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Sustainable Impact

Issue 2

MinterEllisonRuddWatts.

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**Andrew Poole**  
Chief Executive  
MinterEllisonRuddWatts

## Foreword Kia ora koutou >

Like many Kiwi businesses, our firm has made a very real and tangible commitment towards achieving New Zealand's sustainability goals. Creating long-lasting and sustainable impacts is something that I am personally, deeply committed to – it's about paving the way for future generations and crafting a legacy of good for our whanau, communities and the country's ongoing prosperity. It is through this commitment that we prepare Sustainable Impact, a vehicle that helps highlight the issues that our clients and New Zealand are facing as we work towards our country's 2050 ambitions.

Over the past month, explosive wildfires in California covered a million acres, New York City's subway flooded for the first time, and unprecedented flooding in West Auckland created havoc. These are just three events that illustrate the latest Intergovernmental Panel on Climate Change (IPCC) report's stark words in August: 'It is unequivocal that human influence has warmed the atmosphere, ocean and land. Widespread and rapid changes in the atmosphere, ocean, cryosphere and biosphere have occurred.'

In New Zealand, the Climate Change Commission has also been clear in saying that the time is now to take action to transition to a thriving, climate-resilient and

low emissions country. In delivering its first advice to Government, the Commission stated that this transition can begin in earnest as the technology and tools the country needs to get there exist today.

We sat down with some of New Zealand's leading sustainability thinkers to discuss how it's possible to make positive impacts across a number of areas. We feature the work that The Warehouse is doing through its *Sustainable & Affordable* programme while developing a sustainable and ethical supply chain. Westpac shared with us the imperative for all Kiwi businesses to take a sustainable finance approach to their funding, plus what's involved and the benefits in doing so.

We ask if a Modern Slavery Act should be introduced here in New Zealand, at a time when pressure is building on the Government to create legislation to increase transparency across supply chains and operations. We also examine the local implications, opportunities and likely next steps for companies emerging from the IPCC's report, described by UN Secretary-General António Guterres as a 'code red for humanity'. Finally, we take a look at The Chancery Lane Project, a collaborative effort by lawyers and legal professionals around the world to enable climate-conscious contracting, and what our firm is doing to advance this effort here in New Zealand.

I would like to thank everyone who contributed to this publication: in particular The Warehouse Group's Chief Sustainability Officer, David Benattar, and Head of Sustainable Finance for Westpac NZ, Joanna Silver, for their input into this insightful and necessary read.

# Where everyone gets a better future



The Warehouse Group is charting a sustainable course with the purpose of helping Kiwis live better every day.

The not-inconsiderable task of steering the Group's sustainability journey falls under the leadership of David Benattar, who was appointed as the Group's Chief Sustainability Officer in 2018 and tasked with driving the delivery of its ESG ambitions.

## Putting new measures and programmes in place to deliver

The Warehouse Group's sustainability journey is an authentic evolution of the legacy that The Warehouse founder Stephen Tindall created, says Benattar.

"We don't see sustainability and ESG as a business function or a set of activities on the side. Instead, it is fully embedded in the core of every team member, business activity and operation of the organisation.

"Our approach to ESG has grown in maturity and has become a portfolio

of commitments, targets, and strategic initiatives designed to deliver on our ambitions and importantly, the needs of our customers.

"As a retailer we look at the sustainability behaviours of our customers, and we recognise that these behaviours have exponentially accelerated over the past few years.

"Purpose, values, consumer behaviours and new business requirements are factors driving the acceleration of sustainability and ESG strategies by corporates, in order to adapt to this new reality.

"Our sustainability journey started in the early 2000's and we have been making steady progress since. In February 2019 we reached a transformative milestone



We look at the sustainability behaviours of our consumers, and we recognise that these behaviours have exponentially accelerated over the past few years."

David Benattar  
The Warehouse Group



when we achieved carbon neutrality – just the third major global retailer to do so. This highlighted that we were taking sustainability leadership very seriously,” says Benattar.

“We are taking responsibility for our impact on the environment and have put measures, reporting and investment in place to support that. When we went carbon neutral it made a statement to the market and we were pleased that a number of other corporates decided to do the same.

“Another recent step change was the launch of our *Sustainable & Affordable* programme in 2020, wherein we shared our belief with customers that the decision to live more sustainably shouldn’t need to cost more and introduced a range of quality and more sustainable everyday products at affordable prices.

