CHAIR



Todd Simmonds, Lorne Street Chambers, Auckland

Todd was admitted to the bar in 1990 and specialises in criminal and regulatory litigation. He has extensive trial experience in the High and District Courts, and has appeared many times as lead counsel in the Court of Appeal. Prior to becoming a barrister sole in 2004, Todd was a senior prosecutor with Meredith Connell, the office of the Auckland Crown Solicitor. He has been a member of the Auckland Crown Solicitor's panel since 2004 and was appointed to the Manukau Crown Solicitor's panel upon its inception in 2015. In 2006 Todd was appointed as senior counsel to the New Zealand Defence Force Courts-Martial panel. In 2010 he was appointed to the Serious Fraud Office prosecution panel.

Between 2011 and 2018, Todd served as a member of the New Zealand Lawyers and Conveyancers Disciplinary Tribunal. Between 2010 and 2019, he served as a member of the New Zealand Law Society's Criminal Law Committee. Todd is a past convenor of the Auckland District Law Society's Criminal Law Committee and is currently the Deputy Chair of the New Zealand Bar Association's Criminal Law Committee. He is also a member of the pro-bono prosecution panel for the Auckland SPCA.

SPEAKERS



Vicki Ammundsen, VATL, Auckland

Vicki is a trust practitioner. She has an appreciation of the issues that confront older clients in the context of and interaction between estate planning, residential care subsidy concerns, relationship, family and trust related issues.



Vivienne Crawshaw QC, Hobson Chambers, Auckland

Vivienne specialises solely in family law with a particular focus on relationship property matters and cases involving children. She was admitted to the Bar in 1988. Vivienne is a member of the Lawyer for Child panel. Vivienne has presented papers to the International Bar Association Conference, the NZ Family Law Conference and to members of the NZ Law Society throughout the country. She appears as counsel in relationship property and children's cases at family court and appellate level. Vivienne was appointed as Queens Counsel in November 2018.

SPEAKERS



Donna-Maree Cross, Lorne Street Chambers, Auckland

Maree is experienced in criminal and civil litigation. In addition to her LLB (Hons)/BA from the University of Auckland (graduating with a Senior Prize and Senior Scholarship respectively), she holds an LLM (graduating as a Scholar) from Columbia University in the City of New York, where she specialised in trial and appellate practice. Maree was previously full-time junior counsel to David PH Jones QC. She was subsequently a Senior Associate at MinterEllisonRuddWatts before joining the independent bar in February 2016. Maree has acted for a number of high profile individuals and appears regularly in court, including in the jury-trial jurisdiction.

She has been a member of the New Zealand Bar Association Law Reform Committee since 2016. Maree is Deputy Convenor of one of the Auckland Standards Committees. She is an appointed member of the NZLS National S30 Interview Panel. Maree is also the author of the chapter on "Surveillance" and upcoming chapter on "The Privacy Act 2020" in the Thomson Reuters' publication, Privacy Law in New Zealand.



Stephen McCarthy QC, Barrister, Auckland

Stephen practises in family and civil litigation. He has a particular interest in property and estate disputes. Stephen has practised as a barrister since early 2006 and prior to that was a litigation partner in a Manukau City firm for over 20 years. He was convener of the ADLS Mental Health and Disability Law Committee 1991-1995 and Family Law Committee 2001-2003. Stephen has presented Law Society seminars and conference papers on mental health, family and property law topics.



Neil Russ, Russ + Associates, Auckland

Neil specialises in all corporate and international tax issues and transaction advice, tax risk management and contentious matters. He is the Convenor of the NZLS Tax Law Committee.



Penny Swarbrick, SBM Legal, Auckland

Penny is a partner at SBM Legal. She has over thirty years of broad legal experience. In the course of her career Penny has worked for the NZ Department of Labour as a solicitor, as an employers' representative and solicitor with the national employers' organisation, as a barrister sole before forming this specialist employment law firm. As a result, she brings an extensive insight into the practical implications of employment relationship problems for her clients.

SPEAKERS



Matthew Tetley-Jones, McVeagh Fleming, Auckland

Matthew graduated from the University of Auckland and was admitted to the bar in 1988. He worked in civil family and criminal litigation in his early days, first with McVeagh Fleming and then as a barrister in the 1990s. In 2000 Matthew joined Tetley-Jones Thom Sexton, then under the leadership of his father Maurice Tetley-Jones. He continued as a general litigator and appeared as junior counsel in *Ladstone Holdings Limited v Leonora Holdings Limited* [2006] NZLR 211, a case dealing with alleged misrepresentation in relation to the sale of land.

