paper remain unaddressed in the latest version:

- Connecting the FTA Bill to the PWA process for land acquisitions and Environment Court objections may have serious implications for Māori.
- The paper may consider acknowledging the provisions of Te Ture Whenua Māori Act 1993.
- The prioritisation of development over environmental implications raises concerns regarding the lack of adequate protections for iwi/hapū.

Ngā Mihi

Sija Soman
Analyst | Kaimātai
Te Puni Kōkiri, Hamilton

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Released under the Official Information Act 1982