



WEEKLY REPORT

Kāinga Ora – Homes and Communities

For period ending 2 February 2024

3

Table of contents

1. Updates.....	2
2. Summary of papers sent.....	6
3. Upcoming advice to be delivered in the next month.....	7
4. Kāinga Ora OIA requests.....	9
5. Ministerial OIA requests.....	11

1. Updates

Commerce Commission’s application to intervene in the Winton litigation

In our Briefing for the Incoming Minister (BIM), we informed you about our litigation with Winton Land Limited. We are providing this further briefing on a recent development – we expect the Commerce Commission will apply to the Court to intervene, and Kāinga Ora will consent to this.

Neither the Crown nor Ministers are party to the proceedings. The litigation is being managed by Kāinga Ora as an operational matter.

Background

In October 2022, Winton Land Limited, and its subsidiary, brought legal proceedings against Kāinga Ora, alleging that our organisation is engaging in anti-competitive behaviour in breach of section 36 of the Commerce Act 1986 (misuse of market power). Kāinga Ora is alleged to have done this by restricting access to the Specified Development Project (SDP) process – allegedly only selecting greenfield developments that advantage Kāinga Ora; by

- outbidding private sector developers like Winton for suitable land; and
- forcing private sector developers like Winton to participate only in particular aspects of a development (for example, by purchasing already consented land from Kāinga Ora, constructing houses and on-selling them).

Kāinga Ora strongly rejects the claims of anti-competitive behaviour and is defending the proceedings. We continue our urban development work in increasing housing availability for all New Zealanders, providing a range of housing options to enable more people to own their own homes in locations close to jobs, transportation, education, and other amenities. The focus is on creating thriving communities to benefit all New Zealanders, generally achieving over and above what the private market is able, or willing, to do.

Recent development

The Commerce Commission has advised the parties that it wishes to intervene in the litigation. This means it asks the Court if it can provide submissions at the hearing (set to commence on 1 September 2025) in relation to legal and economic principles to assist the Court. It is not the role of an intervenor to express a view on the merits of a party’s case. The Commerce Commission is doing so given its role as the independent agency that administers and enforces the Commerce Act and because this proceeding is likely to be the first proceeding under section 36 of the Commerce Act since its recent amendment. Section 36 is the provision under which Winton is suing Kāinga Ora (alleging misuse of market power).

The Commerce Commission’s request to intervene is understandable given its position as the expert regulator and interest in section 36 generally. We expect that the Commerce Commission will file its application seeking leave of the Court to intervene shortly, given that there is a case management conference set for 20 February 2024.

Kāinga Ora intends to consent to the application, so it is very likely the Court will allow the Commerce Commission to intervene. Following such a decision (on or around 20 February 2024), we expect the Commerce Commission, and possibly also Winton, will issue a media statement.

Kāinga Ora will respond to any media enquiries it receives noting:

- Kāinga Ora welcomes the expert assistance the Commerce Commission can provide to the Court with legal and economic advice in respect of the recently amended section 36 of the Commerce Act.
- We understand the importance of correctly interpreting legislation, particularly when that legislation is fairly new.
- As the independent agency that administers and enforces the Commerce Act, the Commerce Commission is well placed to explain the recent changes to section 36 of the Act.

Greg Groufsky
DCE Sector Engagement

s 9(2)(f)(iv) [Redacted]

[Redacted]

[Redacted]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Gareth Stiven
GM Strategy, Finance and Policy

Waitangi Housing Expo

Kāinga Ora, in partnership with the Ministry of Housing and Urban Development, will be attending the Waitangi Housing Expo from 5 February 2024. Our Northland Stakeholder Engagement team will be present at the Expo to talk about Kāinga Ora developments across the region, and our Ownership and Product team will attend to talk to whānau about their potential journey into home ownership.

Caroline Butterworth
DCE Tāmaki Tai Tokerau - Auckland/Northland

Rotorua community engagement

Two community drop-in sessions will be held in Rotorua on 8 and 20 February 2024, to share current public housing development plans for the central and west parts of the city. These follow an earlier session held for Rotorua east late last year and are part of a planned portfolio approach to sharing with the community and stakeholders about the approximately 500 homes which are in early planning, consenting or under construction across the city.

