



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 "Supreme Court decision in Smith v Fonterra".	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 "Options for legislative reform following Smith v Fonterra [2024] NZSC 5" [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 "Options for responding to Smith v Fonterra Litigation" [Duplicate] Letter (6/03/2024) from the Attorney-General to the Prime Minister and other Ministers "Options for legislative reform following Smith v Fonterra [2024] NZSC 5" [Duplicate: Briefing withheld in full under s9(2)(h)]. - Letter (14/03/2024) from Minister of Justice to Attorney General "RE: Options for legislative reform following Smith v Fonterra [2024] NZSC 5".	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.

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

Set out below are summaries of meetings and phone calls between staff in the Prime Minister's Office and any of the defendants to the Smith v Fonterra litigation in relation to the case. The seven defendants to the litigation 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

The Prime Minister has confirmed that, to the best of his knowledge he has had no discussions regarding the Smith v Fonterra case with Fonterra or Z Energy or other defendants to the case.

Meetings

- As has been reported publicly, there were meetings between Fonterra and/or Z Energy and the former Chief Policy Advisor regarding the Smith v Fonterra case. There is currently a Department of Internal Affairs review underway into the former Chief Policy Advisor's office records. All relevant information and documents regarding the Smith v Fonterra case, will be made public at the conclusion of that review. Current staff in the Prime Minister's Office first became aware of these meetings and a joint briefing note from Fonterra and Z Energy, in May 2026. It has since been confirmed that the briefing note was delivered in hard copy and emailed to a personal email address. The hard copy version of the briefing note provided by Z Energy included a further addendum from Z Energy.
- 29/09/2025 meeting between Cameron Burrows, the Prime Minister's Chief of Staff Wayne Eagleson, Director, Thompson Lewis on behalf of Z Energy. As part of a broader discussion Mr Eagleson indicated he was doing work on the Smith vs Fonterra case. He indicated Z Energy was struggling to get responses from Ministers on the issue. The Chief of Staff indicated that he was aware of the issue but was not aware of what was happening. Mr Eagleson indicated he would likely ask Haley Mortimer, Z Energy General Manager, Corporate Affairs to reach out to the Chief of Staff to see if they could meet with the appropriate Ministers to discuss the issue.
- On 16 October 2025, Haley Mortimer, Z Energy, emailed Cameron Burrows, requesting a joint meeting between Ministers and the chief executives of Fonterra, Z Energy and Genesis Energy to "discuss the Smith v Fonterra litigation and to share our collective concerns regarding its potential impact on investor confidence and broader economic implications". That meeting was not held.

Phone calls

- In 2025, phone call between Cameron Burrows, the Prime Minister's Chief of Staff, Cameron and Haley Mortimer, Z Energy General Manager, Corporate Affairs. Ms Mortimer indicated Z-Energy's interest in the Smith vs Fonterra litigation. The Chief of Staff indicated he was aware of the issue but was not aware of what was happening.

- 22/05/2026 A staff member in the Prime Minister's Office received a phone call from Fonterra relating to a media query about the Smith v Fonterra proceedings. The Prime Minister's Office had also received media queries about the proceedings.
- 27/05/2026 A staff member in the Prime Minister's Office received a phone call from Fonterra to advise that the former Chief Policy Advisor's name was likely to be made public in media reporting. A staff member in the Prime Minister's Office later called Fonterra back and advised them that the office was planning to respond to the media enquiries about the former Chief Policy Advisor. Fonterra called again late in the day to let the office know that they had received new media enquiries and advised how they were approaching their responses, related to the former Chief Policy Advisor.
- 29/05/2026 Fonterra called to let a staff member in the Prime Minister's Office know that Fonterra had discovered an email with the briefing note document attached, was sent to the former Chief Policy Advisor's personal email address. Fonterra called back later that day to confirm that lawyers were going to disclose this email to the Court.
- 2/06/2026 A staff member in the Prime Minister's Office called Fonterra to inform them that the office was seeking advice on whether the office could issue a public statement to signal that it had been informed that there was an email to a private email account. Fonterra was called again and informed that the office had assurances that we could release the statement, and that we intend to do so imminently. Fonterra later called the Prime Minister's Office to inform that they had received new media enquiries about our statement and informed us of their intended response.
- 9/06/2026 Fonterra called a staff member in this office to inform that a new media enquiry had been received and that they were not planning to respond.
- 15/06/2026 Z Energy phoned a member of the Prime Minister's Office to inform that they had identified an addendum which formed part of the joint briefing note, that was provided as a hard copy.

