

Note of clarification – our Part 4 Input Methodologies Review 2023 Framework paper

21 December 2022

Vector Limited (**Vector**) has provided us with a copy of legal advice it obtained from Chapman Tripp on the relationship between the permissive considerations under s 5ZN of Climate Change Response Act 2002 (**CCRA**) and the s 52A purpose of Part 4 of the Commerce Act 1986.¹ Vector asked Chapman Tripp to revisit its earlier advice on this matter, in light of our position on these statutory provisions in our Part 4 Input Methodologies Review 2023 Framework paper (**Framework**).²

In our Framework, we said “we may take into account the permissive considerations under section 5ZN of the CCRA, but only where doing so is consistent with promoting the section 52A purpose of Part 4.”³ Chapman Tripp observed that, “The Commission has not elaborated on what it means by ‘consistent with promoting the section 52A purpose’. The Commission could be interpreted as saying:

- a) it may take into account the s 5ZN considerations where they are *not inconsistent* with the 52A purpose, even if taking into account those considerations would not itself promote the 52A purpose; or
- b) it may take into account the s 5ZN considerations *only* where to do so would promote the 52A purpose.”⁴

We confirm the interpretation at a) above is our intended meaning: we may take into account the s 5ZN considerations provided they are relevant and that doing so does not compromise our achievement of the s 52A purpose of Part 4.

¹ Vector asked that we include Chapman Tripp’s advice on the IM Review record and publish the advice, which we have done [here](#).

² We published our Part 4 Input Methodologies Review 2023 Framework paper [here](#) on 13 October 2022.

³ Framework, at para 2.42.

⁴ Chapman Tripp’s advice, at para 24.