

CHAIR



Ingrid Taylor, Partner, Taylor Shaw, Christchurch

Ingrid leads Taylor Shaw's practice in Trusts, Commercial Law, Residential Property, and Elder Law, including wills and estates. With over 25 years' experience, she has advised a wide range of clients across many industries including land development, engineering, manufacturing, building, architecture, fashion, farming, and technology.

Ingrid is recognised as one of New Zealand's leading experts in the area of Trust law, she is a member of the Trusts and Wills Sub-Committee of the New Zealand Law Society, and is regularly invited to present papers and lead seminars at conferences on trust matters. Ingrid provides advice to settlors, trustees, and beneficiaries on trust structure including the analysis of existing trusts, resettlements and new trusts. She integrates this advice with recommendations in respect of estate planning and asset protection. This includes preparation and advice in respect of wills.

Ingrid also provides high level advice in all areas of commercial law, including business acquisitions and sales, contracts, leases, company incorporation as well as governance and management, director duties, and shareholder disputes, joint ventures, partnerships, and limited partnerships. She has expertise in conveyancing: from residential homes through to complex subdivisions, body corporate apartments, and commercial buildings.

With a strong background in contributing to various Boards, Ingrid currently sits on the Board of the Independent Schools of New Zealand. She is also a member of the Institute of Directors and acts as a Trustee for a number of charitable societies, organisations and individuals.

SPEAKERS



Kerry Cook, Bridgeside Chambers, Christchurch

Kerry joined the independent bar immediately after university when he secured a pupillage at a local Chambers. The pupillage lasted for 18 months and he was immersed in all manner of work at all levels. A pupillage is rare in New Zealand and enabled Kerry to learn from high-quality advocates over a significant period of time. He then focussed on advocacy in a criminal law and human rights context developing his own practice. Kerry has recently joined Bridgeside Chambers.

He is a keen contributor to the profession and was a member of the CDLS Litigation Committee and is currently a member of the New Zealand Criminal Bar Association Committee. Kerry also maintains a close association with the University of Canterbury delivering occasional lectures on various topics. He has been appointed as an amicus curiae in the District Court in criminal matters and mental health matters with a human rights element.

Kerry has a wide-ranging practice which includes criminal law, serious fraud, appellate advocacy, administrative law, inquests and enquiries, professional discipline and human rights issues.

SPEAKERS



Fleur McDonald, Director/Solicitor, Fleur McDonald Legal, Christchurch

After nearly 15 years at two Christchurch firms, Fleur made the decision to establish her own practice. She has established herself as an Elder Law specialist and industry leader of the area of Elderly Services and Seniors law.

Fleur deals with all areas of property, asset protection and estate planning with a particular speciality in helping seniors and their families. Typical solutions for Fleur's clients involve the use of specialist Wills and Enduring Powers of Attorney. Consequently, this can ensure the smooth management of personal and property affairs and for her senior clients to have ownership structures designed specifically as they move into retirement living.



Stephanie Marsden, Canterbury Chambers, Christchurch

Stephanie has practised as a lawyer since 1989. Before joining the independent bar in November 2011, she worked for larger Christchurch firms.

Stephanie's practice is almost exclusively in resolution of relationship property disputes involving high value assets and complex asset ownership structures (including trusts, companies and partnership interests) and estate claims. Over recent years she has specialised in this area of practice. Stephanie has experience with claims in respect of relationship property and trusts in the Family Court and High Court that have concerned farms, businesses, accounting, legal and medical practices and overseas assets.

Stephanie is a member of the New Zealand Law Society Family Law Section advisory panel making submissions on law reform and a member of the Academic Review Board of the New Zealand Women's Law Journal. She is a trustee of the Court Theatre Trust and a former member of the Board of Rangi Ruru Girls' School.



Anna O'Callaghan, Senior Associate, Taylor Shaw, Christchurch

Anna joined Taylor Shaw in 2019. She has an in-depth understanding of succession planning, asset protection and personal structuring and advises on all trust matters, including the establishment, maintenance, and winding up of trusts. Additionally, Anna gives sound and pragmatic guidance on relationship property agreements, memoranda of wishes, wills, and enduring powers of attorney.

