

CHAIR



Paul Barnett, BarnettLaw Limited, Wellington

Paul was a partner in Chapman Tripp for almost 25 years until his retirement in 2004. He then established BarnettLaw. That firm is a boutique technology, trusts and general commercial firm which also undertakes associated personal work.

A significant part of Paul's practice now involves charities many of which are involved in medical matters.

SPEAKERS



Melanie Baker, Melanie Baker Law, Lower Hutt

Melanie has been practising law in Lower Hutt since 1988 and is an experienced family law practitioner. She has represented a wide range of clients in relationship property and other family law matters.

Melanie is a senior lawyer for child and accepts appointments to assist the court in various family court cases.



Henry Brandts-Giesen, Kensington Swan, Auckland

Henry is a partner and Head of Private Wealth at Kensington Swan. He is one of a small group of lawyers in New Zealand with experience and expertise in FATCA, CRS and AML/CFT.



Tim Cleary, Barrister, Wellington

Tim is based in Wellington and has over 25 years employment law experience, the last 15 of which have been as a barrister. His work includes conducting workplace reviews around misconduct, performance, and health and safety.



James Coleman, Thorndon Chambers, Wellington

James is a specialist tax barrister. He appears for taxpayers in tax disputes and provides tax advice to a broad range of clients.

SPEAKERS



Warrick Hickman, New Zealand Law Society, Auckland

Warrick is the Auckland Team Leader of the Lawyers' Complaints Service. He has significant regulatory experience with both the Law Society and, previously, the Health and Disability Commissioner's Office.



Colette Mackenzie, Greg Kelly Law, Wellington

Colette is a Principal at Greg Kelly Law Limited, specialists in trusts and estates. She has extensive experience in all aspects of trust law, advising clients on the use of trusts and wills in the context of asset planning, with particular expertise in dealing with attacks on and division of trust property.



Julius Maskell, Tripe Matthews Feist, Wellington

Julius specialises in private client work including conveyancing, trusts, unit titles and company share apartments, building and construction, and commercial property. As well as private clients he also acts for several national not for profit community organisations.

Julius is an accredited property specialist with the Property Law Section, on the Wellington Branch Council of the New Zealand Law Society, and a Director of Law Alliance New Zealand.



Kalina Shipkov, New Zealand Law Society, Wellington

Kalina Shipkov is a Regional Team Leader at NZLS, covering Wellington, central North Island and Waikato/Bay of Plenty. Kalina has previously worked as an investigator in the UK for various regulatory bodies.



Michelle Stapleton, Wakefields Lawyers Limited, Wellington

Michelle is a Senior Associate with a specialised background working in private client work, trusts, estates and succession planning, as well as relationship property matters. She is experienced in property matters, including residential and commercial conveyancing, and financing transactions for private and corporate clients. Michelle graduated from Queen Mary, the University of London with an LLB in 2005 and completed her Master's Degree from the University of Auckland in 2010.

