

CHAIR



Andrew Skelton, Capital Chambers, Wellington

Andrew specialises in civil litigation and arbitration, particularly in the areas of construction, property, leases, procurement, insurance, sports disputes and disciplinary proceedings. He has degrees in law from Canterbury University, University College London and Oxford University. Andrew is a member of the AMINZ Arbitration and Adjudication Panels and a panel arbitrator and adjudicator for the Building Disputes Tribunal.

Please note: on Andrew Skelton's appointment to the bench, Katrina Van Houtte has kindly accepted our invitation to chair the day.

SPEAKERS



Mair Brooks, KPMG, Auckland

Mair is an Infrastructure Advisory Partner with over 25 years of global experience with a track record in designing and delivering large transformational change in infrastructure and complex business environment across government and the corporate sector. As an infrastructure specialist she has designed, delivered and reviewed major projects, and portfolios that cover an estimated value of nearly \$350bn of assets covering transport, education, health, mining, water, utilities, oil and gas sectors. Since returning to New Zealand in late 2019, Mair has been working to uplift the procurement capability in the infrastructure sector, this includes adopting social procurement practices. She is an advocate for diversity and inclusiveness and enjoys building teams and supporting leaders to reach their full potential and is the KPMG NZ Gender Leader.



Sam Holden, Chapman Tripp, Auckland

Sam is a disputes partner in the Construction & Major Projects team. He acts for the firm's largest clients in complex construction disputes, achieving excellent results in the courts, arbitration, adjudication and settlements. Sam also advises on insolvency issues impacting construction projects, assisting receivers, voluntary administrators and liquidators.



Christine Meechan KC, Bankside Chambers, Auckland

Christine practises exclusively in the field of commercial litigation, focusing on insurance and construction disputes and has a wealth of experience as a civil litigator, especially in insurance and construction disputes. Those broad practice areas involve a huge range of cases, from earthquake claims to directors' and officers' liability claims in the insurance space and defective building claims and contractual battles in the construction space. She acted for the Auckland Council in a 20-week trial of a defective building claim in the Auckland High Court in 2022. Christine is a Fellow of the Arbitrators and Mediators Institute of New Zealand (AMINZ) and a member of the AMINZ arbitration panel.

SPEAKERS



Arie Moore, Reflective Construction Law, Wellington

Arie is the founder and Director of Reflective Construction Law, and a specialist construction and projects lawyer. He advises clients on the development and procurement of projects as well as resolving disputes during construction. He specialises in construction law (front and back-end), not-for-profit governance, strategy, and legal advice. Arie is currently the President of the Society of Construction Law New Zealand and takes an active role to further the development of construction law in New Zealand.



Alison Murray, MBIE, Wellington

Alison has worked in procurement for 30 years in operational, leadership and consulting roles in the United Kingdom and New Zealand across a range of sectors including car manufacturing, financial services, health and construction. For seven years with the Ministry of Education, Alison played an integral part in the team responsible for transforming infrastructure procurement and commercial management for school asset management and construction projects. Joining MBIE as the Director Construction Procurement Transformation in September 2021, she has been involved in the work of the Accord at a leadership level since then, especially through the shaping of the Sector Transformation Plan 2022-2025, and is now leading the Client Leadership workstream in the role of Transformation Lead for this area.



James Riddoch, Greenwood Roche, Christchurch

James is a specialist front-end construction lawyer with a particular focus on social infrastructure. He is a partner in Greenwood Roche's construction team in Christchurch and supports a range of clients in the procurement and contracting of major projects. James is the current Chair of the South Island Region of Property Council New Zealand and is a director on the Property Council's national board.



Katrina Van Houtte, Dentons Kensington Swan, Auckland

Katrina is a partner in the Major Projects and Construction team in Auckland with over 16 years' experience. A construction and infrastructure projects specialist, she advises clients on front-end and back-end construction matters, with a particular focus on resolving complex issues arising during the course of a project delivery. Katrina also advises clients on a range of other commercial and public law disputes.

