



16 June 2020



Reference: OIA-2019/20-0507

Dear 

Official Information Act request relating to Ngāti Hine and Te Kapotai Waitangi Tribunal proceedings

I refer to your Official Information Act 1982 (the Act) request received on 7 May 2020 by the Department of the Prime Minister and Cabinet (DPMC). You requested:

“...3. We seek all cabinet material including cabinet papers (and any attachments or appendices to those papers) and associated minutes and advice papers concerning the development of Treaty provisions/principles for the Acts listed below:

Act - Section

Conservation Act 1987 - Section 4

The Oranga Tamariki Act 1989 - Sections 4, 5, 7AA, 13

Resource Management Act 1991 - Section 8

New Zealand Public Health and Disability Act 2000 - Section 4

Local Government Act 2002 - Section 4

The Marine and Coastal Area (Takutai Moana) Act - 2011 Section 7

Kainga Ora – Homes and Communities Act 2019 - Section 4

4. We also seek copies of any Treaty of Waitangi guidelines, processes, and policies to assist:

(a) Cabinet and Ministers in their assessment of Treaty of Waitangi implications noted in cabinet papers;

(b) Ministers, Select Committees and/or the Parliamentary Counsel Office in the development of Treaty of Waitangi clauses or Maori language in legislation;

(c) Government agencies to develop and implement Treaty of Waitangi clauses in legislation...”

On 20 May 2020, in response to a clarification request sought by DPMC, you confirmed the information requested in part three of your request relates to information “from the period of 18 months prior and up to the enactment” of the specified legislation.

I note this part of your request was subsequently transferred to the relevant parties on 2 June 2020, and that you were advised accordingly.

In response to part 4(a) of your request, DPMC does not hold any relevant information that contains guidelines, processes and policies to assist Cabinet and Ministers in their assessment of Treaty of Waitangi implications noted in Cabinet papers. We have consulted with Te Arawhiti on this part of your request and they have also confirmed that they do not hold any relevant information.

I note that there are a number of Cabinet Office Circulars publicly available on DPMC's website that may be of assistance with your query, including:

- CO (19) 3 – *Better Co-ordination of Contemporary Treaty of Waitangi Issues*, drafted with Te Arawhiti that contains guidelines and requirements for Ministers and departments involved in contemporary Treaty of Waitangi issues - <https://dPMC.govt.nz/publications/co-19-3-better-co-ordination-contemporary-treaty-waitangi-issues>
- CO (19) 5 - *Te Tiriti o Waitangi / Treaty of Waitangi Guidance*, drafted with Te Arawhiti, that contains guidelines agreed by Cabinet for policy-makers to consider the Treaty of Waitangi in policy development and implementation - <https://dPMC.govt.nz/publications/co-19-5-te-tiriti-o-waitangi-treaty-waitangi-guidance>

In terms of Part 4(b) and 4(c) of your request, I can confirm that DPMC has not provided guidelines, processes or policies for Ministers, government agencies, or the other groups you specified above, to develop and implement Treaty of Waitangi clauses in draft legislation, beyond such guidance as advised above. Therefore, for the purposes of the Act, I must refuse these parts of your request under section 18(e) of the Act, as the information you have requested does not exist.

You have the right to ask the Ombudsman to investigate and review my decision under section 28(3) of the Act.

This response will be published on DPMC's website during our regular publication cycle. Typically, information is released monthly, or as otherwise determined. Your personal information including name and contact details will be removed for publication.

Yours sincerely



Clare Ward
Executive Director, Strategy, Governance and Engagement