“Currently we have around 9,000 products with at least one sustainable feature, like certified sustainable materials or packaging with reduced plastic and improved recyclability and reusability,” says Benattar.

“We have put the customer as the centre of our sustainability practice and understand that they are not trading off between affordability and sustainability, they are asking for both.”

### **Prioritising a new programme of ESG focus**

The Warehouse Group runs a materiality assessment that maps priorities, risks, and opportunities against the dimensions of environmental and social governance, listening to the market along the way, and assessing the value at stake.

“Our customers tell us they care about sustainable products, product packaging and waste. They are asking for alternatives and regulations to be introduced. Therefore, this is a top priority for us.”

Benattar believes organisations have a chance to select an ESG element and make it an area of focus. For instance, it could be de-carbonisation or social giving.

“Some top priorities for The Warehouse Group include the future of work, employee engagement, as well as diversity and inclusion. We need to address all these opportunities and dimensions to operate in today’s complex, moving and dynamic business environment.”

## Where everyone gets a better future



We do so much more than  
fundraise for these organisations;  
we put their causes at the centre of  
the conversation.”

### Bringing new support to the community

Community is also at the core of The Warehouse Group’s outlook, says Benattar.

“Community is clearly identified and detailed on multiple levels including across our team, customers, operating locations and co-partnering communities. This has defined how we support community organisations.”

The deep commitment and passion The Warehouse team members have for helping communities and organisations across New Zealand is integral to the business.

“Our support of community organisations nationally and locally is about investing in the sustainability of communities which is essential to creating a positive future for Aotearoa. We do so much more

than fundraise for these organisations; we put their causes at the centre of the conversation. That’s the influence we can effect by leveraging the footprint we have across the country.”

As an example of this work, The Warehouse partnered with The Period Place with the goal of eliminating period poverty in New Zealand by 2030, rolling out a period product donation initiative across 26 stores with donated products and educational material being provided to local community groups supporting those in need.

Benattar says: “Another important step in our efforts to tackle period inequity was the introduction of a range of \$1 period products in 2019. This was a game changer in eliminating period poverty, by making period products both affordable and accessible to more Kiwis and by removing the price barrier, we changed the conversation.”

### The network effect

Footprint also equals supply chain, and Benattar acknowledges that The Warehouse Group has an opportunity to create positive impact through its collaboration with supply chain partners.

“There are two dimensions that define how we engage and how far we are able to go. One dimension is through our ethical sourcing programme which we have had in place for 17 years to assess our supplier factories and ensure worker rights in regard to health and safety, working hours, wages and benefits are protected. Our qualification processes and the linkage of order data to production sources means that we can currently trace almost 100 per cent of our product range to a qualified factory.

“We care about doing the right thing, not only here but everywhere we operate and are serious about our responsibility to maintain labour and environmental standards in our supply chain. We want to ensure our customers have confidence that our products have been ethically sourced.

“The second is the environmental aspects of sourcing, which is challenging to capture as we keep expanding our requirements. One example of this is carbon emissions, which are difficult to measure across the value chain owing to the lack of sound data and reporting standards. However, our stakeholders require that we focus on these dimensions, so we’re building capabilities to go further, navigating around market capability, what governing regulations set out, and how far we can take it.

“What remains consistent is our intent. The Warehouse Group thrives where there is complexity and challenge, and where people tell us ‘no, that’s not possible’. The transformation over the past few years is driven by the fact that we know we can do it differently, and we keep on pushing until we find a way. I love that about our organisation.”

### Sustainability not just a requirement

Benattar signs off by encouraging all business leaders to consider sustainability as an indicator of performance and revenue.

“As a business leader you can modify the paradigm of how you look at sustainability. By changing mindset, you can see sustainability and ESG as the best driver for business performance and innovation.

“I would encourage large corporates to equip themselves with the tools and the skills they need to understand the value dimension. It’s about leadership. If you don’t take action now, you’ll miss an opportunity – that is clearer than ever.”

# Financing the future with sustainability front and centre

Joanna Silver, Head of Sustainable Finance for Westpac NZ, discusses why businesses in New Zealand should look at taking a sustainable finance approach to their funding, what's involved, how they can build sustainability strategies, and how they can benefit from doing so.



Companies and governments around the world are experiencing mounting investor and stakeholder pressure to play their part in addressing material environmental and social challenges.

Companies are starting to feel the heat (from a range of stakeholders, including lenders) to play their part in mitigating their organisational and supply chain impacts. Whether these impacts relate to climate change, energy efficiency, waste, financial inequality, diversity or health and safety, ESG risks touch every sector. In response, many organisations are now putting in place robust sustainability plans and in turn, adopting sustainable finance structures to support and encourage them to address these issues.

