IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

I TE KŌTI MATUA O AOTEAROA
TE WHANGANUI-Ā-TARA

CIV-2021-485-000341

UNDER	Judicial Review Procedure Act 2016 and part 30 of the High Court Rules 2016
IN THE MATTER OF	an application for judicial review
BETWEEN	**LAWYERS FOR CLIMATE ACTION NZ INCORPORATED** Applicant
AND	**THE CLIMATE CHANGE COMMISSION** First Respondent
AND	**MINISTER FOR CLIMATE CHANGE** Second Respondent

AFFIDAVIT OF JOANNA ELIZABETH HENDY

(Climate Change Commission – Commission expertise and process)

Affirmed 10 December 2021

Counsel acting: Victoria Casey QC
Clifton Chambers

Luke Cunningham Clere
Barristers & Solicitors
PO Box 10-357
WELLINGTON

I, **JOANNA ELIZABETH HENDY**, Chief Executive, of Wellington, affirm:

INTRODUCTION

1. My full name is Joanna Elizabeth Hendy. I am Chief Executive of He Pou a Rangi, the Climate Change Commission. I am authorised to swear this affidavit on behalf of the Commission.

2. My evidence will:

   2.1 canvass the experience and qualifications of the Commission's Board and staff; and

   2.2 outline the engagement between LCANZ (Lawyers for Climate Action New Zealand Inc) and the Commission during in the development of its Advice to the New Zealand Government *Ināia tonu nei: a low emissions future for Aotearoa*, released in June 2021.

3. In my evidence I refer to a number of documents. I understand that these will be collated with material referred to by other witnesses for the Commission into a paginated supplementary bundle and we will refer to them by reference to that bundle. References in this affidavit will accordingly be to:

   3.1 the Commission's Advice and Support Volumes, referred to as Advice Bundle with relevant page reference; and

   3.2 the supplementary bundle of documents, referred to as CBD with the relevant page reference.

QUALIFICATIONS & EXPERIENCE

4. I was appointed the Chief Executive of the Commission from its commencement in December 2019.

5. Prior to being appointed as Chief Executive, I led the Secretariat of the Interim Climate Change Committee during 2019 and oversaw the Interim Committee's inquiry into renewable electricity from its establishment in May 2018.

6. I hold a Bachelor of Science with Honours in Mathematics from Canterbury University and a Graduate Diploma in Applied Science (Meteorology) from Victoria University of Wellington.

7. In my former role as Director of Research and Analysis for the Parliamentary Commissioner for the Environment, I oversaw independent environmental investigations into issues including sea-level rise and agricultural greenhouse gas emissions.

8. During my time with the Parliamentary Commissioner for the Environment, I also oversaw reports recommending the establishment of the Climate Change Commission.

9. I also spent seven years working for Motu Economic and Public Policy Research, where one of the projects I led involved land use modelling for the Productivity Commission's inquiry into transitioning into a low emissions economy.

10. My CV is at [•] of the CBD.

THE ESTBLISHMENT OF THE CLIMATE CHANGE COMMISSION

The Interim Climate Change Committee

11. The Interim Climate Change Committee was established in May 2018 as a precursor to the proposed Commission, which was expected to be established in late 2019 under the Climate Change Response (Zero Carbon) Amendment legislation.

12. The Interim Committee was a Ministerial Advisory Committee appointed to deliver advice on key climate change related issues. It was initially requested to provide independent evidence and analysis related to pricing agricultural emissions and renewable electricity generation. Those reports were delivered on 30 April 2019.

13. The Interim Committee's focus then shifted to laying ground work for the future Climate Change Commission. Its Terms of Reference were extended and the focus shifted to work to put the Commission in a position to produce high-quality, credible emissions budgets within the required timeframe.

14. Climate Change Commissioner Harry Clark was a member of the Interim Committee, and Lisa Tumahai was Deputy Chair. Other members of the Interim Committee

included: David Prentice (Chair), Dr Keith Turner and Dr Jan Wright and Dr Suzi Kerr (until 30 April 2019, after which she became a specialist advisor to the Interim Committee).

