

Reference: 20220542

31 January 2023

[REDACTED]

Tēnā koe [REDACTED]

Thank you for your Official Information Act request, received on 15 December 2022.
Your request was as follows:

Tena koutou,

*Under the Official Information Act I request all information held which:
(a) relates to or refers to the Supreme Court's decision in Wairarapa Moana Ki Pouakani Incorporation v Mercury New Zealand Limited [2022] NZSC 142 (7 December 2022); and
(b) was created or amended in the period 7 December 2022 (inclusive) to 14 December 2022.*

Where agencies propose to withhold documents or information under section 9(2)(g) or 9(2)(h) I request confirmation in respect of those documents or information of (i) the title of the document or information, (ii) the date of the document or information was created or amended, (iii) the length of the document or information, either word count or number of pages, in respect of that information.

Please feel free to contact me if you wish to discuss my request or have any questions.

Kia ora,

[REDACTED]

Information to be withheld

There is only one document covered by your request. I have decided to withhold the entire document as follows:

1. withhold parts of this document under section 9(2)(h) of the Official Information Act, and
2. refuse another part under section 18(d) of the Official Information Act.

Item	Date	Document Description	Decision
1.	12/12/2022 – 13/12/2022	Email thread entitled Supreme Court - Wairarapa Moana Ki Pouākani v Mercury NZ	Part of the document is withheld to maintain legal professional privilege, under section 9(2)(h) of the Official Information Act. Providing another part of the document is refused as it is publicly available, per section 18(d) of the Official Information Act.

I have chosen to provide a short high-level summary of the email thread, in the interests of openness, with the intention of maintaining legal privilege over its specifics. In brief, a Capital Letter summary of the decision was circulated between Treasury staff members. Three staff members made brief comments on the decision and its significance. Treasury Solicitor Anthea Williams noted she was conflicted on the case. The total word count of the comments is 180, spread over the three emails.

The Capital Letter article is entitled TREATY OF WAITANGI: WAIRARAPA MOANA KI POUĀKANI v MERCURY NZ. We refuse to provide the summary on the basis of section 18(d) as the information is publicly available via the Capital Letter.

In making my decision under section 9(2)(h), I have considered the public interest considerations in section 9(1) of the Official Information Act and I do not consider there are countervailing public interest factors in favour of release.

Please note that this letter (with your personal details removed) and enclosed documents may be published on the Treasury website.

This reply addresses the information you requested. You have the right to ask the Ombudsman to investigate and review my decision.

Ngā mihi

Tim Hampton
Acting Deputy Secretary, Acting Chief Operating Officer