

## **CHAIR**



### **Thomas Gibbons, Thomas Gibbons Law, Hamilton**

Thomas's practice focuses on land development and land governance issues. He has special interests in unit titles, subdivisions, land covenants, and local government property matters, and has given expert evidence in the High Court on land development and unit title issues. Thomas has qualifications in law and planning, and has written extensively on property law issues, including (recently) an update of the Laws of New Zealand title on Land Law, and articles for the Resource Management Journal and Property Lawyer. He chaired the inaugural Subdivisions Intensive in 2018.

## **SPEAKERS**



### **Ross Hurly, Land Information New Zealand, Hamilton**

Ross is a highly experienced solicitor supporting the Property Rights team at LINZ, specialising in complex registration matters. He has previously presented at subdivision workshops for lawyers and surveyors throughout the country and at Property Law Section events.



### **Ian Jespersen, Burton Partners, Auckland**

Ian is an experienced property, real estate and trust legal advisor. He has undertaken a wide range of work for both corporates as well as high net worth clients on matters such as development land acquisition, commercial and residential developments (high rise, green field and brown field) dealing with infrastructure funding arrangements with territorial authorities as well as disposals (sell down and leasing) and the restructuring of holdings. Ian also has considerable experience in dealing with Public Works Act acquisition issues.



### **Denise Marsden, AlexanderDorrington Lawyers, Auckland**

Denise is a leading expert in property law. She has a wealth of knowledge complemented by a true passion for property and people. Denise has been a director at AlexanderDorrington since 2007 and specialises in development and construction, leasing, sale and purchase of land, subdivisions, unit titles, property finance, conveyancing and management rights.



### **Sarah Mitchell, Simpson Grierson, Auckland**

Sarah is a senior associate in Simpson Grierson's local government and environment work group. She acts for a range of private developers, local authorities and council-controlled organisations and has expertise in all stages of the planning process. Sarah advises on planning queries that arise during the site selection and due diligence processes, and has expertise in consenting infrastructure and housing projects under both the RMA and the COVID-19 Recovery (Fast-track consenting) Act 2020, together with private plan change applications to rezone land. She appears regularly in Council hearings and before the Environment Court and High Court.

## SPEAKERS



### **Charlotte Muggeridge, Harkness Henry, Hamilton**

Charlotte is an associate at Harkness Henry lawyers in Hamilton in the Resource Management team. She has experience in both property and resource management law, including sales and purchases, subdivisions, easements, Public Works Act matters, unit titles, District Plan advice and Environment Court appeals. Charlotte is a committee member of the Waikato Plan Leadership Committee which is forming an overarching strategic plan for the Waikato region, and is on the Waikato Conservation Board. She is also a board member for a variety of non-for-profits both locally and internationally.



### **Adam Musa, CKL NZ, Hamilton**

Adam Musa is an experienced cadastral surveyor responsible for leading the surveying team in CKL's Hamilton office. From large infrastructure projects to greenfield residential, commercial, and industrial developments, he has covered many detailed projects in his career to date. Adam's focus is always on clients' larger goals with a development and believes to be effective, surveyors need to understand the nuances of a project and the bigger picture rather than just the piece of land they are surveying.



### **Joanna Pidgeon, Pidgeon Judd, Auckland**

Joanna Pidgeon is a property law specialist, Past President of the ADLS and current member of the ADLS Property Law Committee. She is also a member of the NZLS Land Titles Committee. Joanna often makes determinations under the ASPRE when there are disputes, is a past Chair of the Property Disputes Committee and gives expert evidence in Courts and Tribunals on a wide range of property matters. She is experienced in fee simple, cross lease and unit title subdivisions including those using incorporated societies.



### **Liz Stewart, Elizabeth Stewart Planning, Auckland**

Liz has over 25 years' experience in the subdivisions market, including working as a subdivision planning team leader at Auckland Council, planning manager for Align Ltd, and now runs her own practice in Auckland. Her expertise provides a unique viewpoint from the Council, developer/planner and landowners' perspective and Liz understands the intricacies of subdivisions, the importance of getting easements and other legal requirements right from the start, and the differing strategies required when going through a subdivision process.



### **Nick Stillwell, Land Information New Zealand, Wellington**

Nick has extensive experience working as a cadastral surveyor with eight years in private practice in the land development space. In 2017 he joined the Modernising Landonline programme, and is responsible for connecting surveyors to the delivery side of new cadastral survey functionality. The programme methodology is Agile and Nick's role includes ensuring customers' voices are heard so that LINZ can continually prioritise the next most valuable piece of work to be developed and delivered, working within an overall roadmap.

## SPEAKERS



### **Vicki Toan, Glaister Ennor, Auckland**

Vicki is a partner at Glaister Ennor specialising in resource management and unit titles law. She acts for clients on a wide range of matters associated with resource consenting, plan changes, the Unit Titles Act 2010, and the land-based aspects of due diligence. Vicki regularly speaks on resource management and unit titles topics at conferences, seminars, and webinars.



### **Andrea Watson, Land Information New Zealand, Christchurch**

Andrea has practised law in boutique, mid-sized and large New Zealand law firms, specialising in property registration matters. She is embedded in the Modernising Landonline team with a strong focus on engaging with Landonline users to strengthen the voice of the customer within the project.

