

Kia maia 35TH ANNUAL ILANZ
CONFERENCE 2023
Kia tū ngātahi
Stand Tall Together

Can lawyers save the world?

Part A: ESG, climate governance and climate-aligned contracting



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New Zealand Green Investment Finance



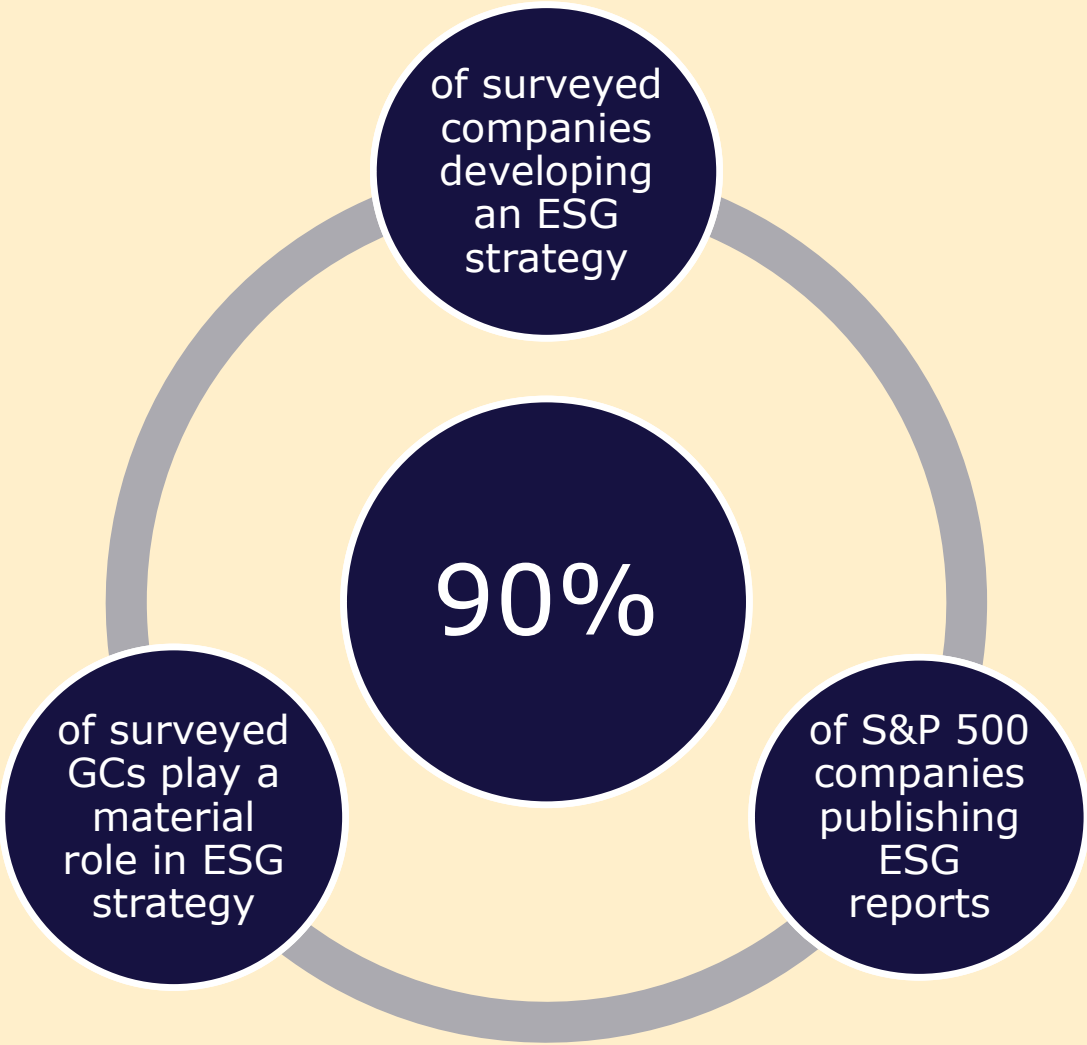
Lucie Drummond
GM Sustainability
Mercury

We're in the early stages of a global sustainability revolution that has the magnitude of the industrial revolution coupled with the speed of the digital revolution.

