CHAIR



Mark Sherry, Harmans Lawyers, Christchurch

Mark is the Managing Partner at Harmans and leads a large commercial and property team. He specialises in a wide range of commercial matters with a focus on commercial property developments and transactions, as well as franchising. Mark is the Chair of the Property Law Section and is an Accredited Property Specialist. He is also the Convenor of the Canterbury Committee of the Franchise Association of New Zealand, a member of the Institute of Directors and is the honorary solicitor for several charitable and community focussed trusts.

KEYNOTE SPEAKER



Cameron Bagrie, Bagrie Economics, Wellington

Cameron has been an economist for 20 years. For over 11 years he was the Chief Economist at ANZ. He has also worked as an economist at the National Bank, Treasury and Statistics New Zealand. A mainlander at heart, Cameron's approach to economics is non-ideological and pragmatic.

SPEAKERS



Andrew Barker QC, Shortland Chambers, Auckland

Andrew is an experienced trial and appellate advocate. He has a broad practice encompassing most areas of commercial dispute, and has been counsel in many leading Property Law cases.



Pip Breitmeyer, Anthony Harper, Christchurch

Pip is a senior member of Anthony Harper's banking and finance team, and advises a wide range of banks, finance companies, and corporate borrowers in a number of areas. Her focus areas include institutional, agri-business, corporate, commercial property, and development lending, including domestic and cross-border transactions.



Debra Dorrington, Sustainability Advocate, Rotorua

Having worked in private practice, Debra is in an excellent position to understand inhibitions around climate conscious thinking. It means she has a very real understanding of the practical issues faced by property professionals and their lawyers. As a result, Debra can propose sensible, practical ideas and actions for incorporating sustainable practices into day-to-day property legal work.

SPEAKERS



Ethan Duff, Beca, Wellington

Ethan is a Building Scientist and experienced Green Star Accredited Professional working as part of Beca's Specialist Buildings Sustainability team. In his five years in industry, he has been involved in over 20 Green Star projects across a wide range of building types, and has delivered a number of Green Star ratings including the 5-Star Wellington Convention and Exhibition Centre and the 5-Star 22 The Terrace office redevelopment.



Registrar John Earles, High Court & Ministry of Justice, Wellington

John, Registrar and Sheriff of the High Court of New Zealand and Specialist Technical Advisor to the Ministry of Justice, is located at the High Court in Wellington. He is co-author of the 5th and 6th editions of *Dobbie's Probate and Administration Practice*.



Philippa Fee, Fee Langstone, Auckland

Philippa is widely regarded as one of New Zealand's leading litigation and dispute resolution lawyers. Her principal specialist area is the representation of professionals in connection with claims for negligence and disciplinary complaints. The parties Philippa routinely assists include lawyers, chartered accountants, engineers, architects and insurance brokers.



Nicky Harrison, PwC Legal, Auckland

As a specialist in property and commercial law, Nicky has over 20 years of experience in complex land development agreements, land transactions, lease documentation, construction contracts, incorporated societies, shareholders' agreements, finance and security arrangements, supply arrangements, joint ventures, partnerships and OIO applications.



Helen Johnson, PwC Legal, Auckland

Helen works closely with corporate and high net worth clients to provide advice on all aspects of New Zealand tax. Her specialisms include international tax matters, corporate restructuring, domestic and cross-border M&A, and investment into or out of New Zealand.



Greg Kelly, Greg Kelly Law, Wellington

Greg has over 40 years' experience in the wills, trusts and estates area. He has written and delivered papers at numerous seminars and webinars for NZLS CLE Ltd and has chaired the Trusts Conferences since 2015. Greg is a member of STEP and is a principal author of the 8th edition of *Garrow and Kelly Law of Trusts and Trustees*.

SPEAKERS



Kimberly Lawrence, Greg Kelly Law, Wellington

Kimberly provides strategic advice to trustees and beneficiaries, with a particular focus on trust and estate disputes. She acts for trustees and beneficiaries in relation to their rights and obligations in respect of trustee decision making, disclosure of information, and trust administration. Kimberly is a contributing author to the 8th edition of *Garrow & Kelly Law of Trusts and Trustees*.



Alan Prescott, Harmans Lawyers, Christchurch

Alan has been a partner of Harmans since 1984 and leads a commercial and residential property team specialising in building industry, property and business law including franchising. He works with a number of significant developers, builders and subdividers both in Canterbury and further afield.



