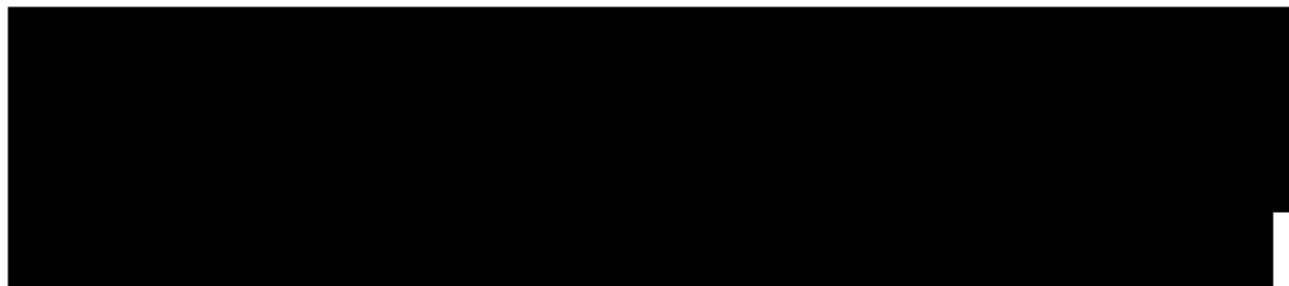
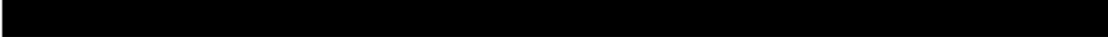


1. I have only had a (skim) read of your case (parts of your experts' affidavits of interest to me, replies, statement of claim, their statements of defense, and LCANZI's submission).
2. I wrote much of this before reading the applicant's submission, which addressed a lot of my points, but this document probably emphasises slightly different issues.



5. I do not know if there is a transcript, so I am not sure, but I think you might have missed an important point in the Paris Agreement ("This Agreement will be implemented to reflect equity...").
6. I think your interpretation of the intent of the Act may be different to how I understood it to be.



8. *Table of Contents:*
 1. *Background of the Zero Carbon Act*
 2. *Paris Agreement will be implemented to reflect equity*
 4. *The Minister cannot decide the budget rules*

Background of the Zero Carbon Act

9. From what I have read (and it was only a cursory reading), my understanding of your interpretation is that you think the Act requires NZ to comply with the Paris Agreement's ultimate goal right off the bat.
10. Whereas I believe the general view of the Act was that the independent experts would provide scientific advice on what NZ would need to do to meet the Paris Agreement, along with more realistic advice on what they felt NZ was capable of doing (emissions budgets) and how this would affect the goal of complying with the Paris Agreement.
 1. The Zero Carbon Bill's initial survey consultation did have an option of whether the Commission would give advice or set the budgets, and people chose the advisory option because they recognised the Government needed to take wider considerations into account such as the social effect here and now; and did not want the Commission to be an unelected scapegoat; and also to improve the honesty of the advice given through separation of duties.
 2. The point of the Commission's advice, at least from my submission's perspective, was to honestly inform voters so they knew whether we were living up to the Paris Agreement or not, so they could shame the Government into taking more action and indicate they would be ok with one of the policies for realistically achieving a budget, e.g. an expensive train policy.

11. I made the following point in 5P of my submission on the Zero Carbon Amendment Bill (attached to email) , but I cannot remember whether the legislation changed as a result:
As such the only way things would remain on track for the Paris Agreement is the requirement when setting an emissions budget for the Commission and Minister to have regard to 5Z(2)(b)(xi) "New Zealand's relevant obligations under international agreements."
12. In terms of submitters' intent for the Act, ^{in my opinion} the Commission's advice is definitely a failure because of the gross/net [REDACTED], and for not mentioning policies for realistically achieving the budgets.