From: s9(2)(a)

Sent: Friday, February 9, 2024 1:48 PM

To: Cameron Burrows <Cameron.Burrows@parliament.govt.nz>; Hamish Rutherford <Hamish.Rutherford@parliament.govt.nz>; s9(2)(a): former PMO staff member

Cc: s9(2)(a) Fonterra

Subject: Fonterra - business update

Kia ora Cam, s9(2)(a)

We are looking forward to the meeting with the PM on Tuesday – great to have this going ahead.

Please find attached the latest version of our business update for political stakeholders. We send this out every two weeks except over the summer break. This update covers:

[Not in Scope]

- The Smith litigation

[Not in Scope]

I hope this information is useful – very happy to stop sending it through if we are missing the mark or just clogging up your inboxes.

Ngā mihi,

s9(2)(a)

157 Lambton Quay,
Wellington, New Zealand



FONTERRA – Business Update

Our Business

[Not in Scope]



Smith Litigation

This week the Supreme Court decided to allow a trial to proceed against Fonterra and six other New Zealand companies in the claim brought by Mike Smith. The decision by the Supreme Court does not determine any liability of Fonterra or the other defendants.

Fonterra agrees with Mr Smith that GHG emissions have adverse effects on the climate and that we all need to take steps to reduce our emissions. However, our view is that Parliament, not the Courts, is the appropriate place to determine public and economic policy on matters of significant public interest such as climate change.

We are committed to ensuring the New Zealand dairy industry remains at the forefront of low-emissions food production.

We recently set a target to reduce on-farm emissions intensity by 30% by 2030 from a 2018 baseline. We also have targets to reduce our Scope 1&2 operational emissions by 50% by 2030 from a 2018 baseline. We're investing in innovation and infrastructure to remove greenhouse gas emissions from our manufacturing sites, and have committed to stop using coal by 2037, on our way to being net zero carbon by 2050.

These targets are aligned with international standards which seek to limit global temperature rise to 1.5°C. Our Climate Roadmap sets out our plan to achieve these targets as well as our ambition to be net zero by 2050.

[Not in Scope]



[Not in Scope]

Proactively Released

From: [Cameron Burrows](#)
To: s9(2)(a): Minister of Justice's office
Subject: FW: Request for Joint Ministerial Meeting – Smith v Fonterra Litigation
Date: 23 October 2025 16:41:00
Attachments: [image001.png](#)

The background to my calls.

C

Cameron Burrows
Chief of Staff
Office of Rt Hon Chris Luxon

s9(2)(a)

From: Haley Mortimer s9(2)(a)
Sent: Thursday, 16 October 2025 1:08 PM
To: Cameron Burrows <Cameron.Burrows@parliament.govt.nz>
Cc: s9(2)(a) Z Energy
Subject: Request for Joint Ministerial Meeting – Smith v Fonterra Litigation

Good afternoon Cam,

I hope you're keeping well.

I'm writing on behalf of Z Energy (Z), Fonterra, and Genesis to request a joint Ministerial meeting with Hon Willis, Hon Collins, Hon Watts, Hon Goldsmith, and Hon Jones. The purpose of this meeting is to discuss the Smith v Fonterra litigation and to share our collective concerns regarding its potential impact on investor confidence and broader economic implications.

The proposed attendees are:

- Lindis Jones, Chief Executive, Z Energy
- Miles Hurrell, Chief Executive, Fonterra
- Malcolm Johns, Chief Executive, Genesis

We look forward to hearing from you. Please don't hesitate to get in touch if you have any questions in the meantime.