## Sustainable finance: what it is and how to use it

Ms Silver says that sustainable finance means money borrowed specifically to help a company achieve its sustainability goals.

"Debt can be called sustainable when either (a) the funds borrowed are tagged to certain environmental or social assets (e.g. a green bond), or (b) the cost of borrowing that debt is linked to material



and ambitious sustainability outcomes (e.g. a Sustainability-Linked Loan)."

Going further, she adds that funds connected with a sustainability strategy must meet certain international principles that govern those sustainable finance structures.

"The International Capital Markets Association, and the Loan Markets Associations have set out principles relating to bonds and loans respectively, and the documents dovetail well together. There are also numerous examples of sustainable finance transactions in the global market so we have a lot of precedent transactions to help inform and guide the development of the local market here in New Zealand."

A recent example is the \$125 million Social Loan that Westpac New Zealand and Te Pūkenga signed, where the funds are to be used for social activities that meet the "Social Loan Principles". This was the first Social Loan in Australasia and potentially the first in the world.



It is about linking borrowing directly to sustainability activities and goals."

## Getting strategy set first

Before engaging in sustainable finance, Westpac NZ encourages customers to seek help from trusted advisers in putting together a sustainability strategy that addresses the needs of stakeholders based on their sector, the products and services they sell, and their sustainability risks and opportunities.

"Start with your stakeholders: reach out to them and ask what matters to them most. This is called a "Materiality Assessment" and once completed can help companies build a credible sustainability strategy. The strategy needs to contain meaningful and ambitious short and medium-term measurable targets and have full Board buy-in and Executive team ownership.

## Financing the future with sustainability front and centre



The flow of capital is going to change as we learn more about future-oriented risks and our requirements to disclose them.”

“Sustainability is increasingly becoming integrated into corporate strategy. And when you develop and commit to a robust sustainability strategy, you can align your financing with it. A range of borrowers are approaching Westpac to express an interest in aligning their organisations’ sustainability strategies with funding because they see the many benefits in doing this,” Ms Silver says.

Sustainable finance is a way to hold corporates to account for their sustainability ambition, and sometimes to ramp that up a little to meet stakeholder expectations. And it’s no longer about the traditional focus on shareholders. Instead, we are seeing a shift in focus to all stakeholders including customers, team members, lenders, staff, suppliers, regulators, communities, and so on,” Ms Silver says.

Engaging in sustainable finance also helps to mainstream sustainability into risk management and corporate governance processes, and foster a long-term focus to grow a more future-focussed and resilient business, she says.

“It also helps create new investment opportunities and competitive advantage – both for issuers and investors. A lot of institutional investors say they’re doing it because it’s the right thing to do, and it provides them with an edge. Many of the investors we have spoken to want to see more ambition from issuers so that thematic will play out in the next 24 months also,” says Ms Silver.

### Every sector will need to transition

New Zealand is not immune to needing capital from domestic and international sources to fund its transition. Ms Silver highlights that every business sector will need to transition to address environmental and societal challenges, particularly on the climate side – and this will require material amounts of capital.

“The Emissions Trading Scheme is already a core lever for change, and the Climate Change Commission’s recommended budgets are forging a new path towards a low-emissions, resource-efficient, just and inclusive economy. Given the role that banks play in capital provision in our market, the onus really is on us to help align our balance sheet and our customers’ balance sheets towards sustainability.

“Access to capital is going to be key, and banks, investors and issuers acknowledge that the flow of capital is going to change as we learn more about future-oriented risks.”

### The biggest sustainability challenges facing New Zealand’s finance sector

“Often organisations have big, bold and long-term (i.e. 5–10 year) future-bound targets but haven’t worked out the annual milestones to get there. By working with our customers to help them set those all-important annual stepping stones, we are helping them accelerate their strategic planning and increasing the likelihood of achieving those ambitious targets that they’ve told their stakeholders they’re committed to.”

When asked why more companies aren’t doing this, Ms Silver comments that it isn’t for lack of ambition.



Sustainable finance is a way to hold corporates to account for their sustainability ambition, and sometimes to ramp that up a little to meet stakeholder expectations.”

“It is more about strategic integration and execution. And it is about the data they are working with.”

“Companies need to treat their non-financial data with the same integrity, auditability and transparency as they do their financial data.