Lauren Semple, Greenwood Roche, Christchurch

Lauren has 30 years' experience in all aspects of consenting large scale development projects using a range of processes including traditional two-step consenting, direct referral, special legislation (Canterbury Earthquake Recovery Act 2011 and the Greater Christchurch Regeneration Act 2016) and more recently, applications under the COVID-19 Recovery (Fast Track Consenting) Act 2020. She has also been advising various infrastructure agencies in relation to the reform of the Resource Management Act 1991.



Christina Sheard, Dentons Kensington Swan, Auckland

Christina is a resource management specialist with over 20 years' experience in leading law firms in Auckland and London. She advises industrial, commercial, residential and government clients on all aspects of the Resource Management Act and associated legislation.



Virginia Wethey, Fee Langstone, Auckland

Virginia has over 20 years of insurance litigation and dispute resolution experience with an emphasis on professional indemnity claims. A large part of her practice is acting for solicitors in the defence of civil claims and in response to disciplinary complaints.

NON PRESENTING AUTHOR



Phil Overend, PwC, Auckland

As an executive director in the PwC Real Estate Advisory team, Phil brings over 20 years' experience in the construction and property industries. He excels at identifying and mitigating risk in larger capital projects and property transactions. Phil's extensive knowledge of the relevant commercial relationships and project documentation, with his attention to detail, facilitate valuable advice in a wide range of scenarios, including some of the largest recent transactions in New Zealand.

CONTENTS

In session order

A Market Outlook
There is no paper for this session
Cameron Bagrie
Demystifying Second Tier Finance
Demystifying second tier finance
Pip Breitmeyer
Subdivisions – The information hub
Enabling housing supply
Christina Sheard
Subdivisions – The information hub
What's up with wetlands? 2
Christina Sheard
Subdivisions – The information hub
Update on vesting of road issues
Alan Prescott
The New Purchase Price Allocation Rules in Practice
The new purchase price allocation rules in practice
Nicky Harrison and Helen Johnson
RMA Reform – What will it look like?
Legislative reform and the proposed replacement to the RMA
Lauren Semple
Estates
Review of probate
Registrar John Earles

Varying Trust Deeds
What to do when there is no variation power
Greg Kelly and Kimberley Lawrence
Climate Change
Climate conscious legal practice
Debra Dorrington
Green Buildings
Demystifying green building ratings tools
Ethan Duff
Property Litigation Report
Property law litigation
Andrew Barker QC
Professional Indemnity Claims Against Lawyers: Common Errors and Pitfalls
Professional indemnity claims against lawyers
Philippa Fee and Virginia Wethey

CONTENTS

Alphabetical by author/presenter

Author		Title	Page
Bagrie	Cameron	There is no paper for this session	1
Barker	Andrew	Property law litigation	115
Breitmeyer	Pip	Demystifying second tier finance	3
Dorrington	Debra	Climate conscious legal practice	87
Duff	Ethan	Demystifying green building ratings tools	105
Earles	John	Review of probate	61
Fee	Philippa	Professional indemnity claims against lawyers Joint paper with Virginia Wethey	133
Harrison	Nicky	The new purchase price allocation rules in practice Joint paper with Helen Johnson	41
Johnson	Helen	The new purchase price allocation rules in practice Joint paper with Nicky Harrison	41
Kelly	Greg	Varying trust deeds – what to do when there is no variation power Joint paper with Kimberley Lawrence	77
Lawrence	Kimberly	Varying trust deeds – what to do when there is no variation power Joint paper with Greg Kelly	77

Prescott	Alan	Update on vesting of road issues	33
Semple	Lauren	Legislative reform and the proposed replacement to the RMA	49
Sheard	Christina	Enabling housing supply	15
Sheard	Christina	What's up with wetlands?	25
Wethey	Virginia	Professional indemnity claims against lawyers Joint paper with Philippa Fee	133

