



Proactive Release

The following document has been proactively released by the Department of the Prime Minister and Cabinet on behalf of Rt Hon Christopher Luxon, Prime Minister:

Documents held by the Prime Minister's office relating to the Smith v Fonterra litigation and related matters

The following documents have been included in this release:

Part 1 General documents

Item	Date	Document title, subject line or description	Decision
	August 2026	Background to the proactive release and information included	Release in full

Part 2 Information relating to the Smith v Fonterra Co-operative Group litigation

Item	Date	Subject line and attachments	Decision
Item 01	7/02/2024	RE: Lines: Smith v Fonterra - bullet points for PMO	Some information withheld under: s9(2)(a) s9(2)(h)
Item 02	7/02/2024	RE: Lines: Smith v Fonterra - bullet points for PMO [Article from Energy News (7/02/2024) " <i>Climate activist cleared to sue emitters</i> " is publicly available, but behind a paywall. Link to article. https://www.energynews.co.nz/news/climate-change/151880/climate-activist-cleared-sue-emitters]	Some information withheld under: s9(2)(a) s9(2)(b)(ii) s9(2)(h)
Item 03	7/02/2024	FW: Smith v Fonterra - bullet points for PMO	Some information withheld under: s9(2)(a) s9(2)(h)
Item 04	30/08/2024	FW: Additional letter to Attorney-General from the New Zealand Law Society <i>Attachments – not included here:</i> • 30/08/2026 letter from the New Zealand Law Society to the Attorney-General • 23/08/2026 letter from the New Zealand Law Society to the Attorney-General <i>[Both letters are published on the NZ Law Society website at:</i> • 23 August 2026 • 30 August 2026	Some information withheld under: s9(2)(a)
Item 05	29/10/2024	FW: S v F meeting notes <i>Attachment:</i> [withheld in full under s9(2)(h)]	Some information withheld under: s9(2)(a) s9(2)(h)



Item	Date	Subject line and attachments	Decision
Item 06	1/11/2024	RE: S v F meeting notes	Some information withheld under: s9(2)(a) Some duplicate information

Part 3 Information relating to the response to the litigation leading to the Climate Change Response (Tort Liability) Amendment Bill

Item	Date	Subject line and attachments	Decision
Item 07	12/02/2024	RE: Smith v Fonterra- reasoning and implications	Some information withheld under: s9(2)(a) s9(2)(h)
Item 08	26/02/2024	RE: [Withheld under s9(2)(h)]	Some information withheld under: s9(2)(a) s9(2)(h)
Item 09	28/02/2024	FW: AM on Smith v Fonterra <i>Attachment:</i> Briefing 23/02/2024 from MOJ to the Minister of Justice “ <i>Supreme Court decision in Smith v Fonterra</i> ”.	Some information withheld under: s9(2)(a) s9(2)(g)(i) s9(2)(h)
Item 10	6/03/2024	[Email withheld in full under s9(2)(h)] <i>Attachments:</i> - Letter (6/03/2024) from the Attorney-General to the Prime Minister and other Ministers “<i>Options for legislative reform following Smith v Fonterra [2024] NZSC 5</i>” [Briefing withheld in full under s9(2)(h)]	Some information withheld under: s9(2)(a) s9(2)(h) Some duplicate information
Item 11	17/06/2024	LEGALLY PRIVILEGED - FW: BRF 4648 - Options for responding to Smith v Fonterra Litigation <i>Attachments:</i> - Briefing (4/06/2024) from MfE (now MCERT) to the Minister of Climate Change “<i>Options for responding to Smith v Fonterra Litigation</i>” [Duplicate] Letter (6/03/2024) from the Attorney-General to the Prime Minister and other Ministers “<i>Options for legislative reform following Smith v Fonterra [2024] NZSC 5</i>” [Duplicate: Briefing withheld in full under s9(2)(h)]. - Letter (14/03/2024) from Minister of Justice to Attorney General “<i>RE: Options for legislative reform following Smith v Fonterra [2024] NZSC 5</i>”.	Some information withheld under: s9(2)(a) s9(2)(g)(i) s9(2)(h) Some duplicate information
Item 12	10/09/2024	FW: AM on Smith v Fonterra	Some information withheld under: s9(2)(a)