“By telling your stakeholders you know your greenhouse gas emissions inventory is accurate, and your science-based target has been validated this provides for a more robust dialogue with your stakeholders. Increasingly, these things will directly connect to your ability to access capital from banks and the capital markets.”

She concludes by saying that the need is now pressing for companies to put strategic goals and ambitions in place, with funding linked to sustainability planning to achieve those ambitions.

“For organisations looking to the future, the structures, principles, lenders and investors are all there, willing and waiting to help you on your sustainability journey.”





## Does New Zealand need a Modern Slavery Act?

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

The International Labour Organization estimates that at any time there are approximately 40 million people in modern slavery. This may be a shocking fact for many given it is the year 2021 and the developed world we live in. To combat these sad statistics, there has been a proliferation of legislation designed to combat slavery and human trafficking around the globe, with California, the UK and more recently Australia and the European Union leading the way.

Here in New Zealand, the Government released New Zealand's Plan of Action against Forced Labour, People Trafficking and Slavery in March this year, setting out the all-of-government approach to combatting these crimes (the Plan of Action). Implementing the Plan of Action is being led by the Ministry of Business, Innovation, and Employment (MBIE).

legislation requiring transparency in supply chains or operations. This means that New Zealand businesses and consumers could unknowingly be directly or indirectly supporting modern slavery. However, pressure is building from businesses and the wider community on the Government to consider introducing a Modern Slavery Act for New Zealand.

Unlike many other developed countries, New Zealand has no accountability

### What is modern slavery?

The term modern slavery is used to describe situations where coercion, threats or deception are used to exploit victims and undermine or deprive them of their freedom. The nature of modern slavery means it is often hidden in the supply chains and operations of businesses and in the components of the products we purchase as consumers. Modern slavery can also be linked to other crimes and activities that adversely impact human rights, such as corruption and environmental damage.

## Does New Zealand need a Modern Slavery Act?

### Is there modern slavery in New Zealand?

An assumption is often made that modern slavery is something that happens in far-off locations, but New Zealand is not immune to such practices. Last year New Zealand saw its first criminal conviction for both human trafficking and slavery in the High Court decision in *R v Matamata* [2020] NZHC 1829. In that case, the victims were lured from Samoa to New Zealand by the promise of better wages working in horticulture. The Walk Free Foundation estimates one in 150 people are living in modern slavery in New Zealand, Australia and the Pacific region. Recent research by World Vision found New Zealanders spend over \$3 billion each year on goods implicated in modern slavery.

While modern slavery can occur in every industry and sector, some are more susceptible due to the nature and location of the work. These include agriculture and fisheries, construction, healthcare services, IT services, hospitality, manufacturing, and mining. Similarly, there are also geographic drivers behind modern slavery. Some countries may have higher risks due to poor governance, weak rule of law, weak labour protections, and socio-economic factors like poverty. This is reflected in the research

undertaken by World Vision, where more than \$1 billion of the goods purchased each year by New Zealand households implicated in modern slavery relate to clothing from Bangladesh, China, India, Myanmar, Malaysia, Thailand and Vietnam.

### How are New Zealand businesses responding to the call for a Modern Slavery Act?

Earlier in the year an open letter was presented to the Government by 85 well known New Zealand businesses, including Countdown, Kathmandu, Noel Leeming, Datacom, and The Warehouse, expressing their support for progressing the work required for a Modern Slavery Act – since then further businesses have signed on including MinterEllisonRuddWatts. In June, a petition with more than 37,000 signatures was presented to Parliament, calling on the Government to do its part to end modern slavery by introducing a Modern Slavery Act.

There is a growing acknowledgement that modern slavery is often hidden through the components that find their way into the supply chains and operations of New Zealand businesses and the products we purchase as consumers, and the need to bring all New Zealanders on the journey towards addressing modern slavery.

Misconceptions about modern slavery may hinder the conversation about the introduction of legislation in New Zealand. We need to create visibility of the issue – that it's happening both here in New Zealand and internationally.

### What is the New Zealand Government's Plan of Action?

New Zealand's Plan of Action outlines 28 actions government agencies are taking through to 2025. The actions fall under three key pillars: prevention, protection, and enforcement, and cover a wide range of themes, including:

- awareness raising and training;
- the elimination of modern slavery from supply chains;
- the strengthening of operational, policy and legislative settings to enhance enforcement and prosecution; and
- international cooperation to support effective prevention and enforcement responses.