CONTENTS

A MARKET OUTLOOK WITH BAGRIE ECONOMICS	1
DEMYSTIFYING SECOND TIER FINANCE	3
Introduction	5
WHO PROVIDES SECOND TIER FINANCE?	
Types of second tier lenders	
SECOND TIER LENDERS IN THE RESIDENTIAL PROPERTY SECTOR	
SECOND TIER LENDERS – DEVELOPMENT AND COMMERCIAL PROPERTY FUNDING	10
Conclusion	13
ENABLING HOUSING SUPPLY	15
Introduction	17
THE NPS-UD	
ACCELERATING INTENSIFICATION – THE ENABLING HOUSING ACT	19
THE AUCKLAND APPROACH	
Are we heading in the right direction?	22
WHAT'S UP WITH WETLANDS?	25
Introduction	27
THE DEFINITION IN THE NPS-FM	
THE MINISTRY FOR THE ENVIRONMENT GUIDANCE	
RECENT CASELAW	
THE NES REQUIREMENTS	
SO WHERE DOES ALL THIS LEAVE LAND DEVELOPERS?	
WATCH THIS SPACE.	
UPDATE ON ROAD VESTING ISSUES	33
Introduction	
THE PROCESS FOR LAND VESTING POST OCTOBER 2020	
APPLICATION FOR COURT ORDER	
ANCILLARY MATTERS TO CONSIDER	
EASEMENTS	
THE FUTURE	
THE NEW PURCHASE PRICE ALLOCATION RULES IN PRACTICE	
INTRODUCTION	_
WHY SHOULD PARTIES TO A PROPERTY TRANSACTION CARE ABOUT THE PPA? PURCHASE PRICE ALLOCATION FRAMEWORK	
APPLICABLE TYPES OF TRANSACTIONS	
EFFECT OF PPA AGREEMENT	
No PPA agreement	
DE MINIMIS EXCEPTIONS TO THE PPA RULES	
WORKING WITH THE PPA RULES	
MARKET OBSERVATIONS	47
USEFUL LINKS AND RESOURCES	48
LEGISLATIVE REFORM AND THE PROPOSED REPLACEMENT TO THE RMA	49
Introduction	51
BACKGROUND	
REASON FOR REFORM	53
What the reform looks like so far	
CONSISTENCY ACROSS THE RESOURCE MANAGEMENT SYSTEM	
EXPOSURE DRAFT FEEDBACK	
WHERE TO FROM HERE	58 50