Item	Date	Subject line and attachments	Decision
		<i>Attachment:</i> [Duplicate] Briefing 23/02/2024 from MOJ to the Minister of Justice “ <i>Supreme Court decision in Smith v Fonterra</i> ”.	s9(2)(g)(i) s9(2)(h) Some duplicate information
Item 13	10/09/2024	FW: Letter from the Attorney-General: Smith v Fonterra [2024] NZSC 5 <i>Attachments:</i> [Duplicate] Letter (6/03/2024) from the Attorney-General to the Prime Minister and other Ministers “<i>Options for legislative reform following Smith v Fonterra [2024] NZSC 5</i>” [Duplicate: Briefing withheld in full under s9(2)(h)].	Some information withheld under: s9(2)(a) Some duplicate information
Item 14	12/09/2024	[FW: [LEGALLY PRIVILEGED] FW: BRF 4648 - Options for responding to Smith v Fonterra Litigation <i>Attachment:</i> [Duplicate] Briefing (4/06/2024) from MfE (now MCERT) to the Minister of Climate Change “ <i>Options for responding to Smith v Fonterra Litigation</i> ”	Some information withheld under: s9(2)(a) s9(2)(h) Some duplicate information
Item 15	30/03/2026	Ministerial consultation (SOU) - Targeted reform of emissions-related torts <i>Attachment:</i> Draft Cabinet Paper “ <i>Policy decisions on targeted reform of emissions-related torts</i> ” The final paper with related Cabinet Minute is available on the Ministry of Justice website , from Page 52.	Some information withheld under: s9(2)(a) s9(2)(g)(i)
Item 16	8/05/2026	FW: For weekend bag: aide-memoire [<i>withheld under s9(2)(h)</i>] [CLODOCS.JUS043.1305.FID592215] <i>Attachment:</i> Aide-mémoire [<i>withheld in full under s9(2)(h)</i>]	Some information withheld under: s9(2)(a) s9(2)(h)
Item 17	28/02/2024 to 14/10/2024	[<i>Text messages with PMO staff members</i>]	Some information withheld under: s9(2)(a) s9(2)(g)(i) Some duplicate information

Part 4 Information about meetings and communications between the Prime Minister or his office and the defendants to the litigation relating to the Smith v Fonterra case.

The defendants are:

1. Fonterra Co-operative Group Limited
2. Genesis Energy Limited
3. Dairy Holdings Limited
4. New Zealand Steel Limited
5. Z Energy Limited



6. Channel Infrastructure NZ Limited
7. BT Mining Limited

Item	Date	Document title or subject line	Decision
Item 18		Meetings and phone calls between staff in the Prime Minister's office and defendants to the Smith v Fonterra litigation in relation to the case	Release in full
Item 19	12/02/2026	Re: Fonterra - business update	Some information withheld under: s9(2)(a) Some information not in scope
Item 20	23/10/2025	FW: Request for Joint Ministerial Meeting – Smith v Fonterra Litigation	Some information withheld under: s9(2)(a)
Item 21	17/06/2026	FW: follow up – addendum <i>Attachment: Z Energy addendum document “Z Energy (Z) – Impact of Smith v Fonterra on funding Arrangements”</i>	Some information withheld under: s9(2)(a) s9(2)(b)(ii) s9(2)(ba)

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant section of the Act that would apply has been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to redaction codes:

- section 9(2)(a), to protect the privacy of individuals
- section 9(2)(b)(ii), to protect the commercial position of the person who supplied the information, or who is the subject of the information
- section 9(2)(ba), to protect the supply of similar information in the future, or to prevent damage to the public interest
- section 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinion
- section 9(2)(h), to maintain legal professional privilege.

Where information is duplicated or not in scope of the release, this has also been marked.

Documents held by the Prime Minister's Office relating to Smith v Fonterra Co-operative Group Ltd litigation and related matters

Documents from Fonterra and Z Energy

In May 2026 the Prime Minister's Office was contacted by a media outlet asking about a document from Fonterra Co-operative Group Limited and Z Energy Limited. The document had been provided by Fonterra as part of the discovery process for the ongoing litigation where an applicant has brought civil claims against seven major businesses for their greenhouse gas emissions.