15. The primary focus of the Interim Committee's work was to ensure a smooth transition to the Commission. This included:

15.1 Issuing an eight week call for evidence to gather information on emission reduction opportunities and impacts of climate change mitigation actions. Nearly eighty responses were received and studied in detail by Interim Committee staff.

15.2 Initiating engagement with technical experts, including establishing Technical Reference Groups.

15.3 Developing a framework for the development, analysis and testing of proposed budgets, complemented by a set of criteria and principles to guide the analytical approach.

15.4 Commissioning economy-wide modelling. After releasing a Request for Proposals, the Interim Committee contracted two consortia; Concept Consulting who was working with AgFirst and Scion to develop an existing structural bottom-up economy-wide model, and Motu Economic and Public Policy Research who was working with Vivid Economics to develop an applied computable general equilibrium model and a distributional impacts sub-model.

15.5 Engagement and consultation. The Interim Committee started to plan the Commission's engagement and consultation programme for 2020. It also undertook preliminary engagement with stakeholders and interest groups to begin discussions about the work of the Commission.

15.6 Building capacity and capability. This included the recruitment of staff, as well as work to enable the Commission to become a functioning entity as soon as possible including finding offices, developing workplace policies and procedures, setting up IT, human resources and finance arrangements.

16. In the second half of 2019, the Interim Committee set up three Technical Reference Groups: Land Use, Transport, and Heat, Industry and Power (HIP).[1] The Groups were established to assist in understanding the nature and scale of emissions reductions opportunities in the different sectors. A list of the membership of each Technical Reference Group is at page [•] of the CBD.

17. Those Technical Reference Groups continued to support the work of the Commission after its establishment. A fourth Technical Reference Group for Waste was established after the formation of the Commission in 2020. A list of the membership of the Technical Reference Group for Waste is at page [•] of the CBD.

18. The Technical Reference Groups tested scenarios and assumptions relating to different rates of technology uptake and behavioural changes, to ensure the scenarios and assumptions were fit for purpose, robust, and consistent across each sector.

19. On 20 December 2019 the Interim Committee delivered its final report on the work it had undertaken: *Final Report to the Minister for Climate Change*. That report is publicly available on the website for the Interim Committee. It canvasses the Interim Committee's call for evidence and a summary of the evidence received, engagement with technical experts, development of methodology for emissions budgets, economy wide modelling, and building capacity and capability for the Commission.

The Climate Change Commission

20. In December 2019 the Commission was established by the enactment of the Climate Change Response (Zero Carbon) Amendment Act 2019, which amended the Climate Change Response Act 2002. A copy of the Minister of Climate Change's announcement establishing the Commission and appointing the Commissioners is at page [•] of the CBD.

21. The Commission's role, as set out in s 5B the Climate Change Response Act, is to provide independent, evidence-based advice on the actions the Government needs

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1 This sector grouping was later renamed Energy, Industry, and Buildings for increased clarity.

to take to mitigate climate change, adapt to the effects of climate change and to monitor and review the Government's transition to a low emissions and climate resilient Aotearoa.

22. Below is a description of the different tiers within the structure of the Commission:

22.1 The Board is made up of the seven Commissioners;

22.2 The Senior Leadership team is made up of:

(a) Myself as Chief Executive;

(b) Grant Blackwell, as Chief Scientist;

(c) General Manager (Emissions Budgets and Adaptation) who oversees three teams - Emissions Budgets, Adaptation and Markets teams;

(d) General Manager (Sector Analysis) who oversees three analytical teams covering the sectors: Heat Industry and Power, Land and Waste and Transport;

(e) General Manager (Strategy, Planning and Engagement) who oversees four teams - Communications and Engagement, Strategy and Performance, Government Services, and Rautaki Māori (Strategy); and

(f) General Manager (Governance and Corporate Services).

22.3 Under their General Manager, teams comprise varied combinations of Managers, Principal Analysts/Advisors, Senior Analysts/Advisors, and Analysts/Advisors as well as support staff.

23. The Commission developed Te Mahere Whakamua which was a Māori-specific work stream which sat within the Strategy, Planning and Engagement team and formed part of the wider work plan to ensure that the Commission could:

23.1 consider the Māori specific requirements of the Climate Change Response Act;

23.2 enable Māori as a Te Tiriti o Waitangi Partner to see themselves participating in the Commission's work; and

23.3 uphold Crown obligations as Te Tiriti o Waitangi Partner and give effect to the principles of Te Tiriti o Waitangi through the broader work plan.