Action 16 requires MBIE to consider introducing legislation requiring businesses to report publicly on transparency in supply chains to help eliminate practices of modern slavery. This action is being championed by Workplace Relations and



We need to create visibility of the issue – that it's happening both here in New Zealand and internationally."

Safety Minister, Hon Michael Wood, who has convened a Modern Slavery Leadership Advisory Group. The Group is chaired by Rob Fyfe and we understand that it will formally advise the Minister on the best way of addressing modern slavery with a decision on whether to move forward with legislation before the end of the year.

### What is happening overseas?

We are seeing a general increase in demand from regulators, business partners and consumers for more sustainable supply chains – both environmental and social sustainability. This trend is increasingly requiring businesses to address issues of modern slavery in their supply chains. The number of jurisdictions that require businesses to either identify modern slavery risks in their supply chains, take steps to mitigate such risks, or make public disclosures is increasing as governments seek to fulfil their commitments under international agreements.

## Does New Zealand need a Modern Slavery Act?

Inspired by supply chain reporting requirements introduced in California in 2012, the United Kingdom introduced transparency disclosure and reporting obligations in supply chains in 2015. Australia followed suit and implemented a similar framework in 2018. The EU and Canada are also set to introduce similar regimes.

The Australian reporting requirements are currently more prescriptive than the UK equivalent. The regime requires businesses that meet the reporting threshold to describe what they are doing to assess and address modern slavery risks in their global and domestic operations and supply chains, including how they measure the effectiveness of the actions they are taking. Last year the UK Government announced it will introduce similar compulsory reporting requirements. Once implemented, such changes will help harmonise the UK and Australian disclosure and reporting frameworks. However, one criticism of both regimes is there are no penalties for failing to report – instead relying on voluntary compliance and ‘naming and shaming’ those businesses that fail to report. This is an area New Zealand could take a different approach on when developing its own modern slavery legislation. This should not be confused with condemning businesses

### Practical tips for addressing modern slavery risks

Addressing modern slavery is about demonstrating progress and continual improvement, not perfection – we would be naïve to believe that there is no modern slavery in any of our supply chains and operations. The challenge is to start taking action. There are some practical steps you can take now to address modern slavery risks including:

- increase the awareness of modern slavery by starting conversations within your business;
- mapping out your supply chain;
- undertaking a risk assessment of your operations and supply chain to identify modern slavery risks;
- developing modern slavery policies, frameworks, and supplier codes of conduct;
- considering and amending your procurement and supply agreements;
- developing due diligence, culture and corporate governance guidelines;
- developing reporting and audit frameworks; and
- conducting awareness seminars for boards, executives, legal and procurement teams.

when they do report on instances of modern slavery. The ultimate goal is to encourage businesses to look into their supply chains and operations and be transparent about any instances of modern slavery they might find – so that they can work with and support their suppliers to eliminate those practices. We should celebrate businesses that have taken action and identified (and dealt with) modern slavery in their supply chains and operations. Condemning them in the media will not encourage others to take similar action.