Her practice also includes counsel on residential property matters, personal financing, and related issues arising out of our complex Canterbury property environment.

SPEAKERS



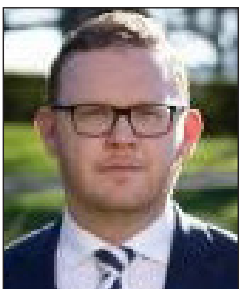
Jared Ormsby, Plymouth Chambers, Christchurch

Jared is an expert in complex litigation and appellate work. He has represented some of New Zealand's largest organisations and has appeared as counsel in the Privy Council and Supreme Court of New Zealand on some of New Zealand's leading cases. Jared regularly appears as counsel in the Court of Appeal and High Court.

He litigates all forms of commercial disputes and is a recognised leader in complex trust and fiduciary litigation acting in some of New Zealand's most well-known disputes including *Kain v Hutton*, *Chirnside v Faye*, *Re Burnett Mt Cook Station Charitable Trust*, *Great Christchurch Buildings Trust v CPT (the Christchurch Cathedral)*, *Pangani Properties v Lloyd & Nevill*. Jared is the convenor of the Canterbury-Westland Trust Committee and has been a presenter of member of the organising committee for the NZLS CLE Trusts Conference since 2011. He was an adviser to the Minister of Justice on the Trust Reference Group for the new Trusts Act 2019.

Jared also well known for the high profile public law litigation he has undertaken including acting on leading judicial review cases in relation to the Invercargill CBD, electricity regulation, emergency planning legislation for earthquake recovery, the land use recovery plan, Maori legal issues, and the Christchurch Cathedral.

In 2018 Jared founded Plymouth Chambers as a new chambers in Christchurch for leading barristers in the region. He was previously the National Managing Partner of Wynn Williams and its senior litigation partner. Jared has been recognised on multiple occasions in *Chambers and Partners Asia Pacific Directory* as a leader in his field where he was characterised by peers as "a very experienced, pragmatic, and wise litigation practitioner". He was the 2017 New Zealand Law Awards' Crowe Horwath Managing Partner of the Year.



James Pullar, Taylor Shaw, Christchurch

James is the head of the Civil Litigation and Employment, and Education Law practice. He acts for a wide variety of clients including local and national businesses, School Boards of Trustees, Independent Schools around New Zealand, and private individuals.

James regularly appears in the District Court and the High Court across a broad range of civil work, as well as in the Employment Relations Authority and the Employment Court.

In civil litigation, he has developed specialist expertise in insurance law, negligence, contractual disputes, as well as contentious trust and estate matters.

James is an active contributor to New Zealand Law Society programmes, and the annual Young Lawyers' Mooting Competition. He currently sits on both the NZLS (Canterbury-Westland) Employment Law Committee and Special Events Committee and is a previous convenor of the Junior Practitioners' Committee.

SPEAKERS



Andrew Shaw, Partner, Lane Neave, Christchurch

Andrew is the Managing Partner and he heads the Employment Law Team. He has 28 years' experience and is recognised as one of New Zealand's top employment, ACC and health & safety law practitioners.

Andrew is currently on the New Zealand Law Society ACC Committee, having previously been on the New Zealand Law Society Employment Law Committee (for six years), where he assists in providing guidance on proposed legislation.

Andrew is a preferred legal practitioner for the New Zealand Law Society to refer vulnerable claimants for specialist and complex legal advice in his specialist areas. He is also a mentor for other law practitioners.

Andrew is an experienced litigator and he has appeared in the Employment Relations Authority, Employment Court and ordinary Courts, including the Court of Appeal and advising on a Supreme Court appeal. He also regularly participates in private and MBIE mediations.

Andrew has a strong interest in public policy, as this relates to his specialist areas, and as such he is contacted by the media to make comment on current issues of importance. He is also involved in assisting a number of charities, include the Stroke Foundation and MS & Parkinson Society.

The Employment Law Team has been a past multiple winner at the New Zealand Law Awards and it is currently on the Government Legal Panel, and provides advice to a number of State and Local Government entities around New Zealand.



