



Sustainable Impact

ISSUE 1

MinterEllisonRuddWatts

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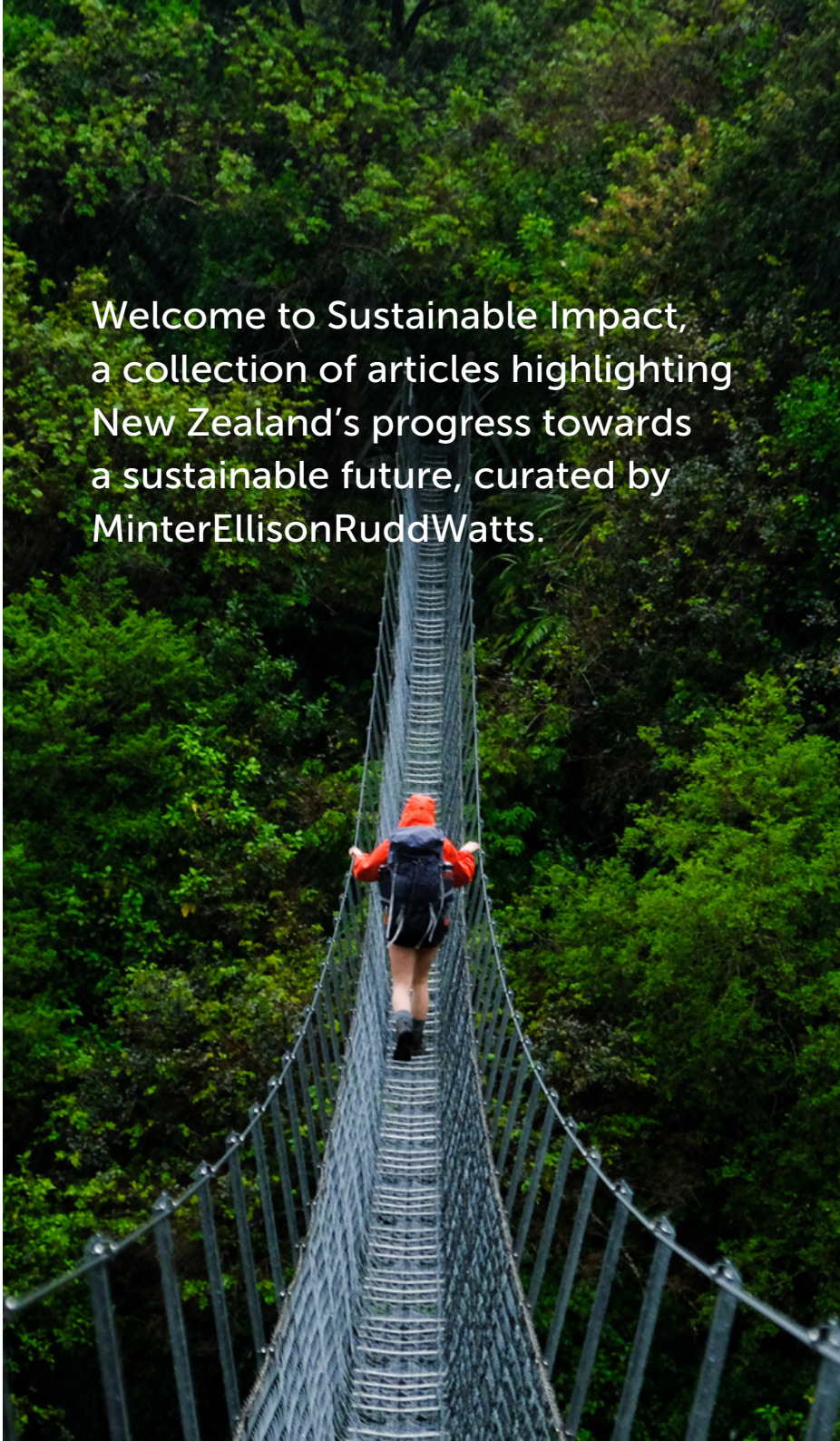
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A person wearing a red jacket and a backpack is walking across a narrow suspension bridge made of metal cables and wooden planks. The bridge is set against a backdrop of a dense, lush green forest. The person is seen from behind, walking away from the camera towards the end of the bridge.

Welcome to Sustainable Impact, a collection of articles highlighting New Zealand's progress towards a sustainable future, curated by MinterEllisonRuddWatts.

Foreword

Kia ora koutou,

Right now, there is a powerful opportunity to propel a historic culture shift towards greater sustainability in support of people, business and the planet. We are embracing this opportunity at MinterEllisonRuddWatts.

Our firm intends to play an active part in Aotearoa New Zealand's sustainability journey, which is already underway. In drafting our own Sustainability Strategy, we have spent time considering our mission. We are passionate about helping to shape New Zealand's future, and we believe in using our collective skills, time and resources to make a positive impact for our people, our clients, our communities and our planet.

To create the sustainable future we want to see, we commit to three pillars built upon te taiao (environment), ngā tāngata (people) and ngā tikanga (practices). The three pillars see us playing our part in a low emission, circular economy; contributing to social empowerment; and using our position as strategic advisers to positively shape Aotearoa New Zealand's future.

I look forward to updating you on our progress over time.

In our first issue of Sustainable Impact we focus on the transition to a low-carbon economy. We sat down with Ports of Auckland's General Manager of Sustainability, Rosie Mercer, to understand more about the Port's approach and progress towards a

sustainable future. We discuss reactions to the Climate Change Commission's first package of advice to the Government and examine risks to business associated with climate change, and how they can be managed. We consider the role that international trade rules can play in reducing carbon emissions and outline trends in sustainable finance. We also showcase CH4 Global Limited and B Lab – two examples of organisations driving New Zealand towards a low carbon, sustainable future.

Waka hourua – Bring on the future!