REVIEW OF PROBATE	61
Probate Unit	63
COMMON MISTAKES AND REASONS FOR REJECTIONS	
RULES PERTAINING TO PROBATE/ADMINISTRATION DOCUMENTS	64
SWEARING AFFIDAVITS AND EXECUTING WILLS BY AUDIOVISUAL LINK	
SIGNING AND WITNESSING WILLS USING AUDIOVISUAL LINKS	
VARYING TRUST DEEDS – WHAT TO DO WHEN THERE IS NO VARIATION POWER?	77
Introduction	79
SECTIONS 122 AND 124 TRUSTS ACT 2019	79
SECTION 124 TRUSTS ACT 2019 – BENEFICIARIES LACKING CAPACITY	80
SECTION 125 TRUSTS ACT 2019	82
SECTION 130 TRUSTS ACT 2019	84
Procedure	85
Conclusion	86
CLIMATE CONSCIOUS LEGAL PRACTICE	87
WHAT DOES CLIMATE CONSCIOUS LEGAL PRACTICE MEAN?	89
OVERARCHING LAWS	
LEGAL ADVICE REGARDING PROPERTY AND CLIMATE – MBIE – BUILDING FOR CLIMATE CHANGE	
Programme	91
GUIDANCE FOR NEW ZEALAND LAWYERS ON CLIMATE CONSCIOUS LEGAL PRACTICE	
Practical steps	
Bibliography	
DEMYSTIFYING GREEN BUILDING RATINGS TOOLS	105
DISCLAIMER	107
Introduction	
INTRODUCTION	107
WHAT MAKES A BUILDING "GREEN"?	
	108
WHAT MAKES A BUILDING "GREEN"?	108 109
WHAT MAKES A BUILDING "GREEN"? REGULATORY PRESSURES	108 109 110
WHAT MAKES A BUILDING "GREEN"?	108 109 110 110
WHAT MAKES A BUILDING "GREEN"? REGULATORY PRESSURES HOW "GREEN" BUILDINGS HAVE BEEN PROCURED IN THE PAST WHAT TYPES OF GREEN BUILDING RATING TOOLS ARE OUT THERE NOW?	108 109 110 111
WHAT MAKES A BUILDING "GREEN"? REGULATORY PRESSURES HOW "GREEN" BUILDINGS HAVE BEEN PROCURED IN THE PAST WHAT TYPES OF GREEN BUILDING RATING TOOLS ARE OUT THERE NOW? SUSTAINABILITY IS OFTEN A CENTRAL INFLUENCING FACTOR IN DEVELOPMENT PROPERTY PORTFOLIOS WHAT THINGS NEED TO BE CONSIDERED WHEN LOOKING AT A SUSTAINABLE BUILDING (FOR THOSE IN	108 109 110 110 111
WHAT MAKES A BUILDING "GREEN"? REGULATORY PRESSURES HOW "GREEN" BUILDINGS HAVE BEEN PROCURED IN THE PAST WHAT TYPES OF GREEN BUILDING RATING TOOLS ARE OUT THERE NOW? SUSTAINABILITY IS OFTEN A CENTRAL INFLUENCING FACTOR IN DEVELOPMENT PROPERTY PORTFOLIOS	108 109 110 110 111
WHAT MAKES A BUILDING "GREEN"? REGULATORY PRESSURES HOW "GREEN" BUILDINGS HAVE BEEN PROCURED IN THE PAST. WHAT TYPES OF GREEN BUILDING RATING TOOLS ARE OUT THERE NOW? SUSTAINABILITY IS OFTEN A CENTRAL INFLUENCING FACTOR IN DEVELOPMENT PROPERTY PORTFOLIOS. WHAT THINGS NEED TO BE CONSIDERED WHEN LOOKING AT A SUSTAINABLE BUILDING (FOR THOSE IN PROPERTY LAW)?	108 109 110 111 113
WHAT MAKES A BUILDING "GREEN"? REGULATORY PRESSURES HOW "GREEN" BUILDINGS HAVE BEEN PROCURED IN THE PAST WHAT TYPES OF GREEN BUILDING RATING TOOLS ARE OUT THERE NOW? SUSTAINABILITY IS OFTEN A CENTRAL INFLUENCING FACTOR IN DEVELOPMENT PROPERTY PORTFOLIOS WHAT THINGS NEED TO BE CONSIDERED WHEN LOOKING AT A SUSTAINABLE BUILDING (FOR THOSE IN PROPERTY LAW)?	108 109 110 111 113 113
WHAT MAKES A BUILDING "GREEN"? REGULATORY PRESSURES HOW "GREEN" BUILDINGS HAVE BEEN PROCURED IN THE PAST WHAT TYPES OF GREEN BUILDING RATING TOOLS ARE OUT THERE NOW? SUSTAINABILITY IS OFTEN A CENTRAL INFLUENCING FACTOR IN DEVELOPMENT PROPERTY PORTFOLIOS WHAT THINGS NEED TO BE CONSIDERED WHEN LOOKING AT A SUSTAINABLE BUILDING (FOR THOSE IN PROPERTY LAW)? PROPERTY LAW LITIGATION	108 109 110 111 113 113 115