CONTENTS

TAKING THE PULSE – OVERVIEW OF KEY CHANGES AND CHALLENGES IN THE CONSTRUCTION AND INFRASTRUCTURE SECTOR.....	1
CHANGES TO THE RETENTION PROVISIONS IN THE CCA.....	3
BUSINESS PAYMENTS PRACTICES BILL.....	5
MBIE’S REVIEW OF THE BUILDING CONSENT SYSTEM.....	6
PROPOSED BUILDING FOR CLIMATE CHANGE AMENDMENTS	7
CHANGES TO RMA FRAMEWORK.....	8
TAKING THE PULSE – OVERVIEW OF KEY CHANGES IN THE CONSTRUCTION AND INFRASTRUTURE SECTOR.....	11
ABSTRACT	13
THE CONSTRUCTION SECTOR IS FACING SYSTEMIC CHALLENGES	13
THE CONSTRUCTION SECTOR ACCORD; THE PARTNERSHIP BETWEEN INDUSTRY AND GOVERNMENT THAT’S TRANSFORMING THE SECTOR.....	14
UPCOMING CHANGE WHICH WILL IMPACT CONSTRUCTION CONTRACTS	15
CONCLUSION.....	17
TAKING THE PULSE – OVERVIEW OF KEY CHANGES AND CHALLENGES IN THE CONSTRUCTION AND INFRASTRUCTURE SECTOR.....	19
OVERVIEW	21
SECTOR PERFORMANCE AND DRIVERS.....	21
SNAPSHOT OF THE SECTOR.....	23
IMPLICATIONS FOR YOUR PROFESSION	23
CASE LAW UPDATES.....	25
CONSTRUCTION CONTRACTS ACT 2002.....	27
<i>SRG GLOBAL REMEDIATION SERVICES (NZ) LIMITED v BODY CORPORATE 197281 & ORS</i> [2023] NZSC 22.....	28
<i>RACHEL MASON-THOMAS AND JEFFREY PHILIP MELTZER AS LIQUIDATORS OF HY TOURISM LIMITED (IN LIQUIDATION) v THREE DUKES HOME LIMITED & ORS</i> [2022] NZHC 1868.....	32
<i>DEMASOL LIMITED v SOUTH PACIFIC INDUSTRIAL LIMITED</i> [2022] NZCA 480.....	35
PROCUREMENT IN A CHANGING WORLD.....	41
INTRODUCTION	43
PROCUREMENT IN A CHANGING WORLD	43
CONTRACT RESPONSES	44
OFF-SITE MANUFACTURING (OSM)	46
RISK.....	50
BROADER OUTCOMES.....	52
CONCLUSION.....	56
CURRENT ISSUES IN BUILDING DEFECTS LITIGATION – A PROVOCATIVE DISCUSSION	57
INTRODUCTION	59
<i>BECA v WELLINGTON CITY COUNCIL</i> [2022] NZCA 624 – CONTRIBUTION CLAIMS.....	59
WHEN CONTRACTORS/CONSULTANTS GO “OFF TASK”.....	60
WHEN DOES THE INCLUSION OF A NEW DEFECT AMOUNT TO A FRESH CAUSE OF ACTION?	62
DUTY OF CARE – IS IT STILL APPROPRIATE TO ASSUME THAT TERRITORIAL AUTHORITIES OWE A DUTY OF CARE TO COMMERCIAL BUILDING OWNERS/HOMEOWNERS UNDER THE BUILDING ACT 2004?	63
DISCUSSION	65
MANUFACTURER’S LIABILITY CASES – <i>CRIDGE v JAMES HARDIE</i>	66
QUANTUM – COST OF REPAIRS OR DIMINUTION IN VALUE?.....	67
BETTERMENT/PRODUCT LIFECYCLE	68