



OIA15-033

27 AUG 2015

## OFFICIAL INFORMATION ACT REQUEST

I refer to your official information request of 14 July 2015 relating to export controls under the Forests Act 1949. Your request, clarified on 14 August 2015, asked for:

- since 1 January 2006, copies of all legal opinions and investigations on export controls under the Forests Act 1949, either instructed by or provided to the Ministry for Primary Industries (and antecedents), to include:
  - a) specifically, any investigation by Crown Law in either 2006 or 2007 on export controls;
  - b) the names of persons who instructed legal opinions and/or investigations; and
  - c) Ministers who received these legal opinions and/or investigations.

Regarding legal opinions, any and all advice offered is provided to MPI under legal professional privilege. As such, confirming or denying questions regarding the existence of legal advice and when it was given will breach legal privilege in this case. I therefore withhold the response to the query, in order to maintain professional legal privilege, under section 9(2)(h) of the Official Information Act. I also note that Crown Law has responded likewise in respect of the same request for information.

I am satisfied that in the circumstances of this case, the withholding of this information is not outweighed by other considerations which render it desirable in the public interest to make the information available.

In relation to your query about investigations, MPI does undertake investigations of potential breaches of the Forests Act 1949, including breaches of controls on exports. Releasing information on such investigations is however likely to prejudice the maintenance of the law, including the prevention, investigation and detection of offences. I therefore withhold the response to this query under section 6(c) of the Official Information Act.

In deciding to withhold the response, I want to also clarify that legal opinions held and investigations undertaken are operational matters. As such, no details of these matters are referred to the Minister.

You may be interested to know the Ministry for Primary Industries (MPI) has proactively released a large amount of information on swamp kauri on the MPI website here: <http://mpi.govt.nz/exporting/forest-products/wood-and-wood-products/swamp-kauri>. This OIA release, with your contact details redacted, will also be published on the website.

You have the right under section 28(3) of the Official Information Act to seek an investigation and review by the Ombudsman of our decision to withhold information. A request must be made in writing to:

The Ombudsman  
Office of the Ombudsmen  
PO Box 10 152  
WELLINGTON

Yours sincerely



Craig Trotter  
**Director (Acting), Spatial, Forestry and Land Management**