Annabel Sheppard, Partner, Wynn Williams, Christchurch

Annabel's main areas of practice are private client, small business and property law. She has extensive knowledge in commercial law, trusts, asset planning and property transactions.

Annabel has a diverse private client practice. Her clients are involved in a wide range of activities which gives her experience in a broad range of legal and business issues.



Jenny Turner, Partner, Wynn Williams, Christchurch

Jenny is a partner in the Private Client Services Team. She has experience in a broad range of property matters including residential, commercial and rural property sale and purchase transactions, leasing, financing and property development.

Jenny enjoys assisting clients with subdivision, whether it is freeholding as existing cross-lease title or completing a Unit Title development. She acts for wide range of clients including buyers and sellers of small business, and both commercial and residential landlords and tenants.

A particular area of interest in Jenny's practice is estate planning, asset protection planning, ownership structuring, and trust formation.

CONTENTS

| | |
|---|------------|
| EMPLOYMENT LAW UPDATE 2021 | 1 |
| INTRODUCTION | 3 |
| MINIMUM ENTITLEMENTS: WAGES AND SICK LEAVE | 3 |
| COVID-19 EMPLOYMENT LAW UPDATE | 4 |
| NEW PRIVACY ACT 2020 | 5 |
| MENTAL HEALTH AND WELLNESS IN THE WORKPLACE | 5 |
| NEW LEGISLATION | 7 |
| TRUST BUSTING IN THE NEW DECADE | 9 |
| INTRODUCTION | 11 |
| TRUST CREATION – THE THREE CERTAINTIES | 11 |
| TRUST BUSTING AND GENERAL POWERS OF APPOINTMENT | 12 |
| CONCLUSION..... | 25 |
| THE OVERHAUL OF THE PROPERTY (RELATIONSHIPS) ACT – WHERE ARE WE AT AND WHERE WE ARE GOING? | 27 |
| INTRODUCTION | 29 |
| A CHANGE OF POLICY..... | 29 |
| SUMMARY OF THE MAIN CHANGES PROPOSED..... | 30 |
| CONCLUSION..... | 34 |
| APPENDIX A – SUMMARY OF RECOMMENDATIONS FROM COMMISSION’S FINAL REPORT | 37 |
| (SEE APPENDIX A WITHIN APPENDIX C) | 37 |
| APPENDIX B – DRAFT PROVISIONS CONCERNING CLASSIFICATION OF RELATIONSHIP AND SEPARATE PROPERTY AND CONCERNING TRUSTS ARISING FROM THE RECOMMENDATIONS | 39 |
| (SEE APPENDIX B WITHIN APPENDIX C) | 39 |
| APPENDIX C – NZLS CLE IN SHORT – SEPTEMBER 2019 – AVOIDING CLAIMS ON TRUSTS WHEN A COUPLE SEPARATES..... | 41 |
| RESIDENTIAL PROPERTY SALE AND PURCHASE UPDATE | 77 |
| “I MIGHT BE IN SOME TROUBLE, CAN YOU HELP?” | 79 |
| INTRODUCTION | 81 |
| CRIMINAL MATTERS IN CONJUNCTION WITH OTHER MATTERS | 81 |
| CONFLICT OF INTEREST..... | 81 |
| PRE-ARREST/PRE-CHARGE | 82 |
| CONCLUSION..... | 93 |
| “DO IT ONCE – DO IT RIGHT”, WHAT HAPPENS IF YOU DON’T AND WHO PAYS NOW? ... | 95 |
| INTRODUCTION | 97 |
| THE PROTECTION OF PERSONAL AND PROPERTY RIGHTS ACT 1988 | 97 |
| “DO IT ONCE, DO IT RIGHT”!..... | 97 |
| THE FORMS | 99 |
| WHAT HAPPENS WHEN YOU DON’T HAVE EPAS? | 102 |
| WHO PAYS?..... | 109 |
| WILLS AND ESTATES..... | 117 |
| INTRODUCTION | 119 |
| A POTPOURI OF PITFALLS IN PRACTICE IN THE DRAFTING OF WILLS AND ADMINISTRATION OF ESTATES ... | 119 |
| OTHER DEVELOPMENTS IN THE COURTS | 124 |