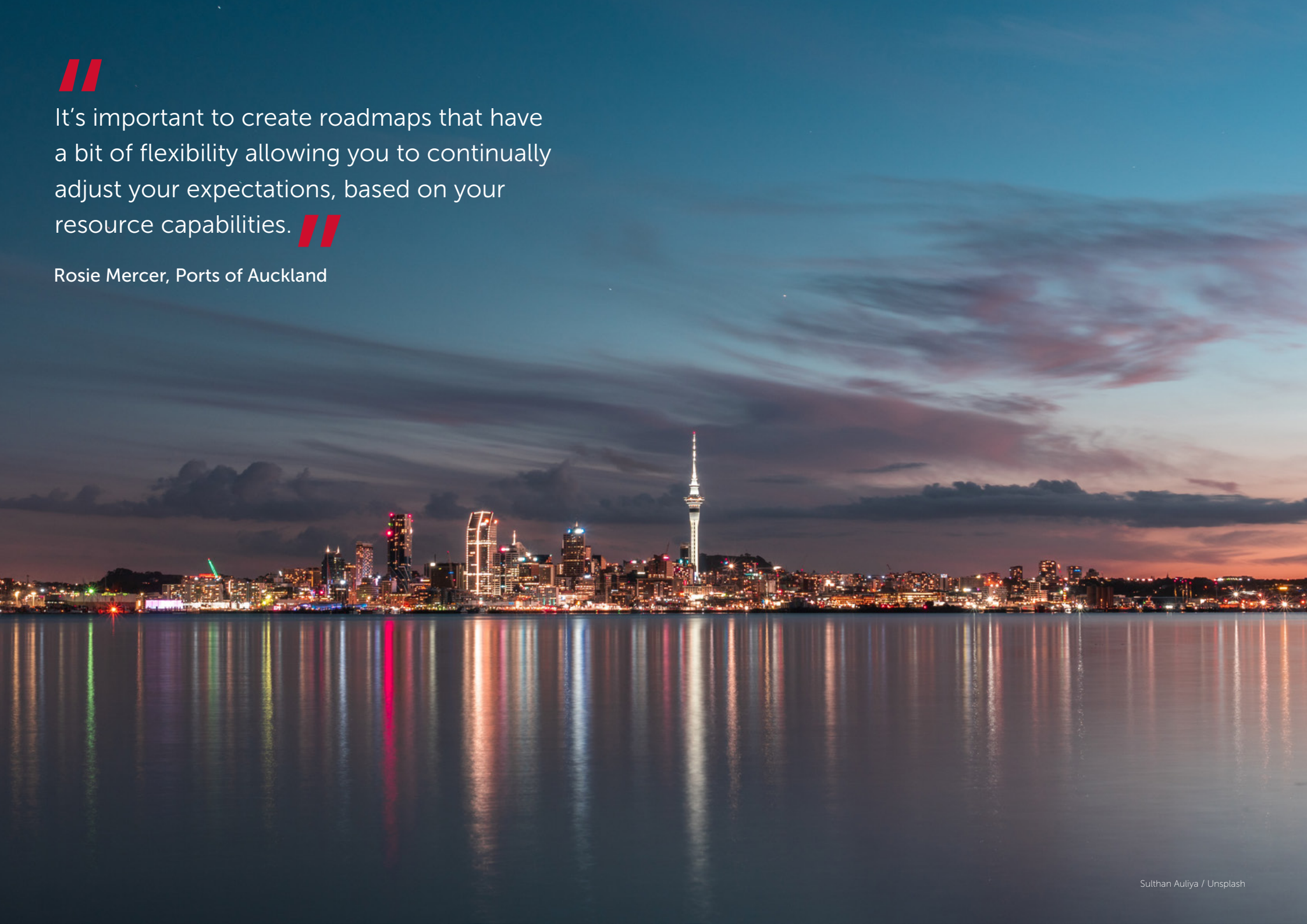


Sarah Sinclair
Chair and Partner
MinterEllisonRuddWatts



It's important to create roadmaps that have a bit of flexibility allowing you to continually adjust your expectations, based on your resource capabilities. 

Rosie Mercer, Ports of Auckland



Port in focus

‘Sustainability’ is a word that has so many definitions and contexts, that its meaning often comes from how it is applied in practice. This is why MinterEllisonRuddWatts was delighted to speak with Rosie Mercer, who leads sustainability strategy and activity at Ports of Auckland.

Joining Ports of Auckland in 2013 as a Civil Infrastructure Engineer, Rosie was responsible for delivering port infrastructure projects and environmental management. Becoming Manager of Sustainable Business Improvement in December 2016, and then General Manager of Sustainability in April 2019, Rosie is now responsible for the management and delivery of the Ports of Auckland Sustainability Strategy and is well versed in the intricacies of navigating the complex roles of infrastructure owner, user, operator and maintainer.

A catalyst for change and action

Ports of Auckland’s sustainability approach was born out of necessity, says Rosie.

“We want to show that we can treat the environment in a way that allows us to sustain and operate a port within Auckland’s CBD, while leaving a better legacy for decades to come. Our social licence and sustainability focus predominantly centres around engaging better with our community and becoming a trusted and valued part of that community.”

Citing a move towards sustainable practices as a response to the costs of not doing so, Rosie says that Ports of Auckland initially set bold and ambitious targets to achieve zero emissions by 2040.

“We joined the Climate Leaders Coalition and aligned our target with science, which created an even tougher roadmap than even the original 2040 plan.

“We measured what we had, created possible pathways and a detailed financial model for the entire roadmap, including our different vehicles and emission sources. The model provided us with options that different energy transition types would give us.

“Through this process we made some significant changes to our approach, as the modelling helped us realise how financially constraining some of those options would be. One change was to our original idea to transition to zero emission technologies like hydrogen and battery early to achieve our science-based targets. However, it was simply not financially viable, so as an alternative we adopted a second-generation biofuel.”



Our social licence and sustainability focus predominantly centres around engaging better with our community and becoming a trusted and valued part of that community. //

**Rosie Mercer,
Ports of Auckland**

Port in focus



These days, Rosie says that the port is part of the Sustainable Business Council Low Carbon Freight Pathway Development, with nine organisations collaborating together to develop a pathway for the freight sector to reach net zero by 2050 and halve its emissions by 2030.

“We use different tools to assess and compare projects against the marginal abatement cost, essentially looking at how many dollars we’re spending for every tonne of carbon we’re reducing.

This provides a view of the efficacy of different project types and approaches.

“The process showed that it’s really important to create roadmaps with a bit of flexibility, allowing you to continually adjust your expectations based on your resource capacities, but at the same time keep momentum going.”

Long-term decisions for long-term impact

To make and sustain the right kind of change, Rosie believes that organisations need to take an integrated long-term view instead of seeking short-term gains.

“Many organisations struggle to compare near-term financial impacts with long-term value. The wellbeing viewpoint needs to develop a model for organisations so when decisions are made with a short-term view, businesses can understand the impact they will have, or the potential opportunities they will lose further down the track.

“If you spend a million dollars on sustainability initiatives, what does that translate to in terms of value over the next

10 years? The bigger question should be, what’s the cost of not doing it?

“An integrated strategy approach that includes factors like human capital, intellectual capital, social and relationship capital, plus natural capital, can help you make decisions each year. This strategy is probably one of the biggest keys to unlocking a systems approach.”

However, she says, financial barriers are ‘massive’, and incentives are needed to help organisations look longer-term.

“Until there is some driver that incentivises organisations to make these changes, most won’t be able to take that hit to their financial bottom line. Many organisations haven’t had the catalyst that drives them to change.”

How to value social impact?

Recognising that a social licence to operate is a key concept for all organisations today, Rosie says that there is groundswell across the community about what they care about, who companies employ, and the impact of their decisions on communities.

Port in focus

Therefore, the biggest challenge now is to define and embed structures to measure social value, and provide this data and information transparently.

“Social impact is hard to quantify, demonstrate and show a benefit vs cost ratio against. But the expectations the next generation is putting on organisations mean that if your business is not socially conscious, you run the risk of alienating really talented people who will be expecting that in the future.”

