

Policy: Proactive Release (POL-393)

Issue Date	14 June 2024	Approved by	Chief Executive Leadership Group
Owner	Director - Governance	Author	Manager – Government Relations

Purpose

1. This policy sets out the Kāinga Ora – Homes and Communities (Kāinga Ora) position on proactive release and facilitating public access to Kāinga Ora official information, ensuring a clear and consistent approach to proactive release of information.
2. This policy must be read alongside the Proactive Release Guidance, that supports organisational decisions on assessing and releasing Kāinga Ora information, and the Official Information Act Policy (POL-392).

Background

3. Openness and transparency are critical drivers of public trust and confidence in government and promote active participation and engagement from the public.
4. The Government has committed to improving practices around proactive release of information to promote good government, inform public understanding of the reasons for decisions, and facilitate informed participation in government decision making.
5. Open government is one of five principles in the Public Service Act 2020 that underpins the public service as it “supports constitutional and democratic government, enables both the current Government and successive governments to develop and implement their policies, delivers high-quality and efficient public services, supports the Government to pursue the long-term public interest, facilitates active citizenship, and acts in accordance with the law”.
6. Through proactive release, Kāinga Ora can release information before it is requested. We can have greater flexibility to decide when and how information is released, and what additional context to put around it to assist with a fuller understanding of the organisation’s work.

7. Directing requesters to information already published reduces the administrative burden on Kāinga Ora of responding to individual requests and eliminates some requests. Proactive release helps information reach a wider audience and enables consistent messaging.
8. Proactive release ultimately allows Kāinga Ora to become a reliable and authoritative source for our own information.

Scope

9. This policy applies to all Kāinga Ora employees (including casual and fixed term employees), contractors, consultants, secondees, interns, vendors, partners, or any other third party with access to our information.
10. The policy applies to all official information as defined under the Official Information Act 1982. Personal or identifiable information is not subject to proactive release under this policy.

Definitions

11. The following definitions apply when interpreting this policy:

Term	Definition
Accessible	Information published online that meets the New Zealand Government Web Accessibility Standard, in line with the Accessibility Charter.
Subject Matter Expert (SME)	Person(s) who has knowledge and expertise within their business unit. Their specific role in the Proactive Release process is outlined in Appendix 1.
Due diligence	Within the context of proactive release, due diligence means robust risk assessment of information falling within the scope of the release to ensure that any information needing to be withheld is identified and any risks associated with information to be released are identified and mitigated.
Interested or affected parties	People or organisations with a direct interest in the information intended for proactive release. This may include customers, suppliers, or other agencies.
Official information	Any information that Kāinga Ora holds. It includes: <ul style="list-style-type: none"> • Documents, reports, memoranda, letters, texts, emails, Teams messages and drafts • Non-written information such as video or voice recordings • Internal policies and guidelines

	<ul style="list-style-type: none"> Information that is known to Kāinga Ora but has not yet been written down.
Personal information	Personal information is any information that tells us something about a specific individual, e.g., person’s name, contact details and financial records. The information does not need to name the person; it is enough that it could be combined with other information to identify them.
Proactive release	<p>Making information available to the public before it has been officially requested.</p> <p>Information can be proactively released by:</p> <ul style="list-style-type: none"> Publishing Kāinga Ora documents (such as annual reports, statements of intent, research reports, briefings) on our website. Publishing the same, or edited, information that we have already released to a requester under the Official Information Act 1982 (OIA).
Redaction	The withholding of information that Kāinga Ora assesses should not be released.
Reusable	Information released in a way that makes it easy for the public to find and access it. Wherever possible, released in open formats that are machine-readable and non-proprietary, i.e., the information will not require specific software to access it.

Policy

Principles

12. This Policy is guided by the principles in the Official Information Act 1982 of availability and being ‘open by default’.

13. In applying this Proactive Release Policy, Kāinga Ora will:

- Establish practices to increase information proactively released.
- Undertake due diligence and assess the potential effects of releasing information before proactively releasing.
- Consult with affected or interested parties prior to release.
- Release information in an accessible format, enabling information reuse.
- Release information in a timely way that considers potential use of the information.
- Ensure information is released with appropriate context to maximise value of the information.
- Undertake continuous improvement within the proactive release process.

Main policy statements

Due diligence

14. When considering information for proactive release, Kāinga Ora will undertake due diligence. The full due diligence process is outlined in the Proactive Release Guidance, and always includes:

- Consideration of potential civil or criminal liability.
- Check for personal or identifiable information.
- Business and delivery risk assessment.
- Communication risks and considerations assessment.
- Reputational risk assessment.
- Consultation with interested or affected parties.
- Ministerial awareness or approval (depending on the subject matter, in accordance with the “no surprises” principle).
- A clear approval and accountability mechanism.

No Surprises Principle

15. Under the “no surprises” principle, Kāinga Ora must advise the Minister about any “matters of significance” within their portfolio responsibilities, particularly where these matters may be controversial or may become the subject of public debate. This principle does not override the requirements for disclosing information under the Privacy Act 2020 and the OIA 1982 (or other statutory restrictions).

Approval of information to be proactively released

16. Managers are responsible for approving the release of information, so it is important that they review the information, including all advice and any recommendations made on the release or withholding of information.

17. Final sign-out responsibility of information to be proactively released will be guided by the Reputational Risk assessment. Reviews of the risk assessment will be made during the proactive release process.

Staff names and contact details

18. Kāinga Ora has an obligation to ensure the health and safety of its people. Accordingly, Kāinga Ora will follow a safety and wellbeing approach to the release of staff names, where protection of staff from harm, and improper pressure or harassment is paramount and will be considered as part of the staff consultation process.

