

24 February 2024

Corporate Governance and Intellectual Property Policy
Business, Resources and Markets
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6140
New Zealand

By email: climaterelateddisclosures@mbie.govt.nz

Submission on discussion document: Adjustments to the climate-related disclosures regime

We apologise for making this submission after the closing date. However, we respectfully ask that, due to its brief nature, this letter can be added to the body of material to be considered.

Our submission relates only to Chapter 3 of the Discussion Document - entity and director liability settings.

We consider that the current liability settings create a disproportionate level of risk for entities and directors in respect of statutorily required forward-looking statements about matters that are both inherently uncertain and where the science and expertise continues to evolve and mature. The adverse implications of this risk profile are set out in the consultation paper, and we can confirm that these are real and substantial in our context.

Accordingly, Fletcher Building supports the proposed Option 3, i.e:

- Disapply section 534 of the Financial Markets Conduct Act 2013 ('FMC Act) which creates deemed director liability for climate statements that do not comply with the climate standards; and
- Disapply section 23 which creates potential liability for unsubstantiated representations irrespective of whether the statement is false or misleading.

We consider that Option 3 change addresses the issues identified in the consultation paper.

We also note that section 461ZG liability would remain if Option 3 were adopted, such that director liability still attaches where there a knowing failure to comply with the climate standards.

We are not supportive of the other Options floated as potential solutions, including a modified liability approach as suggested by Option 4. We have seen the NZX submission and confirm we are supportive of the positions taken in that submission.

Thank you for taking the time to consider this submission.

Yours faithfully



Haydn Wong
Group General Counsel