Paris Agreement will be implemented to reflect equity

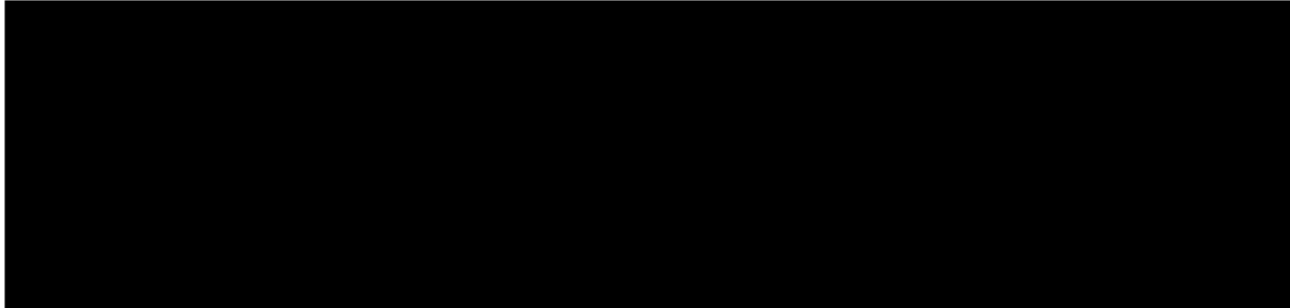
[REDACTED] if there is another valid interpretation of the emphasised statement from how I understand it: i.e, that parties' actions to implement the agreement will reflect equity in all its forms, especially equity between different parties to the agreement.

Article 2

1. This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:
- a) Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;
 - b) ...
 - c) ...
2. **This Agreement will be implemented to reflect equity** and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances

(Paris Agreement, emphasis added).

- (1) This section applies to—
 - (a) the Commission, when it is preparing advice for the Minister under section 5ZA;
 - (b) the Minister, when the Minister is determining an emissions budget.
- (2) The Commission and the Minister must—
 - (a) ...
 - (b) have regard to the following matters:
 - ...
 - (xi) New Zealand’s relevant obligations under international agreements.



16. The following statement from the Commission’s final advice [redacted] erroneous belief, [redacted]
17. “The targets in the Act were set at a level that the Government viewed to be in line with the effort of limiting warming to 1.5°C above pre-industrial levels. In setting these targets, the Government drew on the Intergovernmental Panel on Climate Change (IPCC) Special Report on Global Warming of 1.5°C released in 2018. At a high level, this means that any emissions budgets set to meet our domestic targets are also consistent with what Aotearoa needs to do to meet international obligations.”
18. I do not consider it unreasonable to expect an expert (or anyone with more than a passing interest in climate change) to know that limiting temperature as required by the Paris Agreement is largely dependent on limiting cumulative emissions. Nor is it unreasonable to expect they would recognise the 2050 target does not limit cumulative emissions, and that the emissions budgets they advise on, do limit cumulative emissions. Any reasonable person in their position should have known the statement they made was wrong and that they needed to separately consider whether the emissions budgets were consistent with New Zealand’s relevant obligations under international agreements, particularly the Paris Agreement.
19. I think the image on the next page of this document, [redacted]

