

29 January 2020

Hon David Parker, Attorney-General

**Consistency with the New Zealand Bill of Rights Act 1990: Gas (Information Disclosure and Penalties) Amendment Bill**

1. We have considered whether the Gas (Information Disclosure and Penalties) Amendment Bill ('the Bill') is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 ('the Bill of Rights Act').
2. We have not yet received a final version of the Bill. This advice has been prepared in relation to the latest version of the Bill (PCO 21907/6.0). We will provide you with further advice if the final version includes amendments that affect the conclusions in this advice.
3. The Bill amends the Gas Act 1992 ('the principal Act'). The Bill strengthens regulation-making powers in the principal Act to enhance information disclosure requirements for the gas market. The Bill also amends the pecuniary penalty provisions for non-compliance with regulations.
4. Clause 9 amends s 43F of the principal Act to include the power to make regulations for the provision and disclosure of data and information by any industry participant or consumer (other than a domestic consumer) to the extent that it relates to the gas industry. We note that the regulations will have to be drafted in a manner that is consistent with the Bill of Rights Act, otherwise they may be open to challenge for being *ultra vires*.<sup>1</sup>
5. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

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<sup>1</sup> *Drew v Attorney-General* [2002] 1 NZLR 58 (CA).