

Hon Judith Collins



Attorney General
Minister of Defence
Minister for Digitising Government
Minister Responsible for the GCSB
Minister Responsible for the NZSIS
Minister of Science, Innovation and Technology
Minister for Space
Lead Coordination Minister for the Government's Response to the
Royal Commission's Report into the Terrorist Attack on the Christchurch Mosques

6 March 2024

9(2)(g)(i)

Rt Hon Christopher Luxon
Prime Minister

Hon Paul Goldsmith
Minister of Justice

Hon Shane Jones
Minister for Regional Development

Hon Simon Watts
Minister for Climate Change

Hon Penny Simmonds
Minister for the Environment

Dear Ministers

9(2)(h) SMITH V FONTERRA [2024] NZSC 5

On 7 February 2024 the Supreme Court in its decision *Smith v Fonterra & Ors* [2024] NZSC 5 declined to strike out Mr Smith’s claims in tort relating to damage caused by climate change.

Ministerial colleagues have raised concerns with me that the Supreme Court’s decision creates significant uncertainty for business, could deter investment in New Zealand, 9(2)(h)

9(2)(h)

9(2)(h)

9(2)(g)(i)

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I suggest that Ministry for the Environment is the appropriate lead agency. Crown Law can provide legal assistance as required, in the usual way.

9(2)(h)

the Crown is currently waiting on three decisions from the Court of Appeal on climate change litigation. I advise that if you are asked for comment on *Smith v Fonterra* you respond only along the lines that the government is considering a legislative response, and that you do not provide further detail until the work is further advanced. Such a response is in keeping with the Cabinet Manual on commenting on matters before the Court.

I welcome your views.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Judith Collins', with a stylized flourish at the end.

Hon Judith Collins KC
Attorney-General