The other question Rosie poses is, how does an entity value social benefits to an entire community, and who should pay for it?

“The only way you can justify the costs involved is by taking a long-term holistic view that our role is to support the whole community getting to a point somewhere in the future that is cleaner and greener. But there’s no mandate or overarching expectations that it should be done and no pressure on businesses to do it, and that’s where the groundswell will hopefully start to have an impact.

“It will come down to creating visibility and transparency of the issues, and being able to put data in front of people because there’s no conversation if people have nothing to talk about. The new ESG reporting requirements, though a small step, will be immensely powerful as it begins to create the visibility needed and it will make people think more broadly than just financial impacts.”

The way forward? How to make decisions

Finally, Rosie comments that the lesson Ports of Auckland learnt on its sustainability journey is the need to collaborate and partner with others.

“The next level requires collaboration, where organisations will need to put aside some of their commercial drivers. It’s a big ask, but we need to find ways to collaborate, while allowing companies to remain commercially successful and competitive. This big shift requires breaking down some barriers to look at where we can work together to optimise the supply chain for everyone’s ultimate benefit.

“For example, the carbon emissions from moving a container on a coastal ship are much lower than moving them on rail, and less again than moving it on road. If there was a shift to coastal shipping, it would remove a lot of road movements. However, in this situation maybe the coastal shipper ‘wins’ and the road freight movement ‘loses’, so how is that just and fair? You start to see the interdependencies between the social, environmental and the commercial impacts.

“One of the most important things is to agree on decision-making criteria for a more holistic stakeholder-led, systems-based approach that considers the long-term value creation – move away from short-term financial impacts.

“One thing I’ve found refreshing is that people are now starting to see sustainability as not just climate change and the environment, but it involves a social dimension as well. It has become more well-rounded as a topic, but we need data and transparency to really start making a measurable, tangible and impactful process.”



Until there is some driver that incentivises organisations to make these changes, most won’t be able to take that hit to their financial bottom line. //

**Rosie Mercer,
Ports of Auckland**



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Drivers of climate change are hard-wired into the global economy and a successful response will require an economic transition ultimately on the scale of the industrial revolution. The changes needed to current production and consumption patterns, including in New Zealand, are profound.

Briefing to Incoming Minister of Climate Change 2020

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Mixed reactions to the Climate Change Commission's advice

By Rachel Devine, Partner and Stephanie de Groot, Senior Associate, MinterEllisonRuddWatts

On 9 June 2021 the Climate Change Commission (Commission) released *Ināia tonu nei: a low emissions future for Aotearoa*, its first substantial advice to the Government on climate action required in New Zealand.

The Commission received more than 15,000 submissions on its draft advice – exceeding the number of submissions made on the Zero Carbon Bill. It is fair to say the Commission's advice captured the attention of individuals and businesses across all parts of New Zealand. It called to question the Commission's role and what change it could bring to 'business as usual' in the future.

The Climate Change Commission is a statutory body with advisory and monitoring roles

The Commission is a Crown entity with a statutory purpose of providing independent, expert advice to the Government on mitigating climate change and adapting to the effects of climate change. The Commission's first

advice will assist the Minister for Climate Change to set the first three emissions budgets and an emissions reduction plan which will act as pathways to achieving the budgets and 2050 target. These decisions are likely to be made before November when Minister Shaw goes to COP26 in Glasgow to account for New Zealand's progress toward the goals of the Paris Agreement. The decisions must be made by the end of 2021.

The Commission also has the potential to champion change and put the Government on track to meet its emissions budgets and 2050 target. In addition to its advisory role, the Commission also serves an accountability purpose, monitoring and reporting on the Government's progress towards meeting its emissions budgets and the 2050 target.

We expect the Commission to use its potentially powerful position to question whether the Government is doing enough to meet the Commission's own recommendations, and to create other advice that will influence sectors throughout the country.

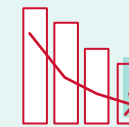
Key matters from the Commission's first set of advice



Emissions budgets for specific greenhouse gases until 2035 to meet New Zealand's targets.



Setting Government policy across sectors to meet the emissions budgets.



Recommendations to reduce biogenic methane emissions to meet international obligations.



More action is needed to deliver on New Zealand's Paris Agreement commitments.

The Commission makes a broad range of recommendations on ways to reduce emissions and pick up the pace of change across all sectors and this general thrust is likely to remain.

Mixed reactions to the Climate Change Commission's advice

The Government will face significant pressure to deliver on the advice

The Government has set emissions reduction targets at a national and international level, established the Commission and it is now facing significant pressure to implement change and deliver. The Commission will call the Government out if it fails to act or take enough action.

The briefing to the incoming Minister for Climate Change 2020 signalled the pressure on the Government to act. It reported that "Drivers of climate change are hard-wired into the global economy and a successful response will require an economic transition ultimately on the scale of the industrial revolution. The changes needed to current production and consumption patterns, including in New Zealand, are profound."

Mixed reactions to the advice

The general response to the Commission's draft advice has been that its recommendations will require significant change (in some sectors more than others) but are achievable. However, there are a range of divergent views.

Because the recommendations are generally seen as achievable, some consider that the Commission is not striving for enough change and there is an opportunity to do more. Coupled with this view is a concern that later emissions budgets may be disproportionately harsh if the first few budgets are not adequately ambitious.

Strong reactions have been expressed by those who are only starting their sustainability journey – those that did not previously understand or appreciate the ramifications of moving to a low carbon economy. This group is starting to understand that there are both unavoidable risks and opportunities associated with climate change mitigation and adaptation.

Some organisations consider that the Commission is misguided, not in its overall approach, but in its recommended pathways to reduce emissions. Some consider that certain pathways rely on unrealistic assumptions, are simply not achievable, and that the Commission should focus on different areas where emissions can be reduced. For example,



Toyota has suggested that electric vehicles are not the silver bullet for reducing transport emissions; they are priced beyond the reach of most car buyers, they continue to be in short supply and cheap electric vehicles sourced from new markets will not be highly rated from a safety point of view. On the other hand, some consider that the Commission has not built in enough flexibility to allow for technological developments (that may still be in their infancy or not even dreamt of yet) that will ultimately achieve the same low emissions goal.

It is recognised that significant policy changes will be necessary to encourage, incentivise and mandate behaviour change towards a lower emissions future. The regulatory framework in many areas is out of date, inflexible and reflects a pre-Carbon Zero Act society. It prescribes reliance on coal, diesel and natural gas and does not provide for innovation. Significant change to this framework will

be needed as 'business as usual' changes. Support for businesses affected by these changes will be crucial.

Expect a trend of sustainability-centric policy changes

The Commission's advice will assist the Minister for the Environment to set the first three emissions budgets for 2022 – 2035 and the pathway required to achieve those budgets and New Zealand's longer-term emissions targets. These decisions are required by 31 December 2021.

We expect a range of policy changes affecting all sectors as a result. Profound changes will be needed to achieve the "economic transition ultimately on the scale of the industrial revolution" diagnosed above.