- Al Gore

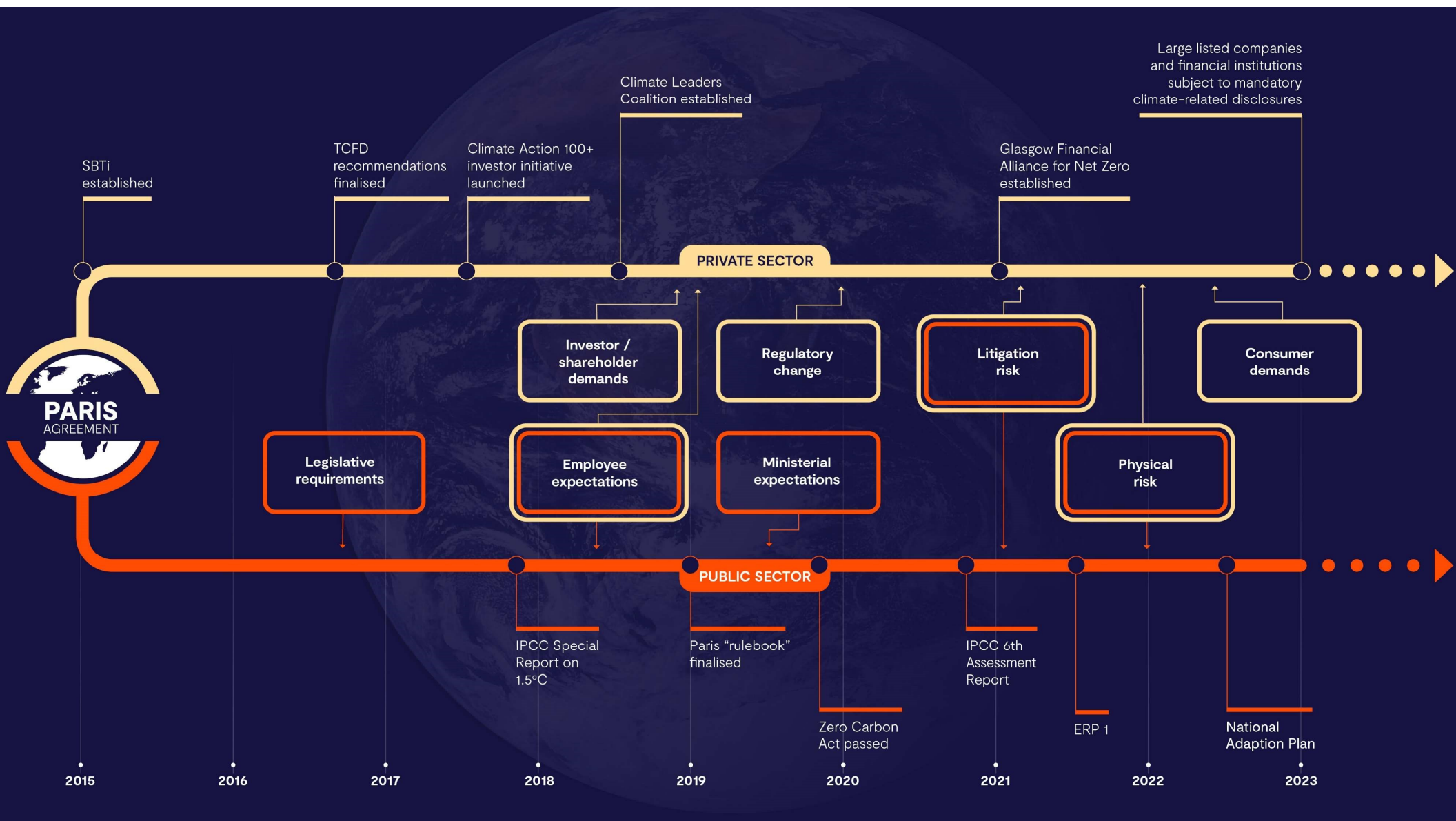
The human project as a whole is experiencing a great metamorphosis. The collapse of the old paradigm is symptomatic of the demise of the old rules and norms, as it makes way for the emergence of new systems.