24. When the Commission was established in December 2019 it had 21 staff. That number grew throughout 2020 and by the time the final Advice was released, there were around 45 full time equivalent staff employed. With the Commission's workload staff numbers continue to increase and in 2022 we are looking at a staffing level of approximately 60 FTE.

25. The first major work programme for the Commission was the preparation of the Advice to the New Zealand Government *Ināia tonu nei: a low emissions future for Aotearoa*, released in June 2021. This was a significant project, which took the Commission approximately 17 months to complete.

Commission's other work during 2020 - 2021

26. At the same time as preparing *Ināia tonu nei*, the Commission was working to contribute to a range of other climate-related policy and legislative initiatives.

27. For example, in April 2020 the Commission developed and delivered to the government six principles to guide spending and investment to support an economic recovery following the COVID-19 pandemic that would keep Aotearoa on track to achieve its climate goals. The principles guided our response to Budget 2020 in May 2020 where we called for greater emphasis on climate action in economic and investment decisions.

28. Over the course of 2020 and 2021, the Commission submitted on a number of Bills before parliament with climate change implications. For example, the Climate Change Response (Emissions Trading Reform) Amendment Bill 2019, which amended the Climate Change Response Act 2002 to make changes to the ETS, and the COVID-19 Recovery (Fast-track Consenting) Bill 2020, which contained amendments to the Resource Management Act 1990. The Commission also provided feedback on a number of policy proposals or strategies during this period. For example, in July 2021, the Commission made a submission to the Infrastructure Commission on the proposed direction for the 30-year Infrastructure Strategy for Aotearoa.

Commission's upcoming work programme

29. The Commission's upcoming work programme for 2022 includes:[2]

29.1 *Advice on the Emissions Trading Scheme unit limits and auction price control settings*. In mid-2022, the Commission will provide advice to the Minister on unit limits and auction price control settings in the ETS. This will be the first instance of what will be annual advice by the Commission to the Minister to inform annual updates to the regulations on the ETS settings. These settings must be informed by emissions budgets and New Zealand's NDC, as well as a number of other considerations.

29.2 *An agricultural progress assessment.* In June 2022, the Commission will report to the Minister on farmers' readiness for a farm-level emissions pricing scheme. In preparing this advice, the Commission will:

(a) assess the primary sector's progress towards climate change commitments on farm emissions reporting and farm plans recorded in Schedule 5 of the Climate Change Response Act; and

(b) examine the work of the He Waka Eke Noa (the government industry partnership on primary sector climate action) to design a farm level emissions pricing system as an alternative to the ETS for the primary sector.

29.3 *Advice on agricultural assistance.* In April 2022 the Commission will provide advice to the Ministers of Climate Change and Agriculture on what assistance, if any, is needed by participants in an agriculture emissions pricing scheme, in response to a request from the Minister under s 5K of the Climate Change Response Act. This piece of advice which will form part of the Commission's wider agricultural progress assessment work, looking at measurement, management and pricing of agricultural emissions.

30. The Commission's longer term work includes planning for monitoring and reporting on the Government's progress towards meeting emissions budgets and the 2050 target,

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2 Advice Bundle at page 53.

which will include assessing the adequacy of the emissions reduction plan and progress in its implementation. Further, the Commission is due to advise on the direction of the second emissions reduction plan (for 2026-2030) in 2023.

31. The Commission is also preparing for its role monitoring and reviewing the Government's progress towards its adaptation goals. The Commission's first report on the implementation of the government's national adaptation plan due in 2024 and in 2026 the Commission will be responsible for preparing a national climate change risk assessment.

32. Looking ahead even further, the Commission is required under the Climate Change Response Act to review the 2050 emissions target every 5 years starting from 2024; provide advice to the Minister to enable preparation of the emissions budgets and recommend any necessary amendments to existing emissions budgets every 5 years from 2024; provide advice to enable the preparation of an emissions reduction plan every 5 years from 2023; provide advice at the end of emissions budget periods on the quantity of emissions that may be banked or borrowed between two adjacent emissions budget periods; make recommendations about ETS unit limits and price control settings annually; when requested by the Minister, make recommendations about increased or decreased phase-out rates for industrial allocation in the ETS; report on the implementation of the national adaptation plan every second year from 2024; prepare national climate change risks assessments every six years from 2026; and to provide any other reports or advice as requested by the Minister.