### Why should you act now?

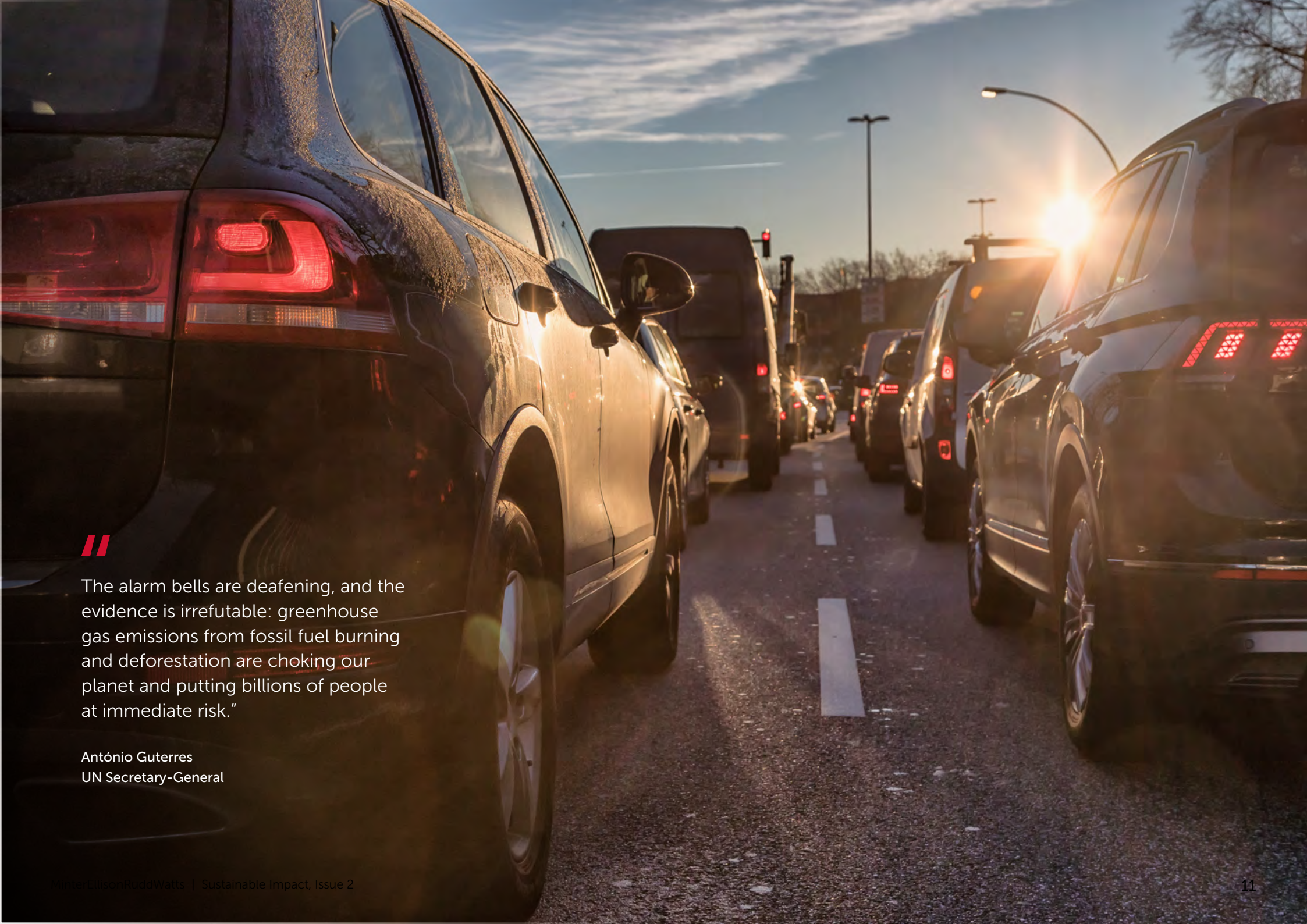
While there is currently no legal requirement in New Zealand to address modern slavery risks, some New Zealand businesses will have legal compliance obligations under foreign legislation. This

is the case with Australia which is causing a trans-Tasman ripple effect. Some New Zealand businesses carrying on business in Australia are now caught by Australia’s disclosure and reporting obligations and those that are not directly caught are being asked by their Australian partners that are caught, to address modern slavery. To date there have been 41 modern slavery statements filed with the Australian Border Force by New Zealand businesses.

We are also seeing a growing expectation that where businesses are caught by modern slavery obligations in one jurisdiction, that modern slavery will be addressed in all the jurisdictions those businesses operate in. This pressure is only going to continue to grow as investors, consumers, and society expect businesses to be doing something or

at least thinking about how to address modern slavery. Given consumer focus across environmental and social issues, we consider that this is an area that businesses should act on now.

Despite the lack of laws in New Zealand addressing modern slavery, we consider that modern slavery risk is a reputational harm that New Zealand businesses must be aware of. Not being aware of modern slavery risk, or addressing modern slavery practices, can have a detrimental effect on your supply chain, corporate reputation, brand value, and relationships with suppliers, customers, and other key stakeholders – but most importantly addressing modern slavery should be seen as a moral imperative requiring action from all of us.



The alarm bells are deafening, and the evidence is irrefutable: greenhouse gas emissions from fossil fuel burning and deforestation are choking our planet and putting billions of people at immediate risk.”

António Guterres  
UN Secretary-General

# IPCC Report: “A code red for humanity”

## Implications and opportunities of the IPCC’s new report for decision-makers

By Stephanie de Groot, Senior Associate and Caroline Woodward, Senior Solicitor, MinterEllisonRuddWatts

A sobering message on the state of the world’s climate is provided in the first part of the Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report (AR6) [Climate Change 2021: The Physical Science Basis](#).

UN Secretary-General António Guterres has described AR6 as a “code red for humanity”:

“The alarm bells are deafening, and the evidence is irrefutable: greenhouse gas emissions from fossil fuel burning and deforestation are choking our planet and putting billions of people at immediate risk”.

