Z Energy (Z) – Impact of Smith v Fonterra on funding arrangements

The purpose of this note is to provide an example from Z Energy (Z) regarding the uncertainty created by the Smith v Fonterra proceeding following the Supreme Court's decision to allow Mr Smith's claim to proceed by way of full High Court trial.

We refer to the shared position by the defendants that the uncertainty created by Mr Smith's proceeding itself has material adverse effects. It:

1. creates material sovereign risk. The international investment community will rationally elect to invest in jurisdictions where businesses do not face the significant risks created by the Supreme Court's decision. This is particularly important given New Zealand is seeking investment to reduce its infrastructure deficit and transition to a strong and resilient economy; and

2. could have a significant impact for New Zealand businesses in terms of their funding and insurance arrangements, including access to capital, and lender/insurer notification requirements.

The information provided in this document is commercially sensitive and subject to withholding grounds under s 9(2)(b)(ii) and 9(2)(ba) of the Official Information Act 1982. In the event a request is received for the information and its release is considered, Z asks that it is provided with an opportunity to object.

Commercially Sensitive Impact on funding arrangements

Following the issuance of the Supreme Court judgment in February 2024, the proceeding appeared on Commercially Sensitive risk register as part of its annual global risk report.

Z was approached by Commercially Sensitive Australia-based team (noting Commercially Sensitive provides financing facilities to the Z Group) seeking clarity and assurances around the potential implications of the judgment and proceeding. In particular, concern was raised regarding any anticipated financial implications in light of the Group's arrangements with Commercially Sensitive

Z anticipates that questions from Commercially Sensitive and likely other finance providers) surrounding the proceeding and its potential impact on credit risk assessments will arise on a regular cadence throughout the course of this proceeding, becoming increasingly acute as the proceeding progresses.

ENDS