THE EXPERTISE OF CLIMATE CHANGE COMMISSION

The Commissioners

33. The seven Commissioners were selected from around 200 nominations which were short-listed and then selected by Cabinet.

34. The Commissioners come from varying fields, including climate change mitigation and adaptation, agriculture, economics, emissions trading schemes, te ao Māori and the Māori-Crown relationship.

35. Section 5H of the Climate Change Response Act required the Minister to have regard to a number of factors when considering the appointment of a member of the Commission. In particular, the Minister was required to consider the need for the

Commissioners to hold collectively the expertise and experience relevant to the Commission's work.

Dr Roderick Carr, Chairperson

36. I am aware that Dr Carr has provided an affidavit which sets out a brief outline of his expertise. Dr Carr brings particular expertise in public and private sector governance and leadership, public policy development, leadership of academic and financial institutions, professional qualifications and experience in investment and risk management, economics and law.

37. Dr Carr's CV is at page [•] of the CBD.

Lisa Tumahai, Deputy Chairperson

38. Lisa Tumahai has whakapapa to both Ngai Tahu and Tainui iwi. Her Ngai Tahu whakapapa hails from Te Tai o Poutini on the West Coast of the South Island.

39. Prior to being appointed as Deputy Chairperson of the Commission Ms Tumahai held the position of the Deputy Chairperson of the Interim Committee since its formation.

40. Ms Tumahai has 23 years of governance experience and 13 years of commercial board experience. Ms Tumahai has established and extensive relationships with iwi and Māori.

41. Ms Tumahai is currently the Kaiwhakahaere (chair) of Te Runanga o Ngāi Tahu. She has completed executive programmes at Stanford University and holds a Bachelor of Commerce in Management from Canterbury University. Ms Tumahai has attended the Takituu Governance Course for Indigenous Directors and the United States Embassy Program for Indigenous Economic Development.

42. Ms Tumahai brings particular expertise and knowledge in Te Tiriti o Waitangi, a strong understanding te Ao Māori, the Māori economy and the Māori-Crown relationship.

43. Ms Tumahai's CV is at page [•] of the CBD.

Dr Harry Clark

44. Dr Harry Clark is an internationally recognised science leader in greenhouse gas research. In 2014 Dr Clark was appointed a member of the New Zealand order of Merit for services to environmental science.

45. Dr Clark was appointed the Intergovernmental Panel on Climate Change lead author for Global Assessment Reports 5 and 6. Dr Clarke also assisted in the development and implementation of New Zealand's Tier 2/3 agricultural GHG inventory. Dr Clark holds a PhD from the University College of North Wales, where he also obtained a BSc with Honours (First Class) in Agriculture.

46. Dr Clark was a member of the Interim Committee.

47. Dr Harry Clark's CV is at page [•] of the CBD.

Dr Judy Lawrence

48. Dr Judy Lawrence is widely recognised for her international research on climate change adaptation. Dr Lawrence was recently appointed as a Coordinating Lead Author with the Intergovernmental Panel on Climate Change for the Sixth Assessment Review. She is a Senior Research Fellow at the New Zealand Climate Change Research Institute, and in 2019 was awarded the Prime Minister's Science Prize.

49. Dr Lawrence has experience across multiple fields of climate change science including national mitigation and adaptation policy. She holds a PhD in Public Policy from Victoria University of Wellington. She also holds a MA Geography, BA (Hons) Geography and COP Planning Law from Victoria University of Wellington.

50. Dr Lawrence's CV is at page [•] of the CBD.

Ms Catherine Leining

51. Ms Leining is one of New Zealand's leading experts on climate mitigation policy with a specialisation in emissions trading. Ms Leining has been a Policy Fellow at Motu Economic and Public Policy Research, she co-led Motu's research programme on "Shaping New Zealand's Low-Emission Future." She has held policy positions at the Ministry for the Environment and Ministry of Foreign Affairs and Trade.