The first part of the AR6 was prepared by Working Group 1 of the IPCC, which has the role of assessing the physical science of climate change. It builds on and updates the findings of historical reports and incorporates subsequent new evidence

from climate science. [The Summary for Policymakers](#) of the AR6 was unanimously approved by the governments of the 195 country members of the IPCC and will form the shared evidentiary understanding at the UN climate conference, COP26, in Glasgow this November.

The report, issued in August, presents the ‘Gold Standard’ of climate science and what the IPCC considers to be ‘unequivocal’ evidence that human influence has warmed the atmosphere, ocean and land, and sets out the possible climate futures ahead of us.

## Humans have unequivocally warmed the climate

The IPCC used paleoclimate archives to provide a comprehensive view of each component of the climate system and its changes to date. Their key findings are that:



**The rate at which the world is warming is ‘unprecedented’ in the last 2000 years.** Each of the last four decades has been successively warmer than any decade that preceded it since 1850. Global average surface temperatures are on average 1.09°C above pre-industrial temperatures, and now on par with temperatures not seen for at least 125,000 years.<sup>1</sup>



**Human activities are the ‘unequivocal’ cause of this warming and greenhouse gases are the main driver.** 1.07°C of the 1.09°C global surface temperature increase from 1850 is the result of human activities.<sup>2</sup> Well-mixed greenhouse gases, particularly carbon dioxide (CO<sub>2</sub>) and methane (CH<sub>4</sub>), were the main driver of warming since 1979. Notably, since 1750, increases in CO<sub>2</sub> (47%) and CH<sub>4</sub> (156%) concentrations far exceed the natural multi-millennial changes between glacial and interglacial periods over at least the past 800,000 years.



**Human-induced climate change is already affecting many weather and climate extremes in every region across the globe.** Evidence of observed changes in extremes such as heatwaves, heavy precipitation, droughts, and tropical cyclones, and, in particular, their attribution to human influence, has strengthened since AR5.

<sup>1</sup> Summary for Policy Makers (SPM), at [A.1], [A.1.2], [A.2.2], [A.3])

<sup>2</sup> SPM, at [A.1]



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The report plays a role in educating others who remain sceptical or indifferent to the threats of climate change."

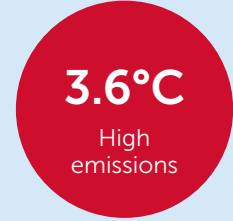
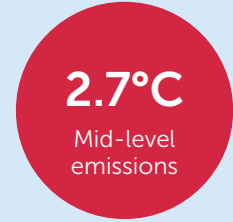
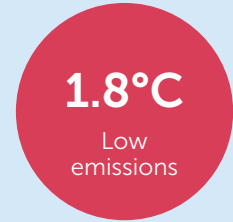
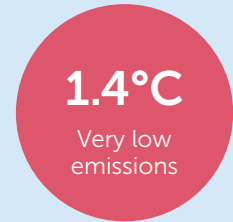
While the report paints a confronting picture for our planet, the information reinforces the Climate Change Commission's recent advice to the Government and is powerful in galvanising those sections of society and business already demanding and empowering climate action. It also plays a role in educating others who remain sceptical or indifferent to the threats of climate change.

**Keeping warming below 2°C, and perhaps 1.5°C, is still possible but only with immediate and sustained emissions cuts**

The IPCC illustrates five possible emissions scenarios for the future covering the range of possible emissions levels (noting that the feasibility or likelihood of individual scenarios is not part of the assessment). Modelling demonstrated that global surface temperature will continue to increase until at least the mid-century under all five emissions scenarios. In addition, the IPCC identified that under scenarios with increasing CO<sub>2</sub> emissions, the ocean and land carbon sinks are projected to be less effective at slowing the accumulation of CO<sub>2</sub> in the atmosphere.

Global warming of 1.5°C and 2°C will be exceeded during the 21st century unless deep reductions in CO<sub>2</sub> and other greenhouse gas emissions occur in the coming decades.

**Anticipated extent of warming by 2100**



### Government and business decision-makers have the scientific backing to drive change

New Zealand’s political and non-political dialogue around climate change and the need for a response and adaptation has gained momentum over the past few years. AR6 reinforces the importance of decisive climate action. In particular, it bolsters the Climate Change Commission’s advice to the Government in *Inā tonu nei: a low emissions future for Aotearoa* that current policies do not enable Aotearoa to achieve its targets and that the targets are inconsistent with New Zealand’s international emissions reduction commitments. However, it also indicates that New Zealand may need to go further than the Commission’s recommendations.