WHAT MAKES A BUILDING "GREEN"? REGULATORY PRESSURES HOW "GREEN" BUILDINGS HAVE BEEN PROCURED IN THE PAST. WHAT TYPES OF GREEN BUILDING RATING TOOLS ARE OUT THERE NOW? SUSTAINABILITY IS OFTEN A CENTRAL INFLUENCING FACTOR IN DEVELOPMENT. PROPERTY PORTFOLIOS. WHAT THINGS NEED TO BE CONSIDERED WHEN LOOKING AT A SUSTAINABLE BUILDING (FOR THOSE IN PROPERTY LAW)? PROPERTY LAW LITIGATION. SALE OF LAND.	108 109 110 111 113 113 115 117
WHAT MAKES A BUILDING "GREEN"? REGULATORY PRESSURES HOW "GREEN" BUILDINGS HAVE BEEN PROCURED IN THE PAST. WHAT TYPES OF GREEN BUILDING RATING TOOLS ARE OUT THERE NOW? SUSTAINABILITY IS OFTEN A CENTRAL INFLUENCING FACTOR IN DEVELOPMENT PROPERTY PORTFOLIOS. WHAT THINGS NEED TO BE CONSIDERED WHEN LOOKING AT A SUSTAINABLE BUILDING (FOR THOSE IN PROPERTY LAW)? PROPERTY LAW LITIGATION. SALE OF LAND. REPRESENTATIONS.	108 109 110 111 113 113 115 117 126
WHAT MAKES A BUILDING "GREEN"? REGULATORY PRESSURES HOW "GREEN" BUILDINGS HAVE BEEN PROCURED IN THE PAST. WHAT TYPES OF GREEN BUILDING RATING TOOLS ARE OUT THERE NOW? SUSTAINABILITY IS OFTEN A CENTRAL INFLUENCING FACTOR IN DEVELOPMENT PROPERTY PORTFOLIOS. WHAT THINGS NEED TO BE CONSIDERED WHEN LOOKING AT A SUSTAINABLE BUILDING (FOR THOSE IN PROPERTY LAW)? PROPERTY LAW LITIGATION. SALE OF LAND. REPRESENTATIONS. WARRANTIES	108 109 110 111 113 113 115 117 117 126 130
WHAT MAKES A BUILDING "GREEN"? REGULATORY PRESSURES HOW "GREEN" BUILDINGS HAVE BEEN PROCURED IN THE PAST WHAT TYPES OF GREEN BUILDING RATING TOOLS ARE OUT THERE NOW? SUSTAINABILITY IS OFTEN A CENTRAL INFLUENCING FACTOR IN DEVELOPMENT PROPERTY PORTFOLIOS WHAT THINGS NEED TO BE CONSIDERED WHEN LOOKING AT A SUSTAINABLE BUILDING (FOR THOSE IN PROPERTY LAW)? PROPERTY LAW LITIGATION SALE OF LAND REPRESENTATIONS WARRANTIES CONDITIONS	108 109 110 111 113 115 117 126 130
WHAT MAKES A BUILDING "GREEN"? REGULATORY PRESSURES HOW "GREEN" BUILDINGS HAVE BEEN PROCURED IN THE PAST. WHAT TYPES OF GREEN BUILDING RATING TOOLS ARE OUT THERE NOW? SUSTAINABILITY IS OFTEN A CENTRAL INFLUENCING FACTOR IN DEVELOPMENT. PROPERTY PORTFOLIOS. WHAT THINGS NEED TO BE CONSIDERED WHEN LOOKING AT A SUSTAINABLE BUILDING (FOR THOSE IN PROPERTY LAW)? PROPERTY LAW LITIGATION. SALE OF LAND. REPRESENTATIONS. WARRANTIES CONDITIONS. PROFESSIONAL INDEMNITY CLAIMS AGAINST LAWYERS.	108 109 110 111 113 115 117 126 130 133
WHAT MAKES A BUILDING "GREEN"? REGULATORY PRESSURES HOW "GREEN" BUILDINGS HAVE BEEN PROCURED IN THE PAST. WHAT TYPES OF GREEN BUILDING RATING TOOLS ARE OUT THERE NOW? SUSTAINABILITY IS OFTEN A CENTRAL INFLUENCING FACTOR IN DEVELOPMENT PROPERTY PORTFOLIOS. WHAT THINGS NEED TO BE CONSIDERED WHEN LOOKING AT A SUSTAINABLE BUILDING (FOR THOSE IN PROPERTY LAW)? PROPERTY LAW LITIGATION. SALE OF LAND. REPRESENTATIONS. WARRANTIES CONDITIONS. PROFESSIONAL INDEMNITY CLAIMS AGAINST LAWYERS. INTRODUCTION	108 109 110 111 113 115 117 126 130 133 135
WHAT MAKES A BUILDING "GREEN"? REGULATORY PRESSURES HOW "GREEN" BUILDINGS HAVE BEEN PROCURED IN THE PAST. WHAT TYPES OF GREEN BUILDING RATING TOOLS ARE OUT THERE NOW? SUSTAINABILITY IS OFTEN A CENTRAL INFLUENCING FACTOR IN DEVELOPMENT. PROPERTY PORTFOLIOS. WHAT THINGS NEED TO BE CONSIDERED WHEN LOOKING AT A SUSTAINABLE BUILDING (FOR THOSE IN PROPERTY LAW)? PROPERTY LAW LITIGATION. SALE OF LAND. REPRESENTATIONS. WARRANTIES. CONDITIONS. PROFESSIONAL INDEMNITY CLAIMS AGAINST LAWYERS. INTRODUCTION PART ONE: DOING THE BASIC THINGS WELL.	108 109 110 111 113 113 115 117 126 130 135 135 143