52. In 1993 Ms Leining holds a BS in biology and French, cum laude with distinction in biology from Duke University, North Carolina. Before moving to New Zealand, Ms Leining worked in policy positions including working for the Centre for Clean Air and the ICF International in the United States of America and was trained as a Climate Leader under the Climate Reality Project launched by Al Gore.

53. Ms Leining's CV is at page [•] of the CBD.

Professor James Renwick

54. Professor James Renwick is a leading climate scientist with a strong national and international reputation. Professor Renwick was appointed as a Lead Author and Coordinating Lead Author on three Assessment Reports of the Intergovernmental Panel on Climate Change. Professor Renwick has also been involved in the governance of the World Climate Research Programme for the past eight years.

55. Professor Renwick holds a PhD in Atmospheric Sciences from the University of Washington in the USA and a MSC Statistics and BSc (Hons) Mathematics from New Zealand Universities. He has four decades of experience in weather and climate research.

56. In 2018 Professor Renwick was awarded the Prime Minister's Prize for Science Communication.

57. Professor Renwick's CV is at page [•] of the CBD.

Professor Nicola Shadbolt

58. Professor Nicola Shadbolt is a farmer, forester, director and academic. Professor Shadbolt holds a number of professional positions relating to the agriculture industry. Professor Shadbolt was recently appointed as Chairperson of Plant and Food Research and was a former director of Fonterra Cooperative Group and Transit New Zealand.

59. Professor Shadbolt has a Masters in Agriculture Science for Farm Management with Honours from Canterbury University and a BSc (Hons) in Agriculture from Nottingham University.

60. Professor Shadbolt's CV is at page [•] of the CBD.

Commission staff

61. The Commission staff are an interdisciplinary team of experts.

62. There were a number of different teams involved in the preparation of *Ināia tonu nei: a low emissions future for Aotearoa*. Key personnel include the following:

62.1 Stephen Walter is the General Manager, Emissions, Budgets, Adaptation and Markets and also sits on the Senior Leadership Team. I am aware that Mr Walter has provided an affidavit which contains a brief outline of his expertise. Mr Walter's CV is at page [•] of the CBD.

62.2 Dr Grant Blackwell is the Chief Science Advisor. Dr Blackwell spent 8 years as a practising scientist and the last 14 years as a senior scientific advisor to the public sector. He holds a PhD in Ecology. Dr Blackwell's CV is at page [•] of the CBD.

62.3 Matthew Smith is a Principal Analyst. Mr Smith holds a BSc (Mathematics and Environmental Studies) and an LLB from Victoria University of Wellington. He has more than a decade's experience in emissions reporting, accounting and target setting at the Ministry for the Environment. Mr Smith played a key role in drafting chapters 21 and 22 of *Ināia tonu nei: a low emissions future for Aotearoa*, and chapter 13 of the supporting evidence. I am aware that Mr Smith has provided an affidavit which contains a brief outline of his expertise. Mr Smith's CV is at page [•] of the CBD.

62.4 Christopher Holland is a Principal Analyst at the Commission. Mr Holland has a Masters in Environmental and Resource Economics from University College in London and has extensive experience working in the United Kingdom in their Department for Energy and Climate Change. Mr Holland's CV is at page [•] of the CBD.

62.5 Eva Murray is a Principal Analyst. Ms Murray was heavily involved in the drafting of chapter 10 of *Ināia tonu nei: a low emissions future* for Aotearoa and chapter 3 of the supporting evidence. Ms Murray has a Masters in Environmental Technology from Imperial College in London with a speciality in Environmental Economics and Policy. Ms Murray has over 15 years of experience in environmental policy including advising on multilateral

environmental agreements, as well as experience of greenhouse gas emissions accounting in regulatory and corporate contexts. I am aware that Ms Murray has provided an affidavit which contains a brief outline of her expertise. Ms Murray's CV is at page [•] of the CBD.