Best regards,
Haley

Haley Mortimer
GM Corporate Affairs

Z Energy Limited
3 Queens Wharf,
PO Box 2091, Wellington 6140
New Zealand



The home of:



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Proactively Released

From: s9(2)(a): PM's Office

Sent: Wednesday, 17 June 2026 11:09 AM

To: Cameron Burrows <Cameron.Burrows@parliament.govt.nz>; s9(2)(a): PM's Office

s9(2)(a): PM's Office

Subject: FW: follow up - addendum

FYI

From: Haley Mortimer s9(2)(a)

Sent: Wednesday, 17 June 2026 10:12 AM

To: s9(2)(a): PM's Office

Cc: s9(2)(a): Z Energy

Subject: FW: follow up - addendum

Hi s9(2)(a)

Please find attached the addendum that was provided in hard copy alongside the Briefing Note (already publicly disclosed) in July 2024 to s9(2)(a) (Chief Policy Advisor, Prime Minister's Office). To the best of Z's knowledge, an electronic copy was not provided to the Prime Minister's Office.

As noted in its "Confidential and Commercially Sensitive" header, the addendum was supplied to the Government on a confidential basis. It records Z's engagement, undertaken in confidence, with a non-party to the Smith v Fonterra litigation, relating to investment concerns arising from that litigation. The addendum also requests that, in the event of an Official Information Act request capturing this material, Z is consulted on any proposed withholding grounds.

Please let me know if you need anything further.

Best wishes,
Haley

Haley Mortimer
GM Corporate Affairs

Z Energy Limited
3 Queens Wharf,
PO Box 2091, Wellington 6140
New Zealand

T s9(2)(a) M s9(2)(a)

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The home of:



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From: s9(2)(a): PM's Office

Sent: Tuesday, 16 June 2026 4:32 pm

To: Haley Mortimer s9(2)(a)

Subject: follow up - addendum

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Hi Haley,

Thanks for the call yesterday to let the office know about the addendum. Can you please provide a copy of the document to our office?

Please let me know if there are any parts of the document you would like redacted from an OIA, and if so, under what grounds.

Regards,

s9(2)(a)

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Z Energy (Z) – Impact of Smith v Fonterra on funding arrangements

The purpose of this note is to provide an example from Z Energy (Z) regarding the uncertainty created by the Smith v Fonterra proceeding following the Supreme Court's decision to allow Mr Smith's claim to proceed by way of full High Court trial.

We refer to the shared position by the defendants that the uncertainty created by Mr Smith's proceeding itself has material adverse effects. It:

- 1 creates material sovereign risk. The international investment community will rationally elect to invest in jurisdictions where businesses do not face the significant risks created by the Supreme Court's decision. This is particularly important given New Zealand is seeking investment to reduce its infrastructure deficit and transition to a strong and resilient economy; and
- 2 could have a significant impact for New Zealand businesses in terms of their funding and insurance arrangements, including access to capital, and lender/insurer notification requirements.

The information provided in this document is commercially sensitive and subject to withholding grounds under s 9(2)(b)(ii) and 9(2)(ba) of the Official Information Act 1982. In the event a request is received for the information and its release is considered, Z asks that it is provided with an opportunity to object.

s9(2)(b)(ii), s9(2)(ba)

Impact on funding arrangements

Following the issuance of the Supreme Court judgment in February 2024, the proceeding appeared on s9(2)(b)(ii), s9(2)(ba) risk register as part of its annual global risk report.

Z was approached by s9(2)(b)(ii), s9(2)(ba) Australia-based team (noting s9(2)(b)(ii), s9(2)(ba) provides financing facilities to the Z Group) seeking clarity and assurances around the potential implications of the judgment and proceeding. In particular, concern was raised regarding any anticipated financial implications in light of the Group's arrangements with s9(2)(b)(ii), s9(2)(ba)

Z anticipates that questions from s9(2)(b)(ii), s9(2)(ba) and likely other finance providers) surrounding the proceeding and its potential impact on credit risk assessments will arise on a regular cadence throughout the course of this proceeding, becoming increasingly acute as the proceeding progresses.

ENDS