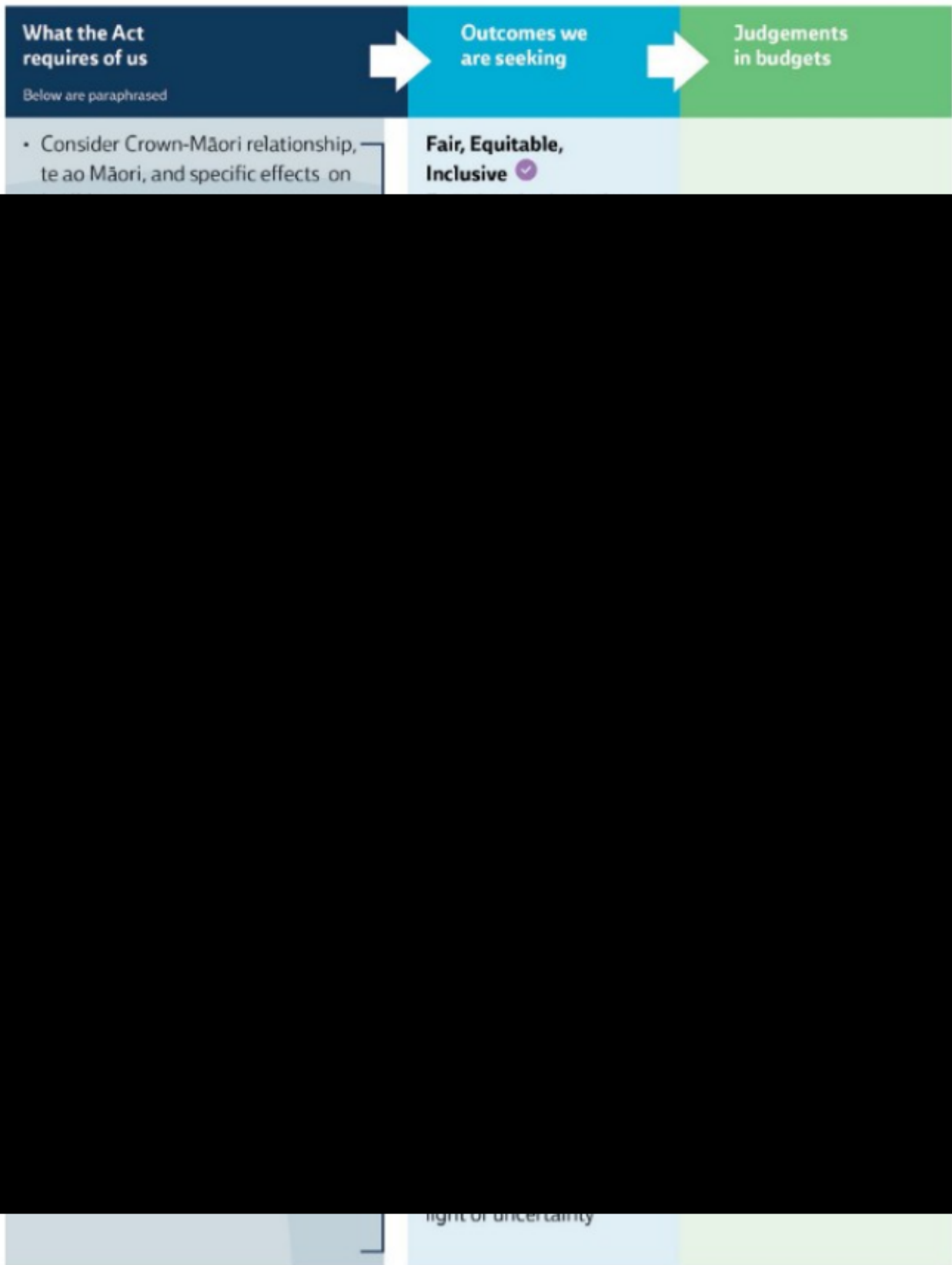
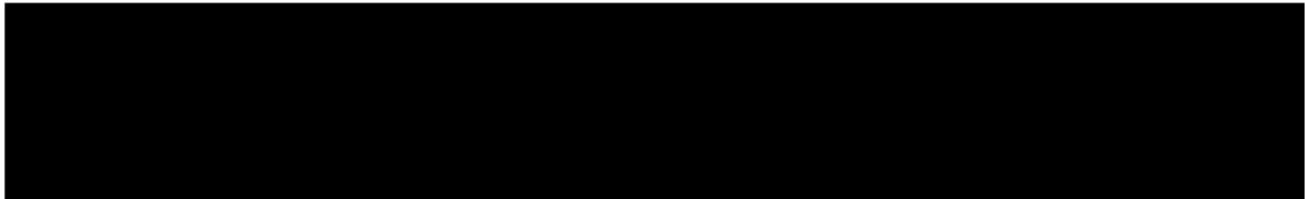



Figure 5.1: The outcomes we are seeking to achieve in recommending emissions budgets, the requirements in the Act that inform these outcomes, and the judgements we have made to achieve these outcomes.