- Dr Nafeez Ahmed



Source: S&P 500, Morrison Foerster/Corporate Counsel Survey 2023, Morningstar/Sustainalytics





PARIS
AGREEMENT

PRIVATE SECTOR

PUBLIC SECTOR

2015 2016 2017 2018 2019 2020 2021 2022 2023

SBTi established

TCFD recommendations finalised

Climate Action 100+ investor initiative launched

Climate Leaders Coalition established

Glasgow Financial Alliance for Net Zero established

Large listed companies and financial institutions subject to mandatory climate-related disclosures

Investor / shareholder demands

Regulatory change

Litigation risk

Consumer demands

Legislative requirements

Employee expectations

Ministerial expectations

Physical risk

IPCC Special Report on 1.5°C

Paris "rulebook" finalised

Zero Carbon Act passed

IPCC 6th Assessment Report

ERP 1

National Adaption Plan



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Invest to reduce emissions

Crowd-in private capital

Our objectives guide
our investment
decisions

Invest on a commercial basis

Show market leadership



CentrePort Wellington

CentrePort
June 20
Infrastructure
\$15m credit facility

Panasonic

SOLAR ZERO

Panasonic solarZero
Sep 22
Distributed energy
\$10m letter of credit

**\$700m
capital**

K/NET/C
moving people

Kinetic
March 23
Transport
\$50m debt facility

**Ruminant
BioTech** Corp

Ruminant BioTech
May 23
Agriculture
\$2.5m equity

NEW ZEALAND
CLIMATE CLAUSE BANK



Boilerplate clauses (for all relevant documents)

Clause 1 – green dispute resolution (adapted from Toby's Clause)

Why you might use it

This clause can be used in any commercial agreement. It provides certainty that any dispute must be handled in a manner that minimises travel and reduces the use of paper. The clause also includes a commitment by both parties to offset emissions arising from any dispute and to consider how such dispute may be handled in a way that minimises greenhouse gas emissions.

The climate issue

Litigation and arbitration create considerable and unnecessary amounts of physical paperwork and printing. Paper is energy intensive and has a significant carbon and water footprint. Litigation and arbitration can also require significant travel commitments, for parties, lawyers, witnesses and experts (generally by air). Short-haul aviation is one of the most emissions intensive means of travel.

The clause

1. GREEN DISPUTE RESOLUTION

- (a) In the event of any dispute arising out of, or in any way connected to, this document:
- (i) [all notices and communications between the parties will be sent by electronic means;]¹
 - (ii) the parties will use reasonable endeavours to ensure that meetings and dispute resolution processes (such as mediation and arbitration) relating to the dispute will, where reasonably practicable, be held virtually;
 - (iii) subject to paragraph (iv) below, where reasonably practicable, electronic documents will be used in negotiations, meetings and dispute resolution processes (such as mediation and arbitration) in preference to printed documents; and



The clauses

- Green Dispute Resolution
- Electronic Notices
- Further Climate Assurances
- Electronic Execution
- Virtual Board Meeting Requirements
- Simple Carbon Neutrality
- Carbon Footprint Management
- Termination for Greener Supplier
- Supply Chain Carbon Footprint Monitoring
- Environmental Lease

The New Zealand Climate Clause Bank is available to download for free at:
<https://nzgif.co.nz/investing/new-zealand-climate-clause-bank/>

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Discussion

You are all climate lawyers now.

- John Kerry