Those attending will have the opportunity to understand what is being built and where and find out more about any of the developments. The drop-ins support letters which are sent at an early planning stage to all properties in the vicinity of each development to let them know what is being considered, with information about all developments also available online at letstalk.kaingaora.govt.nz/Rotorua. Media will also be invited to attend the drop-ins.

Daniel Soughtton
DCE Central/Te Puku Ikaroa

Select committee annual review

As previously advised, the 2022/23 Annual Review of Kāinga Ora hearing is scheduled for 28 February 2024 with the Social Services and Community Committee, chaired by Joseph Mooney MP.

Kāinga Ora has drafted replies to 195 pre-hearing written questions asked of the agency. A copy will be provided to your office on 7 February 2024 and are due with the committee on 23 February 2024.

Rowan Macrae
GM People, Governance and Capability

OIA and Ombudsman six monthly statistics

Kāinga Ora is reporting its results for OIA responsiveness and Ombudsman OIA related complaints performance to the Public Service Commission (PSC) on 2 February 2024. The PSC is scheduled to publish the results on 13 March 2024. The table below shows the results to be reported.

Period	July-Dec 2023
Completed	421
Did not meet timeframe	8
Published in our website	31
Extensions	107
Transferred in full	7
Refused in full	56
Average number of days to complete	24.19
Median number of days to complete	21
Notified by the Ombudsman	4
Final Ombudsman opinions against agency	3
Within timeframes %	98.1%

Kāinga Ora achieved 98.1 percent timeliness for the July – December 2023 period. Timeliness is categorised as a response to an OIA request delivered within statutory timeframes. Overall 421 OIA requests were completed, with 413 completed on time. The percentage of extended OIA's was 25%. The public sector average for the last reporting period was 98.2%.

The past six months has seen the largest volumes of OIAs ever responded to by Kāinga Ora. In 2022, we completed 512 OIA request across the entire year. In 2019, the annual total was 330 OIA requests. Our systems and processes have developed over time to meet these increased volumes and levels of scrutiny.

We will share our current results with the Ombudsman Investigation team.

It should also be noted that our number of OIA extensions relative to requests is tracking down. For this period, it was 25 percent compared to 38 percent and 51 percent for the previous two periods respectively.

For the total calendar year of 2023, Kainga Ora completed 698 OIAs. Timeliness across the year was 98.3 percent with 686 responses delivered within statutory timeframes.

Rowan Macrae
GM People, Governance and Capability

2. Summary of papers sent

Paper	Purpose
Ad hoc Kāinga Ora business initiated transfers AH 24 003	This paper provides you with information about the Business Initiated Transfers (BITs) process used by Kāinga Ora – Homes and Communities, including why they are conducted and some key figures about transfers over the past 12 months.

3. Upcoming advice to be delivered in the next month

Date due to Minister's Office	Title	Minister(s)	Contact person
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

9(2)(b)	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]

4. Kāinga Ora OIA requests

Reference number	Requestor	Topic	Date due to Minister's Office	Date due to requestor
OI 23 599	Member of the public	<i>Development</i> Request for information about an Ohakune development	21/3/2024	29/03/2024 revised
OI 23 643	Member of the public	<i>Information</i> Request for copies of correspondence	n/a	13/02/24 revised
OI 23 651	Ohakune Residents and Ratepayers Society	<i>Development</i> Request for information about an Ohakune development	n/a	23/02/2024 revised
OI 23 691	Castalia Limited	<i>Information</i> Request for construction cost information	n/a	24/02/2024 extended
OI 23 697	Member of the public	<i>Information</i> Request for information about a Manurewa acquisition	n/a	05/02/2024 extended
OI 23 704	Azaria Howell (Newstalk ZB)	<i>Information</i> Request for information about restructuring	n/a	15/02/2024 extended
OI 23 714	Ohakune Residents and Ratepayers Society	<i>Development</i> Request for information about an Ohakune development	n/a	16/02/2024 extended
OI 23 721	Member of the public	<i>Statistics</i> Request for personal grievance statistics	n/a	22/02/2024 extended
OI 23 722	§ 9(2)(a) (Debtfix)	<i>Documents</i> Request for information about debt management policy and procedure	n/a	15/02/2024 extended
OI 23 738	Sinead Gill (Stuff)	<i>Information</i> Request for information about Project Velocity	n/a	1/03/2024 extended
OI 23 740	Bonair Action Group	<i>Development</i> Request for information about a Silverdale development	n/a	5/02/2024
OI 24 002	Member of the public	<i>Documents</i> Request for information about staff in project and change roles	n/a	12/02/2024
OI 24 007	Bonair Action Group	<i>Development</i> Request for information about a Silverdale development	n/a	12/02/2024