# CONTENTS

<b>RMA UPDATE.....</b>	<b>1</b>
INTRODUCTION .....	3
HOUSING INTENSIFICATION.....	3
RMA REFORM.....	10
FAST-TRACK CONSENTING .....	12
NATIONAL POLICY DIRECTION ON WETLANDS AND INDIGENOUS BIODIVERSITY .....	14
CONCLUSION.....	16
<b>SUBDIVISIONS – WHAT TYPE TO CHOOSE (AND WHY).....</b>	<b>17</b>
INTRODUCTION .....	19
WHAT IS AND ISN'T A SUBDIVISION? .....	19
WHAT TYPE OF SUBDIVISION TO CHOOSE .....	21
CONCLUSION.....	28
APPENDIX 1: SECTION 218 OF THE RMA .....	29
APPENDIX 2 .....	31
<b>UNIT TITLES SUBDIVISIONS.....</b>	<b>37</b>
INTRODUCTION .....	39
UNIT TITLE SUBDIVISION.....	39
LAYERED DEVELOPMENTS .....	40
REDEVELOPMENTS.....	43
OTHER MATTERS.....	49
<b>CROSS LEASE CONVERSIONS – OPPORTUNITY TO ADD VALUE .....</b>	<b>51</b>
INTRODUCTION .....	53
HISTORICAL BACKGROUND.....	53
PROBLEMS WITH CROSS LEASES .....	54
LAW COMMISSION'S RECOMMENDATIONS .....	58
ADVANTAGES OF CONVERTING CROSS LEASES TO FREEHOLD OR UNIT TITLE .....	61
AUTONOMY .....	61
BENEFITS OF RETENTION OF CROSS LEASE TITLES .....	62
THE DECISION TO CONVERT .....	62
WHEN FREEHOLD OR UNIT TITLE IS THE BEST OPTION .....	63
CONVERTING TO FREEHOLD WITH AGREEMENT.....	65
CONVERTING TO FREEHOLD WITH OBJECTING NEIGHBOURS – PARTITION UNDER THE PROPERTY LAW ACT 2007.....	65
STEPS IN CONVERTING TO FREEHOLD .....	71
COMPANIES OFFERING A FIXED PRICE CONVERSION .....	72
CONCLUSION.....	73
LEGISLATION APPENDIX .....	74
BIBLIOGRAPHY .....	76
<b>TOPICAL REGISTRATION ISSUES.....</b>	<b>77</b>
<b>MODERNISING LANDONLINE .....</b>	<b>79</b>
BACKGROUND.....	81
WHAT WE'RE DELIVERING .....	81
EXAMPLES OF FEATURES RELEVANT TO SUBDIVISION WORK .....	81
MORE ABOUT THE MODERNISING LANDONLINE PROGRAMME .....	85
NEW LANDONLINE – DEALINGS APPLICATION.....	85
WHAT'S NEXT .....	86
<b>SUBDIVISIONS – WHEN THEY DON'T QUITE GO TO PLAN.....</b>	<b>87</b>
INTRODUCTION .....	89
RESOURCE CONSENTS .....	90
WHAT CAN GO WRONG, WILL GO WRONG .....	91
TO VEST OR NOT TO VEST – THAT IS THE QUESTION? .....	93

INFRASTRUCTURE REQUIREMENTS .....	93
PRIVATE ROADING – EASEMENTS OR COMMON OWNED ACCESS WAYS .....	94
CLEANING UP THE HEAD RECORD OF TITLE .....	94
MANAGING EXPECTATIONS AND THE PROCESS .....	95
THE END GAME .....	96
APPENDIX A .....	97
APPENDIX B – EASEMENT INSTRUMENT TO GRANT EASEMENT OR <i>PROFIT À PRENDRE</i> , OR CREATE LAND COVENANT .....	98
APPENDIX C – FORM 26 – COVENANT INSTRUMENT TO NOTE LAND COVENANT .....	103
APPENDIX D .....	107
<b>OFF THE PLAN SALES.....</b>	<b>109</b>
INTRODUCTION .....	111
SUNSET DATES .....	112
SECTION 225, RESOURCE MANAGEMENT ACT 1991 .....	115
CONTRACTING OUT OF S 225.....	116
FORCE MAJEURE AND COST ESCALATION .....	117
MEASUREMENT CLAUSES .....	118
CHANGES TO PLANS AND SPECIFICATIONS.....	119
OTHER POINTS OF INTEREST .....	122
<b>SUBDIVISION IN PRACTICE – A PRACTICAL GUIDE TO GETTING A PROJECT DONE ....</b>	<b>125</b>
<b>THE PLANNER’S ROLE IN THE SUBDIVISION PROCESS.....</b>	<b>127</b>
INTRODUCTION .....	129
GETTING STARTED .....	129
APPLYING FOR RESOURCE CONSENT.....	130
STAGING OF CONSENT .....	131
TIMING AND LAPsing OF SUBDIVISIONS .....	131
REMOVAL OF EXISTING EASEMENTS ON TITLES .....	131
<b>A SURVEYOR’S PERSPECTIVE ON THE SUBDIVISION PROCESS .....</b>	<b>133</b>
INTRODUCTION .....	135
CONSENTING.....	135
SATISFYING CONSENT CONDITIONS .....	136
APPROVALS.....	136
<b>THE LAWYER’S ROLES IN THE SUBDIVISION PROCESS.....</b>	<b>139</b>
INTRODUCTION .....	141
RESOURCE MANAGEMENT PROCESS .....	141
REVIEWING .....	143
SALES .....	143
NEW RESOURCE MANAGEMENT LEGISLATION .....	144
APPENDIX 1.....	145