62.6 Paul Young is a Senior Analyst. Mr Young was particularly engaged in chapter 3 of the supporting evidence of *Ināia tonu nei: a low emissions future for Aotearoa*. Mr Young has a Masters in Physics from the University of Otago. He has more than a decade's experience working in climate change mitigation issues in New Zealand as an analyst and consultant with expertise in modelling, and was a co-founder of Generation Zero in 2011. I am aware that Mr Young has provided an affidavit which contains a brief outline of his expertise. Mr Young's CV is at page [•] of the CBD.

62.7 Dr Phil Wiles is a Principal Analyst in the Land and Waste Team. Dr Wiles has a PhD in Physical Oceanography from the University of Wales and a Bachelor of Science with Honours from Otago University. Dr Wiles has spent seven years working in climate change policy in New Zealand central government. Dr Wiles received the UK National Environmental Research Council Fellowship in 2005 . Dr Wiles' CV is at page [•] of the CBD.

62.8 Tia Greenaway is a Principal Analyst and Rautaki Māori Team Lead. Ms Greenaway has extensive experience in strategy, project design and implementation of iwi/ Māori work programmes. Ms Greenaway has held a number of roles at Te Puni Kōkiri, which is the government's principal policy advisor on Māori wellbeing and development. Ms Greenaway has expertise in the Māori economy and Te ao Māori given her roles in various Trust Boards. Ms Greenaway's CV is at page [•] of the CBD.

STAKEHOLDER ENGAGEMENT AND CONSULATION

63. The Climate Change Response Act requires the Commission to proactively engage with people we consider relevant to our functions, duties and powers. The Interim Committee and the Commission have always taken a broad approach to that mandate to engage with as many persons as possible, recognising that climate change is an issue that affects everyone.

64. The Interim Committee recognised that a collaborative approach is critical to inform meaningful and reasonable transition pathways to achieving new emissions targets by 2050. Stakeholder engagement throughout the operation of the Interim Climate included:

    64.1 sector specific engagement around: land use and agriculture; transport; heat, industry and power; and iwi/ Māori engagement; and

    64.2 engaging proactively with a broad range of other stakeholders, partners and other interested people, including nongovernmental organisations.

65. From its establishment, the Commission continued to run an extensive process of stakeholder engagement in the preparation of *Ināia tonu nei: a low emissions future for Aotearoa*.

66. Between January 2020 and January 2021, Commissioners and Commission staff facilitated and attended over 700 meetings and hui with a variety of stakeholders, community groups and organisations. The purpose of these was to provide an introduction to the Commission and its work, and hear their views on how Aotearoa should respond to climate change.

67. The Commission also held a number of workshops, which were open to the public and stakeholders, to gather views on a variety of topics including behaviour change, equity in transport, urban form, rural communities and the bio-economy.

68. A Commission Board Paper which outlines the Commission's approach to stakeholder engagement is at page [•] of the CBD.

69. Regular engagement occurred across multiple levels in the Commission. At a leadership level, we engaged in high level discussions with stakeholders regarding mitigation and adaptation and how it might impact on them. At a working level, our

staff were in continued engagement with a range of technical reference groups and technical experts from a range of stakeholders to enable testing of the modelling and policy direction. Staff also participated and led a range of public presentations, over Zoom, which included members of the general public and stakeholders.

70. Through Te Mahere Whakamua, the Commission adopted a case study approach to engagement with iwi and Māori. That approach lent itself to the development of qualitative evidence of the particular experiences and views of hapu and iwi, which, informed the Commission's understanding of the constraints of climate change mitigation and adaption from a Te Ao Māori perspective.

71. Engagement with iwi and Māori took many forms and included hui with iwi leaders, the Māori Trustee, and other Māori organisations.

72. After releasing the draft Advice on 31 January 2021, the Commission began a process of formal consultation for a period of six weeks. After engagement with stakeholders this was extended by two weeks to enable sufficient time to gather submissions.

73. During the formal consultation period, staff held zoom meetings which were widely attended by the public, and were open for anyone to attend. The meetings covered topics such as the Emissions Trading Scheme and New Zealand's Nationally Determined Contributing under the Paris Agreement (NDC). These sessions are referenced in the board paper which is at page [•] of the CBD.

74. Dr Carr and I conducted a number of meetings with stakeholders based across Aotearoa virtually in March 2020. Our plans to travel to meet these stakeholders in person were disrupted by the COVID-19 lockdown.