Climate change is a risky business

By Stephanie de Groot, Senior Associate, MinterEllisonRuddWatts and Sam Ketley, Public Sector Practise Leader, Aon New Zealand.

In this article Aon and MinterEllisonRuddWatts combine their collective expertise and summarise the range of risks presented to businesses by climate change, how the insurance industry is responding to the risks and how they can be identified and managed for a successful future.

The science is clear – our climate is changing

Increases in the frequency and intensity of rainfall, droughts, storms, flooding and wildfires, temperature extremes, warmer oceans, melting of ice and snow and sea level rise – these are all predicted impacts of global warming, and they will only worsen and become more unpredictable as the planet warms.

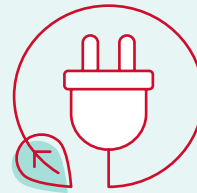
These changes will have implications for every living thing on the planet and will directly affect business.

The risks associated with climate change are broad

A changing climate presents a broad range of risks to businesses. They go beyond the physical and include transitional risks and legal liability risks. All of these risks have financial implications for business, its supply chain and customers.



Physical risks are commonly associated with climate change, and include damage to assets and infrastructure, shifts in viable land and resource uses, the risk of bio-incursion (exotic pests) and a changing tourism sector.



Transitional risks are those arising as the market and Government responds to the threat of climate change. They include government action and regulation to reduce emissions and adapt to changes in climate, as well as investor and consumer behavior.



Liability risks arise for businesses and directors for an actual or perceived failure to respond to climate change obligations. For example, a failure to comply with regulations and duties, or a failure to take into account relevant climate change considerations in making decisions may attract liability.

Climate change is a risky business

Not all businesses will be impacted equally

Some businesses, because of their nature or size, will be more or less impacted. For example, businesses that are particularly sensitive to a changing climate, such as horticulture and agriculture, will face increasing pressure to adapt, and will have a higher risk profile.

Small to medium sized organisations may also have a more complex path ahead to manage risk. They may not be subject to the same level of regulatory oversight and guidance driving change (i.e. they are unlikely to be captured by the proposed mandatory financial reporting obligations) and they may have a reduced capital and capacity to seize opportunities and adjust to a changing market.

The insurance industry is responding

In 2020 severe weather-related events globally resulted in USD97 billion of insured losses, 40% above the 21st Century Average. In New Zealand, these losses amounted to NZD248 million.

Losses associated with climatic events are being compounded by an increase in population and migration into urban areas which is increasing investment in infrastructure and built assets. This not only increases the inherent exposure to climate-related risks, it generally increases the demand for insurance capital and the protection gap where insurance capital is already constrained or unavailable.

The insurance industry is responding, not just to this up-tick in climate-related claims but the increasing risks associated

with climate change and the demand for risk mitigation options. The insurance market has also recognised that it can influence positive change towards managing climate-related risks, not only by way of the industry's own ESG policies and obligations but also by assisting businesses to assess and manage their increasing exposure to losses associated with climate change.

Questions are being asked of companies regarding delivery of their climate change impact reduction strategies and commitments. Insurers are looking to understand the risks to their portfolios and manage the potential for reduction of coverage in affected areas. Additional information is being requested from businesses about their exposure and mitigation to climate-related risk.

Exposure is not just limited to material damage and business interruption policies. Most insurance classes are likely to be impacted in some way by climate change, although the impacts have not been clearly defined yet, particularly where the risks are deemed long-tail (i.e. where claims may not arise for a number of years). However, one exception is with directors and officers (D&O) liability insurance.

D&O liability insurance is designed to provide protection to directors and officers for their personal liability resulting from claims made against them in the discharge of their duties on behalf of a company. Currently, a hard insurance market (i.e. an upswing in a market cycle with increased claims) is seeing premiums for this type of insurance increase and capacity decrease.

It is anticipated that as insurable events transition from 'sudden and unforeseen' to 'known and likely to occur' that certain coverages, and the availability of insurance capital, will reduce or even disappear.

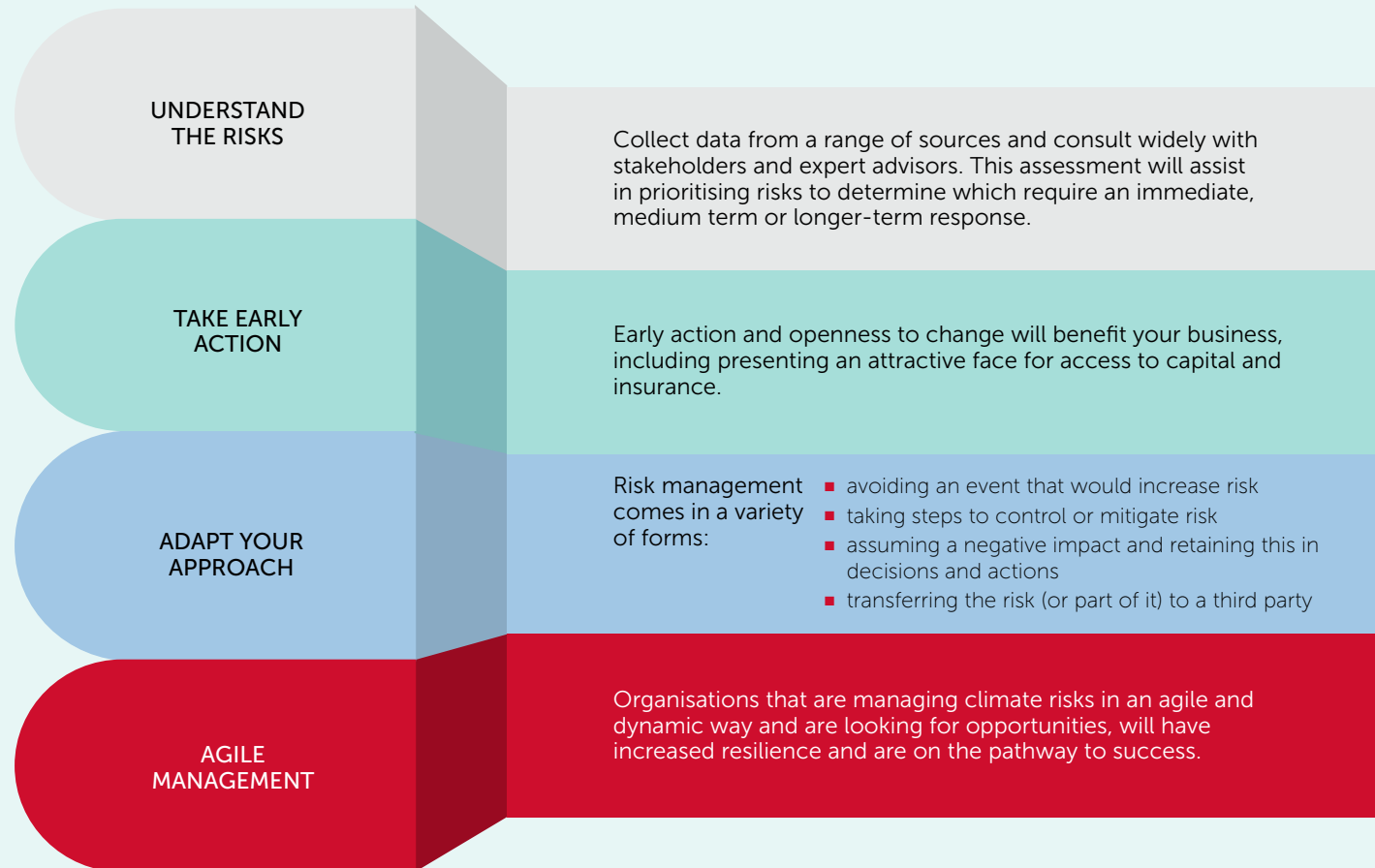
Providing clear information to underwriters about the risks and potential impacts of climate change on your business, including a sustainability policy and climate change risk management plan, will help remove an element of uncertainty from the underwriting process, and assist in obtaining strong policy cover. If risks are not sufficiently mitigated, they may not be insurable or otherwise they are likely to result in a higher premium and/or reduced policy coverage.