The Minister for Climate Change, Hon James Shaw, intends to set the first three emissions budgets and an emissions reduction plan towards achieving the 2050 target under Climate Change Response Act 2002 by 31 May 2022 (the current deadline of 31 December 2021 will be extended due

to the COVID-19 pandemic and to align with next year’s budget). The warnings of AR6 will only reinforce the need for a strong approach to be taken in making these decisions. Individuals and businesses in New Zealand should expect the Government to act on the recommendations of the Climate Change Commission’s advice, at the very least.

The report also supports decisive climate action from New Zealand businesses, in particular:

- **It reaffirms the ‘why’ for your emissions reduction strategy.** Politics aside, reducing greenhouse gas emissions is essential for a sustainable planet and future. AR6 sends a strong, scientific message that urgent action is required. There is a lot to point to for putting in place an emissions reduction or elimination strategy; AR6 is another strong trigger.
- **The report is likely to drive a strong Government response and will accelerate action to reduce carbon, methane and nitrogen emissions in**

all sectors. Those actions, in turn, are likely to present a cascade of market risks (and opportunities) that will have a demonstrable impact on New Zealand business, far beyond the baseline of domestic regulatory requirements.

- **It reinforces the need to consider climate risks on a forward-looking basis.** AR6 provides useful evidence, tools and standards on which to assess your physical climate risk exposure, as well as the viability of your offsets and carbon budget strategy. The IPCC provides a number of interactive tools and factsheets, including the [Interactive Atlas](#) with regional specific information.
- **It vindicates those who have already been taking action in this space.** These “first-movers” will become industry leaders. Their learnings can be taken forward by others in their industry that are motivated by the AR6 to take action and think long-term.

### More to come

There are three more AR6 reports yet to come. Working Group 2, which assesses the vulnerability of socio-economic and natural systems to climate change, and Working Group 3, which focuses on climate change mitigation, are expected to release their reports in February and March 2022 respectively. The synthesis report in November 2022 will combine the findings from the three Working Groups.

*Drawn from ‘[The science is in – so what now? Implications of the new IPCC report for corporate and government decision-makers](#)’ first published by MinterEllison in August 2021.*



## Contract clauses to fight climate change



The Chancery Lane Project (TCLP) is a collaborative effort by lawyers and other legal professionals around the world to enable climate conscious contracting. Almost 750 legal professionals from 212 organisations are currently participating, working pro bono to create practical legal solutions in the form of model laws and clauses to be used in legal agreements.

MinterEllisonRuddWatts is actively engaged in TCLP, joining the focused effort from lawyers around the world to develop contract clauses to help fight climate change. Our firm recognises that climate change has broader implications for business and is a central element of today's commercial decision-making. We are proud to be the first New Zealand law firm involved in this far-reaching sustainability initiative.

Clauses and model laws range from a diverse range of practice areas, subject matters and agreement types including:

- climate aligned boilerplate clauses that ensures climate change is considered throughout the lifecycle of a contract;
- construction contract clauses to introduce environmental standards and energy efficiency obligations, propose 'Green Modifications' to projects and initiate a Carbon Budget to incentivise reduced emissions across the project lifecycle by selecting more sustainable materials and construction processes;
- real estate and property clauses which encourage landlords and tenants to reuse materials or to use recycled or reclaimed materials when making alterations or repairs in line with the obligations in their lease;
- executive incentive awards to meeting Environmental, Social and Governance (ESG) targets for reducing greenhouse gas (GHG) emissions and related activities encouraging companies and executives to focus on reducing the impact of their business on the environment; and
- protocols to help transaction parties reduce GHG emissions associated with their transaction by reducing unnecessary business travel and other environmentally unfriendly practices.

MinterEllisonRuddWatts is focused on amending and integrating clauses to make them more applicable to the New Zealand context. If you would like to discuss the TCLP initiative or how these new clauses can be integrated into your contracts, please get in touch with our firm's Sustainability Leader and Partner Rachel Devine or Construction Partner Scott Thompson.





MinterEllisonRuddWatts is taking an active role in Aotearoa New Zealand's sustainability journey.

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.

Sustainable Impact is a collection of articles highlighting New Zealand's progress towards a sustainable future, curated by our firm. To discuss any of the themes or topics in this issue, please get in touch.

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