

29 July 2019

Jo Lines-MacKenzie
Jo.Lines-MacKenzie@stuff.co.nz

REF: OIA-5382

Dear Jo

Request made under the Official Information Act 1982

Thank you for your email of 1 July 2019 requesting the following information under the Official Information Act 1982 (the Act):

'Could I please get the number of human remains that have been found while construction has been undertaken in the past 10 years?

Could I please get that broken down into years - ie 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019?

Could I please get also broken down into regions and if possible where they were found?

What parts of the remains were found?

How were they found?

Who found them?

What happens to the remains once they are discovered?

Are police ever involved if remains are found?

Could I please get any paper, photos, documents that relate to this OIA.

Anything else you could offer me about this topic would be appreciated.'

Regarding the following questions you have asked:

'Could I please get the number of human remains that have been found while construction has been undertaken in the past 10 years?

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The NZ Transport Agency does not collect the information requested on a data base. For the Transport Agency to search for the information requested for the past 10 years, the Transport Agency would need to contact all the Project Managers and consultant archaeologists, including employees who no longer work for the Transport Agency, and rely on their recollection to find this information. We are therefore refusing this part of your request under section 18(f) of the Act; because the information requested cannot be made available without substantial collation or research.

Please be aware that information regarding where kōiwi or human remains are found, what parts were found, and the location of graves and unmarked cemeteries, may be considered very sensitive information and pertinent to the parties involved, especially iwi/hapu. Therefore, there is a high probability that if this request was narrowed to a particular region, and date range (to which the information could be collected without substantial collation and research), the request would be refused under section 9(2)(ba)(ii) or 9(2)(c) of the Act. Section 9(2)(ba)(ii) of the Act applies if the withholding of the information is necessary to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely otherwise to damage the public interest. Section 9(2)(c) of the Act applies if the withholding of the information is necessary to avoid prejudice to measures protecting the health or safety of members of the public.

The discovery of kōiwi during transport construction projects is relatively rare, and when found are usually in small numbers. A couple of recent exceptions, where larger numbers of kōiwi were found, included; during roadworks on State Highway 1, Peka Peka to Otaki, rebuilding State Highway 1, along the coast north of Kaikoura following the 2016 earthquake, and during the construction of the Waikato Expressway.

In most projects, the areas where remains have been found were only discovered when earthworks commenced. Earthworks are commenced after they have been consented to and permitted by the local Council under the Resource Management Act (1991), or by the Environmental Court under the Environmental Protection Authority. This follows a period of early discussions with stakeholders (such as local iwi and hapu, local communities, Councils etc) to identify any potential archaeological sites or sensitive sites with wahi tapu or wahi tapuna values.

Earthworks take a precautionary approach of applying for an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014. This requires an archaeologist to identify areas for monitoring, in collaboration with a cultural monitor appointed by the local iwi.

The first layer of soil removed, known as topsoil stripping, enables an archaeologist to check if any features are present, including the presence of kōiwi. A cultural monitor would also be on site during this process to provide cultural and tikanga advice.

All project personnel undertake cultural and archaeological induction process which identifies what features may be present, what these features look like as soil disturbance occurs, when works must be stopped for an accidental discovery, and who must be involved in the process to deal with that discovery.

The questions you have asked that we are able to provide a response to have been set out and answered below:

What happens to the remains once they are discovered?

The Transport Agency's protocol for when an accidental archaeological discovery occurs is set out in the *Minimum Standard P45 – Accidental Archaeological Discovery Specification*, available online here: <https://www.nzta.govt.nz/assets/resources/state-highway-professional-services-contract-proforma->

manual/standards/docs/p45-accidental-archaeological-discovery-specification-august-2018.pdf

All archaeological authorities issued by Heritage NZ include conditions for the management of kōiwi, if discovered during works.

Therefore, the Transport Agency's approach is to sensitively and respectfully follow our *Minimum Standard P45 – Accidental Archaeological Discovery Specification* protocol and / or the conditions issued by Heritage NZ, while working closely with the NZ Police, tangata whenua, the project team, and following tikanga processes as guided by the relevant iwi/hapu.

Are police ever involved if remains are found?

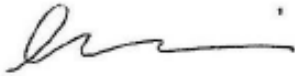
Yes. Please see 'Further procedures in the event that kōiwi /human remains are discovered' on page 4 of the *Minimum Standard P45 – Accidental Archaeological Discovery Specification* (link provided above).

We emphasise the need for discussion on kōiwi to include the NZ Police and iwi/hapu, so that tikanga practices can be followed. After the NZ Police have confirmed the remains are not from a crime scene, the express wishes of iwi may take primacy over further detailed analysis.

Under section 28 of the Act, you have the right to ask the Ombudsman to review my decision to refuse your request. You can find the contact details for the Ombudsman at www.ombudsman.parliament.nz

If you would like to discuss this reply with the Transport Agency, please contact Andrew Knackstedt by email to andrew.knackstedt@nzta.govt.nz or by phone on 04 894 6285.

Yours sincerely



Sarah Cronwright

Acting Senior Manager, Operational Policy, Planning and Performance