Insured losses of severe weather-related events in 2020

GLOBALLY
USD97
BILLION

NEW ZEALAND
NZD248
MILLION

There are steps you and your business can take to understand, manage and adapt to the risks presented by climate change





Sustainable finance – a means to incentivise good outcomes

By Kate Lane, Partner and Marie Kissick, Senior Associate, MinterEllisonRuddWatts

Sustainable finance has a grown in popularity in recent years, driven by societal change, banks focus on their licence to operate and increasing regulatory pressure.

Although New Zealand has lagged behind other markets, it too has seen rapid growth in recent years which shows no signs of slowing. As New Zealand looks to the future to meet its emission reduction goals and as a number of entities look ahead to address climate risks and meet climate reporting requirements, it is expected that sustainable finance will play an increasingly important role in supporting these objectives and in promoting environmental, social and governance outcomes.

In this article, Partner Kate Lane and Senior Associate Marie Kissick discuss the various instruments used for sustainable finance and predict future trends.

Green bonds are used to finance or refinance projects with clear environmental benefits

A green bond is a bond instrument where the proceeds are used to finance or refinance projects with clear environmental benefits. Green bonds are the most well-established of the sustainable finance instruments, with the market for green bonds first emerging in 2007. The market is well established in New Zealand with Auckland Council being the first local issuer in 2018 (using the proceeds to refinance its electric train fleet). Other issuers include Westpac (to finance or re-finance sustainable New Zealand projects), Argosy Property (to finance “green assets”) and Contact Energy (to finance renewable generation assets).

One of the challenges with green bonds (as with any form of sustainable finance), is to have clear guidelines for issuance to promote confidence and integrity in the market and avoid “greenwashing”.

In New Zealand, the Financial Markets Association (FMA) has responded to concerns about “greenwashing” by

publishing guidance on financial products that integrate non-financial factors (including green bonds) in December 2020 (the FMA Guidance). The FMA Guidance sets out how the ‘fair dealing’ provisions of the Financial Markets Conduct Act 2013 (FMCA) apply to integrated financial products including that issuers need to be able to justify the “green” label attached to an integrated financial product. In addition, the FMA has included a framework for issuers outlining the type of disclosure it expects. The key disclosures are:

- Non-financial features – to allow investors to understand the basis for the marketing label. The FMA expects that any non-financial outcomes are measured and reported on;
- Governance framework – how the issuer’s governance framework supports the non-financial aims of the product;
- Whether internal audit or external assurance is provided;
- Risks or costs associated with the integrated financial product; and
- Consequences of failure – such as if the product loses its green certification.

Sustainable finance – a means to incentivise good outcomes

The FMA has also published an information sheet which provides that the “same class” exclusion (enabling an issuer to offer a new financial product without needing to satisfy the full disclosure requirements of the FMCA) is only available to an offer of green bonds if an issuer already has quoted green bonds with identical green features. This was disappointing to the market which had hoped that the “same class” exclusion would be available to an offer of green bonds off the back of an existing quoted vanilla bond given the matching credit profile. This would have reduced the barriers to entry to the green bond market.

In addition to the FMA Guidance, the Green Bond Principles (GBP) developed by the International Capital Markets Association’s (ICMA) are widely accepted globally for providing guidance on green bond issuance. There is some overlap with the FMA Guidance, with the four key components of the GBP being:

- Use of proceeds – the GBP recognise several broad categories of eligibility for green projects;
- Process for evaluation and selection;

- Management of proceeds; and
- Reporting.

In addition, the GBP recommend that one or more of the following external reviews are completed in connection with the green bond issuance:

- Second party opinion;
- Verification;
- Certification; and
- Green bond scoring/rating.

Where debt is being issued for climate transition related purposes (which may include green, social, sustainable or sustainability linked bonds), the ICMA’s Climate Transition Finance Handbook provides additional guidance in this area. This guidance clarifies the issuer level disclosures which are recommended to credibly position the instrument as financing the transition, particularly in ‘hard-to-abate’ sectors.

Green loans are a conventional loan where the proceeds are used for a specified ‘green’ purpose

A green loan is a conventional loan, where (similar to a green bond) the proceeds are to be used for a specified ‘green’ purpose (and there is guidance

on what may be considered to be a ‘green’ purpose). The local green loan market is still in its infancy in Australia and New Zealand compared to the local green bond market. However, for many companies, the green loan market is more accessible than the bond market, due to the scale and costs often associated with a bond issuance.

There have been two labelled green loans in New Zealand to date; to Contact Energy and Meridian Energy. As both of these companies generate the vast majority of their energy from renewable sources (or all, in the case of Meridian Energy), the green loans provided to these companies are used to finance renewable projects or assets. Both Contact Energy and Meridian Energy have “green finance programmes” where their retail bonds, wholesale bonds, US private placement notes and bank facilities are all certified as green.

Similar to the green bond market, green loan principles (GLP) have been established by the Loan Markets Association (LMA) and the Asia Pacific Loan Markets Association (APLMA) to support the market’s development. The

GLP build on the GBP and use the same four core components set out above.

Sustainability linked loans are a type of loan which incentivises sustainable objectives

A sustainability-linked loan is a type of loan which incentivises the borrower to achieve pre-determined sustainability objectives through applying either a discount on the margin if the objective is met or a premium if the objective is not met. The sustainability objectives can be bespoke to the borrower’s business (such as a reduction in greenhouse gas emissions or increasing Board diversity) or linked to a broad ‘ESG’ rating provided by a recognised provider. The loan can be used for general purposes as opposed to a specific green purpose (as is the case for a green loan).

Given the more general purpose, one of the advantages is the sustainability linked loan market may be more accessible to companies that do not have green assets or a specific green projects pipeline.