19. Staff will be consulted and given the opportunity to advise if they have concerns about their name and contact details being released in information requested under the OIA.

20. Staff DDIs and work mobile phone numbers have a privacy interest. For this reason, and because Kāinga Ora has general contact details that members of the public can use to communicate with it, staff phone numbers will generally be withheld.

21. If Kāinga Ora intends to publish the name of an official from another agency (for example, a document relating to a cross-agency work programme), we will consult with the relevant agency about that proposal.

Section 48 of the OIA

22. Proactively released information is not information released under the OIA. This means that section 48 of the OIA, which protects Ministers and agencies from civil or criminal liability when information is released in good faith under the OIA, does not apply to information that is released proactively.
23. Kāinga Ora will, therefore, consider any potential civil or criminal liability that might result from proactively releasing information before releasing the information and before seeking Ministerial approval (where relevant). See Cabinet Office Circular (23) 04, paragraph 34.
24. This applies even where the information was previously released under an OIA request. In some instances, it may be appropriate to release information under the OIA to a particular requester (potentially with conditions), but not to proactively release it to the general public.

Proactive release process

25. The high-level proactive release process is outlined in Appendix 1: Proactive Release Process.
26. The full due diligence process is outlined in the Proactive Release Guidance held by the Government Relations team.
27. Information will be proactively released on a regular basis (minimum quarterly), or as business need requires.

Licensing

28. The majority of information published by Kāinga Ora into the public domain is licensed for reuse per the Cabinet-approved New Zealand Government Open Access Licensing (NZGOAL) Framework.
29. The Creative Commons Attribution 4.0 licence will be the default licence, unless there are circumstances requiring some restrictions - for example, content owned by a third party. The Creative Commons Attribution 4.0 licence overrides restrictions on reuse under copyright and gives explicit permission to reuse.
30. Content that is restricted and not eligible for reuse will be clearly marked accordingly.

Accessibility and reusability

31. Kāinga Ora will ensure information published online meets the New Zealand Government Web Accessibility Standard, in line with the Accessibility Charter.
32. Kāinga Ora will ensure information published online is reusable. Information will be released in a way intended to make it easy for the public to find and access it. Wherever

possible, information will be released in open formats that are machine-readable and non-proprietary, i.e., the information will not require specific software to access it.

Maintaining proactive releases

33. Kāinga Ora will periodically review proactively released information to check the information remains relevant, up-to-date and accurate, and to remove or archive outdated material.
34. If a Kāinga Ora decision on an OIA request is changed because of an investigation by the Ombudsman, any proactively published response will also be updated.

Roles and Responsibilities

35. Kāinga Ora people need to work together to enable proactive release to be a success.

Role	Responsibility
Chief Executive (CE)	Chief Executive is responsible for approving proactive releases that are deemed to be high risk.
Board	The Board is responsible for oversight of Kāinga Ora compliance with proactive release expectations and is consulted on all critical proactive releases.
General Managers (GM) and Deputy Chief Executives (DCE) and their business groups	Responsible for all proactive releases prepared by their Directorates, including endorsing high and critical risk proactive releases, and approving medium risk proactive releases.
Government Relations (GR)	Government Relations has a role in owning policy, providing advice on reputational risk, and updating the Minister. The Government Relations Manager is responsible for approving low risk proactive releases. The Government Relations Team Leader is responsible for approving very low risk proactive releases.
Subject Matter Expert (SME)	The SME is responsible for ensuring the correct processes and policies are used when considering information for Proactive Release. This includes undertaking due diligence inclusive of identifying any potential issue with information that is being considered for release. Their specific role in the Proactive Release process is outlined in Appendix 1.

All Kāinga Ora employees, contractors, and consultants	Consider proactive release when creating information. When proactively releasing information, follow the Proactive Release Process set out in Appendix 1.
External Communications Team (External Comms)	Provides advice to mitigate risk or provide context for a proactive release.
Legal Team	Provides legal advice to mitigate risk of proactive release and advice on proposed redactions (including around legal professional privilege).
Privacy Team	Provides privacy advice to mitigate risk of proactive release.
Ministers' offices	Receive notification of proactive releases provided to them for their information under the "no surprises" approach.
Ministers	Approve the proactive release of Cabinet material and awareness of other proactive releases.

Related guidance documents, legislation, policies, processes, and regulation

36. Internal:

- Official Information Act Policy
- Privacy Policy
- Proactive Release Guidance
- Proactive Release Checklist

37. External:

- CabGuide
- Declaration on Open and Transparent Government
- Health Information Privacy Code 2020
- New Zealand Government Open Access Licensing (NZGOAL) Framework
- New Zealand Government Web Accessibility Standard
- New Zealand Data and Information Management Principles
- Official Information Act 1982
- Ombudsman guidelines
- Ombudsmen Act 1975

- Privacy Act 2020
- Proactive release of Cabinet material
- Public Service Act 2020
- Public Service Commission (PSC) Guidelines
- Serious Fraud Act 1990
- Strengthening Proactive Release Requirements Cabinet paper
- The Accessibility Charter

Review

38. This policy will be reviewed bi-annually or as required.

Document control

Date	Reviewed/Modified by	Comments/Descriptions of changes
June 2024	Chief Executive Leadership Board	New policy

39. Details of previous versions of policies and procedures will be stored in the Kāinga Ora document management system (Objective).

Appendix 1: Proactive Release Process

The high-level, proactive release process is as follows:

Proactive Release Process