In 2006, Matthew moved into transactional work and took over as principal at Tetley-Jones Thom Sexton. In 2011 he joined McVeagh Fleming as a partner. Matthew now deals with sale and purchase of land, property law, trusts, wills, relationship property, elder law and occasionally a bit of intellectual property.

CONTENTS

In session order

Residential Property Sale and Purchase Update
Residential Sale and Purchase 2022
Matthew Tetley-Jones
Employment Law Update
Appendix One – Employment law update
Penny Swarbrick
Corporate Trustee Update
Corporate trustee update
Vicki Ammundsen
Family Law – spousal maintenance
A fair start: the inclusion of legal and accounting costs in orders for spousal maintenance
Vivienne Crawshaw QC
Tax and AML/CFT Issues
There is no paper for this session
Neil Russ
Criminal Law: the rise of the therapeutic justice
Criminal law: the rise of therapeutic justice
Donna-Maree Cross
Wills and Estates
Wills and estates
Stephen McCarthy QC

CONTENTS

Alphabetical by author/presenter

Author		Title	Page
Ammundsen	Vicki	Corporate trustee update	15
Crawshaw QC	Vivienne	A fair start: the inclusion of legal and accounting costs in orders for spousal maintenance	29
		Joint paper with Samantha Wilson (author only)	
Cross	Donna-Maree	Criminal law: the rise of therapeutic justice	43
McCarthy QC	Stephen	Wills and estates	45
Russ	Neil	There is no paper for this session	43
Swarbrick	Penny	Appendix One – Employment law update	89
Tetley-Jones	Matthew	Residential Sale and Purchase 2022	1
Wilson	Samantha	A fair start: the inclusion of legal and accounting costs in orders for spousal maintenance	29
		Joint paper with Vivienne Crawshaw QC	

CONTENTS

RESIDENTIAL SALE AND PURCHASE UPDATE 2022	1
THE TEN YEAR BRIGHT LINE TEST	3
COVID 19 CLAUSES	
REPRESENTATIONS ABOUT LEAKS	
ENFORCING AGREEMENTS	
CLAIMS FOR COMPENSATION	
NEW AGREEMENT FOR SALE AND PURCHASE DUE SOON	
EMPLOYMENT LAW UPDATE	
CORPORATE TRUSTEE UPDATE	15
THE TRUST AND CORPORATE TRUSTEES	
THE CORPORATE TRUSTEE	
THE DIRECTOR AND THE CORPORATE TRUSTEE	
THE SHAREHOLDERS OF THE CORPORATE TRUSTEE	
THE TRUST'S BENEFICIARIES AND CORPORATE TRUSTEES	
A FAIR START: THE INCLUSION OF LEGAL AND ACCOUNTING COSTS IN ORDERS	
SPOUSAL MAINTENANCESPOUSAL MAINTENANCE	
Introduction	31
DEVELOPMENTS IN THE CASE LAW	32
PRACTICAL POINTS	41
CONCLUSION	42
TAX AND AML/CFT ISSUES	43
CRIMINAL LAW: THE RISE OF THERAPEUTIC JUSTICE	45
Introduction	47
THE TRADITIONAL APPROACH	47
SPECIALIST COURTS	
FROM NIGHT TO THE ENLIGHTENED WORLD	
Conclusion.	
WILLS AND ESTATES	59
Introduction	
LAW COMMISSION REVIEW OF SUCCESSION LAW	
NGA TIKANGA	
PROPERTY (RELATIONSHIPS) ACT 1976	68
FRA CASES DURING 2021 FAMILY PROTECTION ACT CASES DURING 2021	
LAW COMMISSION RECOMMENDS REPEALING THE FAMILY PROTECTION ACT	
LAW REFORM (TESTAMENTARY PROMISES) ACT 1949	
TESTAMENTARY PROMISES CASES 2021	
INTESTACY REGIME	81
SUMMARY OF THE RECOMMENDED NEW INTESTACY REGIME	
BREACH OF FIDUCIARY DUTY AS BETWEEN PARENT AND CHILD	
PRIVILEGE CLAIM IN ESTATE PROCEEDINGS	
MUTUAL WILLSAPPENDIX A – LAW COMMISSION'S TERMS OF REFERENCE FOR THE SUCCESSION LAW REVIEW	
APPENDIX ONE – EMPLOYMENT LAW UPDATE	
INTRODUCTION	
COVID-19RECENT AND UPCOMING LEGISLATIVE CHANGES TO EMPLOYMENT LAW	
CASE LAW UPDATECASE LAW UPDATE	
CANDE BALL OF DIVITE HIS PROPERTY AND A STATE OF THE PROPE	/ (