While the global market for sustainability linked loans has grown significantly in the last few years (largely centred in Europe), there has been a slower uptake

Sustainable finance – a means to incentivise good outcomes

in Australia and New Zealand. To date, New Zealand has only seen a handful of sustainability linked loans; to Synlait, Contact Energy and Southern Pastures but the pipeline is strong.

As for green loans, the LMA and APLMA have published guidance on sustainability linked loan principles. These include setting sustainability performance targets (to ensure the metrics are meaningful and the targets ambitious) and measurement of the targets. Reporting and external reviews are also recommended.

Demand for sustainable finance products is expected to increase significantly

The sustainable finance market sees no signs of slowing, with the global sustainable debt issuance in 2020 increasing by 29% from 2019's total . We expect further increased demand for these products from corporates as they seek to achieve their sustainability goals and demonstrate their ESG credentials in response to increased customer, social and regulatory scrutiny. The benefits of sustainable finance are recognised by the International Platform on Sustainable Finance Annual Report, October 2020 which notes the following "We believe



Case study

New Zealand's first sustainability linked loan

MinterEllisonRuddWatts advised Synlait Milk Limited on its entry into the first sustainability linked loan in New Zealand in September 2019. The transaction saw Synlait enter a 5 year NZD50m bilateral facility with ANZ Bank New Zealand Limited. Then, in early 2020, the firm advised Synlait on a sustainability linked facility with BNZ for NZD50m. In each case, a discount or premium is payable on the margin depending on Synlait's performance, reviewed annually, against a comprehensive set of pre-determined ESG criteria determined by Sustainalytics, a third party rating agency.

that financial institutions, which are placing sustainability at the centre of their decision-making and promoting innovation to solve environmental challenges, will contribute to the common good while increasing their competitiveness".

Where in the past, the focus may have been on environmental outcomes, we expect there to be strong growth in products which focus on facilitating and supporting economic activity which mitigates social issues and challenges and/or achieves positive social outcomes such as social bonds and social loans (both much like their green counterparts but for social purposes).

The growth in the popularity of social bonds and social loans has been recognised with the publication of Social Bond Principles by the ICMA and the Social Loan Principles by LMA and the APLMA (in April 2021) to promote transparency and integrity in the markets for these products. The Social Loan Principles are based on the same four components as the GBP and aim to provide a high-level framework of market standards and guidelines. These instruments have been used in New Zealand with Kāinga Ora currently having \$4.2 million of 'wellbeing' bonds issued to fund sustainable and affordable social housing and a social loan being

used for education purposes. With the increased demand for social housing in New Zealand as well as other social issues amplified by the COVID 19 and a focus on companies to implement more sustainable business practices, we expect that these social products (and sustainable finance generally) will become increasingly common and may even become a standard feature of many debt products.



Using seaweed to reduce livestock emissions and mitigate climate change

By Nigel Little, General Manager New Zealand, CH4 Global

CH4 Global is leveraging proven science and technology to convert *Asparagopsis Amarta*, a native New Zealand seaweed, into a feed supplement that reduces methane produced by cows, sheep and other ruminant animals by up to 90%.

Due to naturally occurring bacteria in their gut, cattle and sheep burp methane. In New Zealand, the agriculture sector accounted for 48.2% of the country's total greenhouse gas (GHG) emissions in 2019 with 75% of those emissions coming from methane. The dairy sector alone accounted for 22.4% of New Zealand's total emissions, making it the biggest single contributor to GHG emissions – even larger than the transport sector at 19.7%.

According to the Intergovernmental Panel on Climate Change, methane is 86 times more potent than CO₂ at warming the atmosphere over a 20 year period. Over time this multiplier drops, as methane breaks down into CO₂ and water, but in the short-term methane has an oversized impact on global warming and its reduction has an outsized benefit in reducing CO₂ equivalent emissions.

Most of the decarbonisation platforms developed so far (wind, solar, carbon

capture, electric cars etc) will not achieve significant impact on GHG levels by 2030 because they cannot be scaled up fast enough. It is important that investment in those platforms is maintained, but their impacts will be 20–50 years from now and we need to act faster than that. *Asparagopsis* fills this gap, delivering significant GHG reductions within 10–20 years.

Ruminants in some parts of the world have been eating seaweed as part of their diet for centuries. Anecdotal evidence suggests these animals thrive (increased body weight, better health), and scientific trials published over the past 10 years have shown that supplementing less than 1% of their regular feed (100g) with *Asparagopsis* results in up to a 90% reduction of methane emissions. The most recent studies, using high quality *Asparagopsis*, have demonstrated that doses as low as 25–50g per day cause even higher reductions in methane.

Largest contributing sectors to New Zealand's greenhouse gas emissions in 2019.

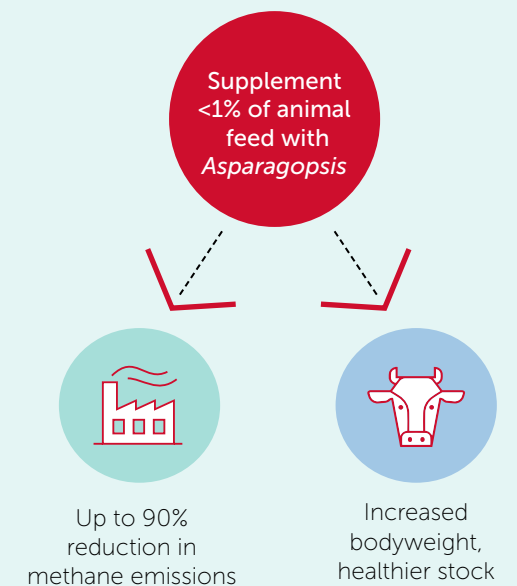


30.9%
Cattle



19.7%
Transport

Benefits of *Asparagopsis*



//
Asparagopsis fills the delivery gap of the current platforms and delivers significant GHG reductions within 10–20 years. //

Nigel Little, CH4 Global



Many other seaweeds have been studied, but the best results are produced by *Asparagopsis*. There are two known species, one of which (*Asparagopsis Armata*), is native to New Zealand. While there are over 9 million hectares of seaweeds grown globally, there is little seaweed farmed in New Zealand and *Asparagopsis* isn't farmed at scale anywhere in the world.

In March 2021, CH4 Global signed the world's first license agreement for the sale and distribution of *Asparagopsis* with the IP holding company Future Feed Pty Ltd. The licenses cover sales and distribution in the New Zealand and Australian markets.

CH4 Global is collaborating with the globally recognised aquaculture science organisations at NIWA, University of Otago and SARDI (South Australia), to develop systems to commercially farm *Asparagopsis* at scale. As part of this work, they are looking at the co-culturing benefits of *Asparagopsis* in absorbing nutrient waste from adjacent mussel and salmon farms, thereby improving the

ecosystem of these coastal environments. CH4 Global aims to become the world's first scale supplier of *Asparagopsis* – using a native New Zealand seaweed and leveraging the ideal growing conditions of our unique coastline.