75. During the formal consultation period, the Commission sourced local iwi views through the initiative "100 Coastie voices for climate change." That survey directly targeted tangata whenua for their views on the impact of climate change. The survey aimed to capture the lived experience of Māori through climate change outside of the formal structures. Their views particularly impacted the "just transitions" considerations in the Advice.

76. During the formal consultation process the Commission received 15,404 submissions, including 14,463 individual submissions, 901 submissions from organisations and 40 submissions from Iwi/ Māori.

77. These submissions were received via:

77.1 the Commission's online consultation portal <haveyoursay.climatecommission.govt.nz> (4,247 submissions);

77.2 the public information email address (hello@climatecommission.govt.nz), (11,118 submissions); and

77.3 posted in hardcopy (39 submissions).

78. On receipt of the submissions, the Commission engaged a group of external contractors to triage and direct the submissions to the appropriate technical person to consider. All submissions were closely considered and many changes were made to the Commission's Advice as a result, as the Advice itself describes.

Engagement with LCANZ

79. I have been asked to identify communications between the Commission and LCANZ that took place during the preparation of *Ināia tonu nei: a low emissions future for Aotearoa*. LCANZ provided a formal submission in the consultation on the draft Advice. A copy of that submission dated 22 March 2021 is at page [•] of the CBD.

80. The Commission had by that stage already engaged with representatives of LCANZ via meetings, email correspondence and phone calls, as part of its wider engagement process. These communications included:

80.1 On 22 October 2020 Ms Cooper QC of LCANZ wrote to the Commission, advising that LCANZ would like to speak with the Commission to discuss its role under the Climate Change Response Act and the Commission's preparation of its advice on the emissions budgets and the NDC. Ms Cooper also advised the Commission of LCANZ' view as to the Commission's legal obligations under the Climate Change Response Act. A copy of that email is at page [•] of the CBD.

80.2 On 6 November 2020 an initial meeting was attended by Dr Carr, Mr Smith and members of LCANZ. Dr Carr outlined the Commission's then state of thinking about the NDC issue and the trade-offs involved and invited LCANZ's feedback.

80.3 The Commission sent an email that day to a number of LCANZ representatives, setting out a response to a question raised at that day's meeting with respect to compatibility of New Zealand's NDC with contributing to the global 1.5°C goal. A copy of that email is at page [•] of the CBD.

80.4 On 13 November 2020 LCANZ wrote a letter to the Commission explaining LCANZ' membership and purpose, LCANZ "takeaways" from the 6 November 2020 meeting and LCANZ' view of the Commission's legal obligations. A copy of that letter is at page [•] of the CBD.

80.5 On 9 December 2020 LCANZ wrote a letter to the Commission in which LCANZ outlined matters which it considered were important in order to ensure the Commission's draft advice complied with legal obligations under the Climate Change Response Act. These included LCANZ' view that:

(a) the rate of emissions in 2030 and the total emissions in the period 2021 – 2030 under the NDC are both important;

(b) the Commission should "call out" New Zealand's NDC as "misleading and lacking any ambition"; and

(c) the emissions budgets and reduction plan must be consistent with limiting global average temperature increase to 1.5°C.

A copy of that letter is at page [•] of the CBD. LCANZ has also published this on its website.

80.6 On 21 December 2020 a second meeting was attended by myself, Mr Smith and James Every-Palmer QC from LCANZ where the Commission explained the established accounting methodologies, including gross-net target setting and the use and relevance of averaging within the modified activity-based accounting measure.

80.7 On 22 December 2020 the Commission emailed Mr Every-Palmer QC of LCANZ responding to queries he had raised relating to the Commission's advice accounting measures for land emissions and the availability of the

data for New Zealand's Kyoto Protocol accounting in the New Zealand Greenhouse Gas Inventory. A copy of that email is at page [•] of the CBD.

80.8 On 14 January 2021 a third meeting was held attended by myself, Mr Smith and Astrid Nunns (General Manager, Strategy, Planning and Engagement) from the Commission. The meeting was attended by Jenny Cooper QC, Mr Every-Palmer QC and Michael Sharp from LCANZ.

