

## **PRESENTER**



### **Ish Fraser, Kensington Swan, Wellington**

Ish is a partner in Kensington Swan's Wellington office. He specialises in commercial leasing. Ish has extensive experience in the effects of earthquakes on commercial leasing and insurance arrangements

*The statements and conclusions contained in this paper are those of the author(s) only and not those of the New Zealand Law Society. This booklet has been prepared for the purpose of a Continuing Legal Education course. It is not intended to be a comprehensive statement of the law or practice, and should not be relied upon as such. If advice on the law is required, it should be sought on a formal, professional basis.*

# CONTENTS

<b>COMMERCIAL LEASES – RENT REVIEWS, RENEWALS AND HOLDING OVER .....</b>	<b>1</b>
INTRODUCTION .....	1
RENT REVIEWS – RATCHET CLAUSES – “CAPS” AND “COLLARS”.....	1
<i>Advice for tenants (in relation to ratchet clauses) when negotiating leases .....</i>	3
<i>Ratchet wording .....</i>	3
IS THE RENT REVIEW MANDATORY OR OPTIONAL? .....	3
<i>Timing .....</i>	3
<i>Rent for more than one component .....</i>	3
<i>Increased or adjusted? .....</i>	4
RENT REVIEWS – OTHER ISSUES ARISING UNDER THE ADLS LEASE .....	4
RENEWALS – ISSUES ARISING UNDER THE ADLS LEASE (AND OTHER LEASE FORMS).....	4
<i>Relief against a landlord's refusal to renew .....</i>	6
DOCUMENTING RENEWALS.....	8
HOLDING OVER AND PERIODIC TENANCIES – WARNING ABOUT NOTICE PERIODS .....	9
<i>Legislative reform / non-reform .....</i>	10
<i>What constitutes ‘holding over’?.....</i>	10
<i>Does possession ever require occupation? .....</i>	11
<b>APPENDIX 1 – ADLS DEED OF LEASE SIXTH EDITION 2012 (4) CLAUSES 2.1 TO 2.4.....</b>	<b>13</b>
<b>APPENDIX 2 – ADLS DEED OF LEASE SIXTH EDITION 2012 (4) CLAUSE 32.1 .....</b>	<b>15</b>