Further to this, the Prime Minister's Office has since been advised that the information provided in hard copy in this meeting was also sent from a Fonterra staff member to the former staff member using private email accounts.

Current staff in the Prime Minister's Office were not aware of the document until contacted by media in May, nor did the office have any record of any meetings the former staff member may have had. At the time this matter came to light, no information about the document or its contents was held by the Prime Minister's Office.

The document had not been identified or considered as part of the response to a request made on behalf of the applicant under the Official Information Act 1982 (the Act) in March 2025.

From further investigations, there was no record of the document having been passed on to any other Minister, Ministerial Office, staff member or officials.

Although the Prime Minister's Office did not have a copy of the document, the joint briefing document from Fonterra and Z Energy is available on both [Fonterra's website](#) and on [Z Energy's website](#). An additional addendum document from Z Energy was identified as part of the Ombudsman's investigation. This is now also available on the [Z Energy website](#) and is also included as part of this release.

Review of IT accounts

The Department of Internal Affairs (DIA) is conducting a review of the former staff member's IT account to ensure there are no further documents or meetings relating to the Smith v Fonterra case that should be released. In addition, DIA will work with the individual to identify whether there are any other work-related documents on their private email that should be held as part of the official record.

The former staff member was jointly employed by Ministerial Services and the Parliamentary Service. They have not worked in the Prime Minister's Office since October 2025 and have not worked at Parliament since January 2026.

All staff have been reminded of their obligations for retaining official information as part of the record. In addition, the Ombudsman has published the [findings of his investigation](#) into the way the Prime Minister's Office handled an Official Information Act request.

Government decision to amend the Climate Change Response Act 2002

The decision to amend the Climate Change Response Act 2002 to bring certainty to climate change tort law was a decision that was made by Cabinet. It is something Ministers had sought advice on immediately following the Supreme Court judgement in February 2024.

A month after the judgement, on 6 March 2024, the Attorney-General wrote to the Prime Minister and senior ministers recommending the approach the Government eventually took.

The Cabinet paper and minute “Policy Decisions on Targeted Reform of Torts” (29/04/2026) SOU-26-MIN-0044, is available on the [Ministry of Justice website](#) (from page 52).

Proactive release

Given the public interest and for full transparency, the Prime Minister’s Office has decided to release all the information held by the office relating to these matters that would be made available if requested under the Official Information Act 1982 (the Act).

This release covers information held by the Prime Minister’s Office about:

- the litigation
- the government’s subsequent response, including the amendments to the Climate Change Response Act 2002 [announced on 12 May 2026](#)
- any communications and meetings the Prime Minister or staff in his office have had with the defendants to the litigation in relation to the Smith v Fonterra case.

There is currently ongoing litigation and some of the information relating to these matters are subject to legal privilege. The information released has been assessed under the grounds of the Act. Where information would have been withheld if requested under the Act, the relevant sections of the Act are marked on the documents themselves.

Generally, the timeframe is from January 2024 until the matters raised came to light on 22 May 2026. Some relevant information from after that date has been included where appropriate.

There are some additional documents held by the Prime Minister’s Office that are relevant that have not been included in this release as they would be withheld in full if requested under the Act. These include some documents that are subject to legal privilege, advice from Cabinet Office to the Prime Minister and briefings provided by the Department of the Prime Minister and Cabinet’s Policy Advisory Group to the Prime Minister. These briefings are provided to the Prime Minister in confidence to support him in his role as leader of the Government and chair of Cabinet. These documents would be withheld in their entirety under the following sections of the Act:

- section 9(2)(f)(ii), to maintain collective and individual ministerial responsibility
- section 9(2)(f)(iv), to maintain the confidentiality of advice tendered by or to Ministers and officials
- section 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinion
- section 9(2)(h), to maintain legal professional privilege

Additional information

Information about the Smith v Fonterra litigation and related matters is also included in responses from the Prime Minister to Written Parliamentary Questions. These are available on the Parliament website at: [Written Parliamentary Questions](#).

One of the emails withheld in full, included a copy of the Court of Appeal judgement which is publicly available on the [New Zealand Law Society](#) website.