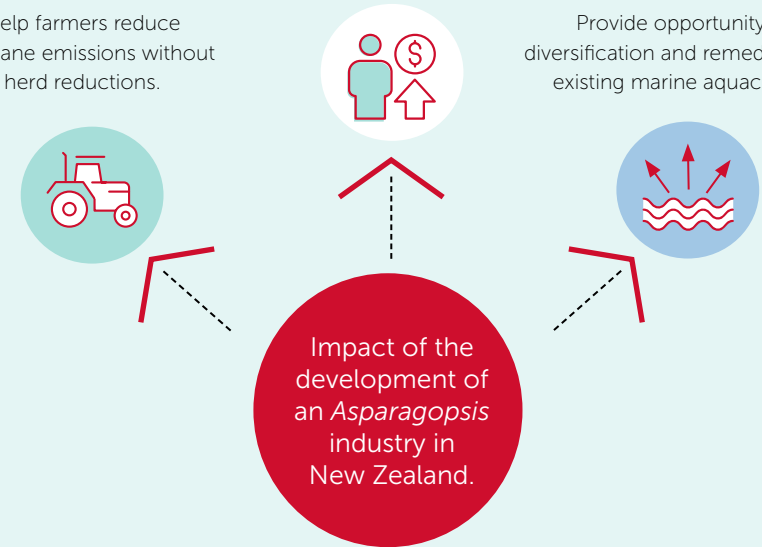
CH4 Global's immediate ambition is to reduce methane emissions from the New Zealand dairy industry by 15% by 2030 (consistent with the target set by the Climate Change Commission) solely through the supply of *Asparagopsis*. To achieve this target, CH4 Global estimates that it will need access to nearly 10% of all currently consented coastal water space in New Zealand. Some of this will be achieved through variations to existing consents but new resource consents will be needed. MinterEllisonRuddWatts is working with CH4 Global on a strategy to achieve this ambition.

Industry impact

Create new jobs in seaweed farming, harvesting and processing, specifically in communities that have limited opportunity for economic diversity.

Help farmers reduce methane emissions without herd reductions.

Provide opportunity for diversification and remediation for existing marine aquaculture.



Core tenets of CH4 Global

- | | |
|------------------------------|--|
| 1
Act with urgency | <p>Many climate scientists believe that we have 10 years to avoid a climactic "tipping point" and keep temperature increase below 2°C.</p> |
| 2
Support farmers | <p>It must be easy for farmers to adopt this technology – financially and practically.</p> |
| 3
Partnerships | <p>Work with First Nations and existing aquaculture businesses that share its values to enable regenerative economic, social and environmental benefits.</p> |

Carbon Border Adjustment Mechanisms: Accounting for our carbon footprint when exporting

By Sarah Salmond, Partner and Daniel Fielding, Senior Associate, MinterEllisonRuddWatts

Internationally, there is an increasing focus on sustainability and addressing carbon emissions across all sectors of industry. Therefore, it's not surprising that attention is now turning to the role that international trade rules can play in addressing climate change.

The debate surrounding the potential introduction of a carbon border adjustment mechanism (CBAM) as an economic incentive to reduce carbon emissions has recently gained significant momentum in the European Union (EU).

If implemented, a CBAM would ensure that the carbon emissions of EU imports are charged at the same cost as their EU-produced equivalents. Like "Food Miles" in the mid-2000s, it is easy to see how the wide-spread roll-out of CBAMs could threaten New Zealand's economic interests; as with so many things, the devil will be in the detail. In this article, we consider the merits of CBAMs, the

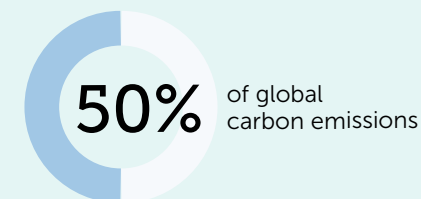
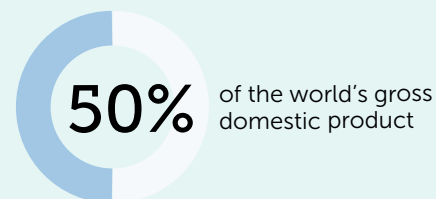
prospects for their introduction, the risks and opportunities they present for New Zealand, and potential next steps.

What is the world doing about carbon emissions?

New Zealand, together with more than 110 other countries, has pledged carbon neutrality by 2050.

In a number of jurisdictions, including New Zealand, state-owned enterprises and superannuation funds are being asked to phase out fossil fuel investments and finance. Financial authorities, including central banks and financial regulators, are being asked to incorporate climate risk into their functions, and make climate-related financial disclosures mandatory.

Current global net-zero commitments cover:



Accounting for our carbon footprint when exporting

Can trade rules address carbon emissions?

Accounting for the carbon emissions in exports is not a new concept. In the 2000s there were “food miles” campaigns to raise consumer awareness about the environmental impact associated with food production and trade, particularly the distances required to transport goods from their production location to their consumption location. New Zealand products were often targeted given the long-distances products travel to export

markets such as Europe, North America and Japan.

A decade later, the merits of requiring exporters to pay a border tax or requiring importers to surrender carbon credits (for those in jurisdictions operating carbon emission trading schemes) began. These kinds of adjustments are referred to as CBAMs. Whereas food miles sought to account for the carbon emissions involved in the transport of goods, CBAMs seek to account for the carbon emissions embedded in the production of imported goods.

How does a CBAM work?

A CBAM would tax imported goods based on their carbon footprint with the aim of limiting “emissions leakage” and ensuring domestic industries that produce goods with a smaller carbon footprint can compete with imports that may be cheaper but have a larger carbon footprint. Emissions leakage occurs when manufacturers relocate to countries without, or with less stringent, carbon pricing regimes to produce their goods. This often results in no net decrease in global carbon emissions and an increase in the carbon emissions of the new host country. Goods imported from a country which applies a carbon price, like New Zealand, will usually receive a credit or an exemption.

Why does the EU want a CBAM?

Recently, the debate surrounding the use of CBAMs gained significant momentum with the European Parliament resolving to support the introduction of a CBAM as part of the European Green Deal.

At the heart of the proposal to introduce a CBAM is a desire by the EU to prevent carbon leakage in the event that international disagreement on climate action continues. Current measures largely focus on supporting domestic producers through partial exemptions to carbon prices under the EU’s emission trading system. But given the benchmark prices of EU carbon permits rose above 40 euros (NZD67) per tonne for the first time earlier this year (the highest price in the carbon market’s 16-year history), EU producers will be looking at their overseas competitors apprehensively. By comparison, the price of New Zealand’s carbon credits is approximately \$37 per tonne (with a price ceiling of \$50).

While a strategy of high carbon prices changes behaviours, such a strategy cannot be sustained without a CBAM. Policies that are seen to lock in high prices for carbon but ruin domestic industry with no global climate benefit will

Price of carbon credits

NEW ZEALAND NZD37 per tonne		EUROPEAN UNION NZD67 per tonne
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trigger political backlash and prevent the EU from implementing the full extent of the European Green Deal. It is therefore essential to make overseas producers face the same financial penalties for carbon emissions as domestic producers. Seen in this context, a CBAM is arguably required to safeguard the EU’s climate action ambitions and the objectives in the European Green Deal.