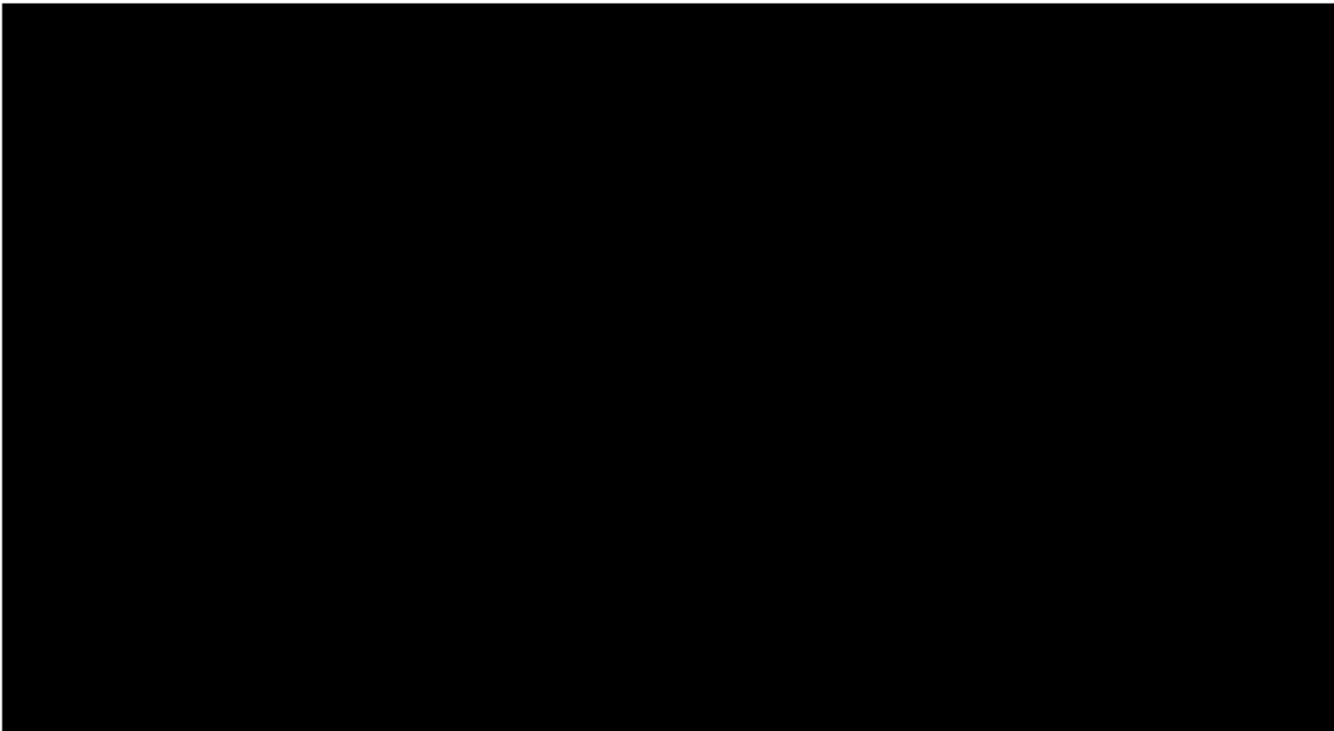
21. On the 17th of May 2022 during Question Time, the Minister was asked this question by Debbie Ngarewa-Packer,



Question 6 – Hon Scott Simpson to the Minister of Climate Change

Debbie Ngarewa-Packer: Does he stand by his statement "There are those who will be worried that these emissions budgets do not go far enough. I'm one of them." and, if so, how can he have confidence that the budgets in his emissions reduction plan will meet our international emissions reduction commitments?