OI 24 010	Bonair Action Group	<i>Development</i> Request for information about a Silverdale development	n/a	13/02/2024
OI 24 022	Member of the public	<i>Documents</i> Request for meth testing and decontamination documents	n/a	13/02/2024
OI 24 024	Member of the public	<i>Development</i> Request for information about a Wainuiomata development	n/a	13/02/2024
OI 24 025	Member of the public	<i>Documents</i> Request for drug related property damage statistics	n/a	13/02/2024
OI 24 029	Member of the public	<i>Development</i> Request for information about a Winton development	n/a	13/02/2024
OI 24 031	Azaria Howell (NZME)	<i>Documents</i> Request for communications between Hon Chris Bishop and Kāinga Ora tier 2 and above	6/02/2024	13/02/2024
OI 24 032	Member of the public	<i>Documents</i> Request for information about the Housing Corporation loan scheme	n/a	13/02/2024
OI 24 033	Member of the public	<i>Development</i> Request for Mangere development consultation and cultural and historical reports	n/a	13/02/2024
OI 24 034	Member of the public	<i>Development</i> Request for Mangere modelling of stormwater and flooding and risk analysis	n/a	13/02/2024
OI 24 035	Member of the public	<i>Information</i> Request for information about a New Lynn redevelopment site	5/02/2024	13/02/2024
OI 24 036	Member of the public	<i>Documents</i> Request for previous maintenance information at a Papakura property	n/a	13/02/2024
OI 24 037 (mix of privacy and OIA)	Member of the public	<i>Documents</i> Request for personal information and legal costs	n/a	14/02/2024
OI 24 038	Member of the public	<i>Information</i> Request for maintenance cost information	n/a	15/02/2024
OI 24 039	Member of the public	<i>Information</i> Request for Auckland construction information	n/a	13/02/2024

OI 24 040	Member of the public	<i>Information</i> Request for information about Rotorua public housing	n/a	16/02/2024
OI 24 041	Member of the public	<i>Information</i> Request for information about a property in Waipukurau	n/a	16/02/2024
OI 24 042	Member of the public	<i>Documents</i> Request for tenancy policy document	n/a	16/02/2024
OI 24 048	Member of the public	<i>Information</i> Request for information about Kāinga Ora staff and contractor conduct investigations	n/a	19/02/2024
OI 24 049	Isobel Prasad (TVNZ)	<i>Statistics</i> Request for statistics on disruptive behaviour	n/a	19/02/2024
OI 24 052	Member of the public	<i>Development</i> Request for Auckland development information	n/a	09/02/2024
OI 24 054	Lowndes Jordan (Lawyers)	<i>Documents</i> Request for policy documents	n/a	20/02/2024
OI 24 056	Ohakune Residents and Ratepayers Society	<i>Development</i> Request for information about an Ohakune development	n/a	21/02/2024
OI 24 057	Member of the public	<i>Development</i> Request for information about a Greytown development	n/a	21/02/2024
OI 24 059	Member of the public	<i>Information</i> Request for information about correspondence from Minister of Finance	16/02/2024	23/02/2024
OI 24 060	Member of the public	<i>Documents</i> Request for documents relating to Ministerial responsibilities and advice	14/02/2024	21/02/2024
OI 24 064	Azaria Howell (NZME)	<i>Statistics</i> Request for eviction statistics	n/a	23/02/2024

5. Ministerial OIA requests

Reference number	Requestor	Topic	Date due to Minister's Office	Date due to requestor