The other main reason for the EU to implement a CBAM is to incentivise other countries to introduce their own carbon pricing regimes, so that the CBAM does not apply between the EU and non-member countries. Some countries, like New Zealand, have already announced long-term carbon price paths to create transparent and predictable conditions for investment decisions.

Accounting for our carbon footprint when exporting



Will a CBAM be easy to implement?

CBAMs are controversial given the possibility that they could be misused for protectionist purposes to shield domestic producers from overseas competition under the guise of climate action. Also, a CBAM has never actually been implemented so how it operates in practice is largely untested.

The EU's trading partners will be carefully scrutinising the potential effects and implications of any CBAM.

The EU's CBAM would also need to comply with the EU's World Trade Organisation (WTO) commitments, including the obligation not to discriminate between

like products imported from different countries and environmental objectives – which may need updating to reflect the challenges currently facing the international community.

There are a range of technical and practical challenges to be overcome if the EU's CBAM is to be successful. The CBAM will need to define which products and sectors are covered, how to estimate the embodied emissions associated with imports, and what price level should be applied to those emissions. The design of the EU's CBAM will also need to specify whether the measure applies only to imports, or whether exports are covered in the form of an equivalent rebate.

What do we think?

On the one hand, a CBAM would be economically efficient and intuitively fair: it would prevent carbon leakage by internalising the cost of carbon emissions to the EU's trading partners, as well as to its own producers. Unfortunately, its economic and ethical attractiveness is in inverse proportion to the ease of designing a mechanism that could both achieve these desired ends and stay within international trade rules.

A well-designed CBAM would tax all imports at a rate that reflects the cost of producing like goods inside the EU. Further, the EU should allow importers to offset any penalties from the source country's own carbon pricing scheme to prevent products from being 'doubled taxed'. This approach should satisfy the WTO's requirement to treat domestic and overseas producers equally and allow the tariff to automatically update when the price of carbon changes under the EU's emission trading system, discouraging regulatory arbitrage.

Despite the best designed CBAM, in practice there is still the potential for it to become very complicated, contentious and political, especially if the

CBAM is being applied to sophisticated manufactured items that comprise many components that have undergone many different production processes. Again, this challenge is not unsurmountable, if the EU rolls out its CBAM in stages, starting with limited coverage to the most carbon intensive sectors and goods.

Where to next?

At present, the European Commission is expected to present a legislative proposal for a CBAM in the second half of 2021 as well as a proposal on how to include the revenue generated to finance part of the EU budget. We will be watching these developments closely and reporting back on the potential impacts for New Zealand exporters.



Governing for purpose and stakeholders in Aotearoa

By Jo Kelly, Strategic Advisor, B Lab Australia and New Zealand

B Lab has long advocated globally for models that drive alignment with business stakeholders, advancing a stakeholder governance ethos to replace the doctrine of shareholder primacy.

Given the ongoing changes in corporate governance practices in New Zealand, B Lab now advocates for New Zealand businesses to codify and lock mission or purpose into governance and management decisions, utilising the company constitution to include public benefit purpose and stakeholder governance provisions.

What is the purpose of a company in 2021?

Although prioritising shareholders is not an express legal requirement of the NZ Companies Act 1993, the idea of shareholder primacy is widespread in the culture and practice of mainstream New Zealand business.

However, expectations of business from consumers and regulators are changing, with focus shifting towards

governance for communities, workers and the environment. The Impact Initiative – a social enterprise sector development partnership between the Ākina Foundation and the Department of Internal Affairs – explored evolving legal structures for business. Initially, this work made the case for minor amendments to the Companies Act 1993.

However, in recent years the New Zealand corporate governance environment has evolved sufficiently that the Impact Initiative, in alignment with B Lab's stance, now advocates for New Zealand businesses to codify and lock mission or purpose into governance and management decisions, for example by amending their constitution to include purpose and require stakeholder governance.

This is but one example of an ethos powering the global movement known as Certified B Corporations.

B Corps are a global movement of people using business as a force for good

Originally conceived in the United States, where a share price can benefit at the cost

of everything else, the B stands for 'benefit'. Benefit Corporations represent the idea that a business should be legally able to exist for the purpose of creating benefits to stakeholders other than shareholders.

Certified B Corporations (B Corps) are businesses that balance purpose and profit and hold themselves publicly accountable for considering the impact of their decisions on their workers, customers, suppliers, community and the environment. A business can 'certify' when it demonstrates it meets a rigorous set of governance and management requirements, which are administered by the not-for-profit B Lab.

Today, there are close to 4000 B Corps in more than 70 countries including in North America, the United Kingdom, Europe, China, Australia, Latin America and New Zealand.

B Lab connects New Zealand businesses with the learnings and tools of the global B Corp movement.

In partnership with business-led initiatives, governments and philanthropists, B Lab supports collective action to create the systemic conditions that enable better

business across the board, for example through public policy, advocacy and listing rules that are regulated by stock exchanges.

Gaining ground in New Zealand

The New Zealand legislative system supports B Lab's model for governing for purpose and stakeholders. By adopting the language within their company's founding documents, B Corps demonstrate that they hold themselves to a higher standard of accountability for their decisions. From mid-2021 this new requirement will be key part of B Lab's certification requirements.

However, it's not just a B Corp solution: All New Zealand companies can make a legal commitment to pursue profit and purpose.

As is the case in other regions, it's not unusual to hear directors in New Zealand say they are considering the impact of the company's decisions on stakeholders, but many boards don't yet know how to build in processes to do that effectively.



All New Zealand companies can make a legal commitment to pursue profit and purpose. "

Jo Kelly, B Lab Australia and New Zealand

Amending the constitution voluntarily holds a company accountable to creating profit and positive impact. It is a clear commitment to shareholders about how the business will be run, and how directors intend to meet their responsibilities. It also opens the conversation at the Board level on how to embed the consideration of purpose and stakeholder interests in the company's governance.

This approach is also designed to help companies protect mission through capital raises and leadership changes, and aligns investors (and potential investors), directors, founders and management. Certified B Corp, Eagle Protect is one example of a New Zealand company with its mission 'locked' into its constitution. Many countries across the world, including almost 40 states in the USA, have similar models legislated to support stakeholder governance practices.

For more ideas and tools to improve stakeholder governance, start with the B Impact Assessment today, or head to bcorporation.co.nz.

As part of MinterEllisonRuddWatts' sustainability journey, one of the endeavours we are proud of is becoming a project partner with B Lab Australia and New Zealand, having provided pro bono advice on director duties and liabilities for purpose-led companies. We're looking forward to supporting B Lab as it continues to enlist and certify more B Corporations in New Zealand and Australia.

Where to start with stakeholder governance?



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