Hon JAMES SHAW: Yes I do. One of the reasons why we set up the climate change—in fact, the primary reason why we set up the Climate Change Commission is because there is a broad spectrum of opinion about how fast and how far we should be going as a country. I am someone who has a great sense of urgency about the crisis that faces us. I think that we should be going far faster and far further than we have over the course of the preceding three or four decades that climate change has been in the political domain. But the point of the Climate Change Commission is to provide an independent, expert-led body to provide advice to this House and to the Government of the day about the stepping-stone emissions budgets that get us down to our long-term targets to 2050. That body includes people like James Renwick, who's one of the leading climate scientists in this country, he's an Intergovernmental Panel on Climate Change lead author, and if you don't take my word for it, you can take his word for it. And if you don't take his word for it, the question is: whose word are you going to take for it, on what basis are you making your decisions? That was the basis upon which we set up the Climate Change Commission.



25. [REDACTED] in an email to the Prime Minister on the 27th of July 2021, and the same day response acknowledged my email and said the email had been forwarded to the Minister of Climate Change.
26. [REDACTED] forwarded the email to them a month later on the 24th of August 2021; and
27. In addition, my submission on the Commission’s draft advice mentions the advice needing to be consistent with the Paris Agreement several times. For example,
28. “The 2050 targets are weak and not based on climate science (i.e. cumulative emissions). The CCC should “Align with the Paris Agreement” because that is what we signed up to internationally, and the CCC is required to have regard to international agreements. The Paris Agreement is more ambitious than the 2050 targets so by aligning with the Paris Agreement the CCC will achieve both international obligations and the 2050 target, but the same is not true for aligning with the 2050 targets.”; and
29. “Using this approach it is clear that the Commission’s proposed path would cause NZ to fail its obligations under the Paris Agreement and to future generations.”; and
30. “The CCC should place little emphasis on the 2050 targets because they are weak (and a distraction) and instead look at the purpose of the bill, and have regard to the international Paris Agreement NZ signed up to.”; and
31. “I refer the Commission to Appendix C for a discussion of NZ’s cumulative emissions budget and how the Commission’s proposed budgets would cause NZ to fail its obligations under the Paris Agreement and to future generations.”
32. My email also raised other areas [REDACTED] though I did not explicitly state this as I assumed the recipients would know there were legal requirements. For example the following which may not meet 5ZC(2)(a), 5ZC(2)(b)(vi) and (viii),
33. “In advising on the emissions budgets it appears they did not have regard to the economic costs of paying for offshore mitigation to make up the difference between the NDC and the budgets, and have not identified viable offshore mitigation as yet, so the Commission’s advice has some credibility problems.”
34. [REDACTED] did not meet 5ZA(3)(a) because their final advice contained a new chapter (Chapter 9), that they did not make publicly available and invite comments on before providing it to the Minister. From personal experience I do not believe they met 5ZA(3)(b) either, otherwise they should have picked up on errors mentioned by my submission.

The Minister cannot decide the budget rules

35. In the Minister’s response to the Commission’s advice on pg. 9, it states
36. “The CCRA empowers the Commission to advise (and the Minister of Climate Change to decide) on the rules that will apply to measure progress towards meeting emissions budgets and the 2050 target.¹⁷ ... ¹⁷ Sections 5ZA(1)(b) and 5ZB(3)(a) of the CCRA respectively.”

Read whole page for ambiguity that exists here. It seemed to me the way they were applying it was not just to measure progress, but to determine whether they had met a budget.

37. The Act in fact does not allow the Minister to decide the rules, but merely provide its opinion on the Commission's advice regarding rules that should apply. The rules have already been decided in the Act in 5X(4), 4(1), 5Y and 5Z; and would require passing of an amendment to change.
38. The intent of the provision to allow the Commission to advise on the rules, from the perspective of my submission on the ZCA, was that the Commission could advise what was most appropriate given their independent, scientific expertise; e.g. how to include international aviation and navigation emissions in the emissions budgets, even if the 2050 target was different.
39. However on reading 356(f) of LCANZI's submission, obviously I agree with your interpretation (though there may be some wiggle room); and now remember that because the emissions accounting is delayed by two(?) years it is hard to tell whether an emissions budget is being met, and thus why rules for measuring progress would be needed.
40. The intent of requiring the Minister to respond was for transparency, timely decision-making and accountability only.