80.9 On 3 February 2021 Ms Cooper QC of LCANZ emailed the Commission congratulating it on the release of the draft advice, and advising that LCANZ would like to speak to the Commission, in particular, about whether the Commission's proposed emissions budgets were compatible with the global 1.5°C goal. A copy of that email is at page [•] of the CBD.

80.10 On 10 February 2021 Ms Cooper QC of LCANZ emailed the Commission with a set of questions that LCANZ wished to cover at the meeting scheduled for 11 February. A copy of that email, and the attached questions, is at page [•] of the CBD.

80.11 On 11 February 2021 a fourth meeting was attended by myself, Dr Blackwell and Mr Smith, as well as various members of the LCANZ executive team. The Commission addressed the detailed questions that LCANZ had sent in advance of the meeting.

80.12 On 11 February 2021 LCANZ emailed the Commission with a further query about the use of offshore mitigation to meet the NDC target. A copy of that email is at page [•] of the CBD.

80.13 On 11 February 2021 the Commission responded in writing to LCANZ' queries raised in the email of earlier that day, explaining the basis in the Paris Agreement for the use of offshore mitigation to meet the NDC. A copy of that email is at page [•] of the CBD.

80.14 On 12 February Mr Every-Palmer of LCANZ emailed the Commission with follow-up questions from the meeting on 11 February. These questions related to the data underlying the Commission's calculations of New Zealand's multi-year budget under the NDC and the Commission's adoption of the IPCC's 2018 Special Report to assess the compatibility of New

Zealand's NDC with contributing to the global 1.5°C goal. A copy of that email is at page [•] of the CBD. The Commission responded on 15 February agreeing to meet and discuss LCANZ' questions.

80.15 On 18 February 2021 a fifth follow-up meeting was attend by myself and Mr Smith of the Commission, and Mr Every-Palmer QC and Mr Sharp for LCANZ.

80.16 Also on 18 February 2021 Mr Sharp of LCANZ emailed the Commission responding to the Commission's email of 11 February, with follow up questions about offshore mitigation and the Commission's application of the IPCC modelling to assess the compatibility of New Zealand's NDC, as well as the accounting basis for the NDC. A copy of that email is at page [•] of the CBD.

80.17 On 19 February 2021 the Commission emailed Mr Sharp of LCANZ, setting out the basis for the use of gross-net accounting for target accounting under the Kyoto Protocol. A copy of that email is at page [•] of the CBD.

80.18 On 20 February 2021, Mr Sharp of LCANZ emailed the Commission with a query about the accounting basis for New Zealand's NDC, in particular as it relates to gross-net accounting. A copy of that email is at page [•] of the CBD.

80.19 On 24 February 2021 the Commission emailed Mr Sharp and Mr Every-Palmer QC of LCANZ, responding to the questions raised about accounting basis for New Zealand's NDC and the Commission's application of the IPCC 2018 Special Report to assess the compatibility of New Zealand's NDC with the 1.5°C goal. A copy of that email is at page [•] of the CBD.

80.20 On 11 March 2021 Mr Every-Palmer QC of LCANZ emailed the Commission with some follow up questions about the data underlying the Commission's advice on the NDC, the Chapter 4 analysis (which set out the Commission's assessment of whether the proposed emissions budgets were consistent with contribution to the global 1.5°C goal) and the accounting measure that the Commission recommended should be applied to land emissions. A copy of that email is at page [•] of the CBD.

80.21 On 15 March 2021, the Commission responded by email to the questions raised by Mr Every-Palmer QC in his email of 11 March 2021. A copy of that email is at page [•] of the CBD.

81. There was no further engagement with LCANZ until after the Commission released its Final Advice on 21 June 2021. I understand that in the interim, LCANZ communicated directly with the Minister for the Environment and the Minister of Climate Change on these issues. I am aware that on 17 June 2021 LCANZ wrote a letter to the Minister of Climate Change raising issues with the Commission's advice as the basis for any future decision about New Zealand's NDC. This letter is posted on LCANZ' website, and is at page [•] of the CBD.

Affirmed

JOANNA ELIZABETH HENDY

J E Hendy

at Wellington this 10th day of December 2021

before me:

Phina Au Conroy
Solicitor
Wellington

A Solicitor of the High Court of New Zealand