CONTENTS

RESIDENTIAL PROPERTY UPDATE 2020	1
OVERVIEW OF THE OVERSEAS INVESTMENT ACT CHANGES WITH RESIDENTIAL/ LIFESTYLE LAND.....	3
CHANGES TO THE LAND TRANSFER TAX STATEMENT.....	5
EXTENSION OF THE BRIGHT-LINE TEST.....	5
THE NEW ADLS/REINZ AGREEMENT FOR SALE AND PURCHASE.....	6
WHERE TRUSTEES ENTER INTO A SALE AND PURCHASE AGREEMENT.....	8
PROPERTY ISSUES IN THE FAMILY AND RELATIONSHIP AREA.....	8
UNIT TITLES.....	9
STANDARDS COMMITTEE/LCRO DECISIONS REGARDING PROPERTY TRANSACTIONS.....	10
APPENDIX A – OVERSEAS INVESTMENT OFFICE FLOWCHART.....	15
APPENDIX B – EXAMPLE DISCLOSURE LETTER.....	17
RELATIONSHIP PROPERTY OVERVIEW AND UPDATE	19
CHANGES TO THE PRA.....	22
SECTION 21/21A AGREEMENT TIPS AND TRICKS.....	25
LATEST CASES ON S 21/21A AGREEMENTS.....	27
AML/CFT: A RECAP OF CURRENT OBLIGATIONS AND AN UPDATE ON RECENT DEVELOPMENTS	31
GLOBAL INITIATIVES.....	33
THE APPLICATION OF GLOBAL STANDARDS IN NEW ZEALAND.....	34
AML/CFT ACT – PHASE ONE.....	35
AML/CFT ACT – PHASE TWO.....	35
CAPTURED ACTIVITIES.....	36
ORDINARY COURSE OF BUSINESS.....	37
CORE OBLIGATIONS.....	37
CUSTOMER DUE DILIGENCE.....	40
TYPES OF CDD.....	41
VERIFICATION OF CDD DOCUMENTS.....	43
POLITICALLY EXPOSED PERSONS.....	45
SOURCE OF WEALTH/FUNDS.....	46
CDD AFTER ESTABLISHING A BUSINESS RELATIONSHIP.....	47
CDD REQUIRED ONLY FOR CAPTURED ACTIVITIES.....	47
ONGOING CDD MONITORING.....	48
LOOK THROUGH TO BENEFICIAL OWNERS.....	48
HIGH-RISK JURISDICTIONS.....	49
RECENT DEVELOPMENTS.....	50
RECENT JUDGEMENTS.....	56
CONCLUSION.....	61
APPENDIX A – DIA “CAPTURED ACTIVITIES” DETERMINATION FLOWCHART.....	63
APPENDIX B – DIA “SUSPICIOUS ACTIVITY REPORT” DETERMINATION FLOWCHART.....	65
NZLS LAWYERS’ COMPLAINTS SERVICE – WHAT YOU NEED TO KNOW!	67
APPENDIX ONE – MOCK LETTER OF COMPLAINT.....	75
APPENDIX TWO – LAWYER’S RESPONSE TO NZLS (VERSION ONE).....	77
APPENDIX THREE – LAWYER’S RESPONSE TO NZLS (VERSION TWO).....	79
WORKPLACE INVESTIGATIONS	83
INTRODUCTION.....	85
PROCEDURAL AND SUBSTANTIVE FAIRNESS – S 103A.....	85
CASE LAW.....	86
INVESTIGATION.....	89
SUSPENSION.....	90
PUTTING THE ALLEGATION.....	91
INVESTIGATION MEETING.....	91
CREDIBILITY.....	93
CONSIDERING THE RESPONSE – GENUINE DECISION.....	93

TAX UPDATE FOR LAWYERS	95
INTRODUCTION	97
ZERO RATING LAND TRANSACTIONS	97
ZERO-RATED SERVICES RELATED TO LAND PROVIDED TO NON-RESIDENTS – IS 18/07	100
GST ON SETTLEMENTS OF LITIGATION	102
CASES IN THE CHARITY SECTOR ON WHAT CONSTITUTES GIVING	103
TAX AVOIDANCE LAW CASE UPDATE.....	107
KIWISAVER FIRST-HOME WITHDRAWALS, FIRST HOME GRANTS, FIRST HOME LOANS, AND KIWIBUILD	109
GOVERNMENT ASSISTANCE FOR FIRST-HOME BUYERS	111
FIRST HOME GRANT.....	111
KIWISAVER FIRST-HOME WITHDRAWAL.....	116
FIRST HOME LOAN.....	119
OTHER HOME BUYER ASSISTANCE SCHEMES	121
KIWIBUILD	122
ADDITIONAL INFORMATION	124
APPLICATIONS FOR LETTERS OF ADMINISTRATION ON INTESTACY	127
INTRODUCTION	129
WHO IS ENTITLED TO SUCCEED TO WHAT ON AN INTESTACY?.....	129
WHO CAN APPLY FOR LETTERS OF ADMINISTRATION?.....	132
ADMINISTRATOR’S RESPONSIBILITIES	133
ASCERTAIN THE DECEASED’S ASSETS.....	133
ASCERTAIN AND PAY THE ESTATE’S DEBTS	133
CLAIMS AGAINST ESTATES	134
DISTRIBUTING THE ESTATE	136
SMALL ESTATES	137
APPENDIX A – SAMPLE DOCUMENTS.....	138
APPENDIX B – CHECKLIST FOR ADMINISTRATORS	153