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LAWNEWS THIS ISSUE:

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ADLSI takes off with Air New Zealand Airpoints™

# LAWNEWS

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[www.adls.org.nz](http://www.adls.org.nz)

+ *Law and the economy,  
international agreements*

## A WORLD ON FIRE – LAW NEWS SPEAKS TO PROFESSOR JANE KELSEY



*The Hon Justice Anne Hinton, William Spring, Des Wood and Mike Ruffin enjoy a chat at a recent ADLSI Council Dinner. For more photos from the evening, please turn to page 6.*

“FIRE” is shorthand for today’s economy where the main sources of wealth creation are finance, insurance and real estate. In her new book *The FIRE Economy*, prominent legal thinker and policy commentator, Professor Jane Kelsey of the University of Auckland’s Faculty of Law, pursues the thesis that the rise of “FIRE” and the “financialisation” of the New Zealand economy over the past three decades have “transformed our political, economic and social landscapes, supported by a neoliberal regime that celebrates markets, profit and risk”. Yet, despite signs that the model is deeply troubled, “it remains remarkably resilient, even resurgent, in New Zealand and abroad”.

In light of recent international and domestic economic turmoil, many organisations and commentators who were once proponents of neoliberalism are warning the current model is unsustainable. Professor Kelsey joins this debate, arguing that New Zealand is “in a state of denial” and has effectively returned to “business as usual” in the aftermath of the Global Financial Crisis (GFC). She points to the fates and different responses of countries such as Ireland and Iceland as cautionary tales at which we should be looking more closely, before considering some of the barriers New Zealand faces in moving

toward a new model of economic life and governance.

Following on from her 1995 book *The New Zealand Experiment*, and post-GFC, Professor Kelsey received funding for the research from a Marsden Grant to look at the topic of post-neoliberalism. She says that the focus of the book on FIRE “evolved and brewed” over time: “In a way, I am grateful to the TPPA [the hotly debated Trans-Pacific Partnership Agreement – the movement against which she is very involved in] because it meant I had to take longer about writing the book. If I had written it straight after the GFC, it would have been a much less sophisticated work.”

“It seemed clear to me that there was a legitimacy problem for neoliberalism and the credit-based financial model. I was looking at the need to rethink the conceptual foundations of our economic model – the role of the state,

the role of regulation, governmental obligations, questions of risk-taking, etc.”

“New Zealand is quite unusual in having a legalistic, contractual approach to neoliberalism – we rely quite heavily on statutes and contracts, whereas a lot of other countries rely more on institutions [such as Australia and its Productivity Commission]. These ‘pillars’ have remained critically important in this country, but their foundations are being questioned internationally.”

However, she says that the problems are not just with the economy but with the laws and regulation that supported it (and helped to recover when in crisis) over the years. Problems with leaky buildings, the housing bubble, finance company collapses and the insurance hangover from the Canterbury earthquakes are all “symptoms of a market fundamentalism that

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# A WORLD ON FIRE – LAW NEWS SPEAKS TO PROFESSOR JANE KELSEY

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celebrates easy profits and risk”. “We can’t fix these things without fixing the neoliberal model itself,” she says.

## Food for thought

Finance, insurance and real estate are obviously three areas with which the legal profession has much to do. Professor Kelsey suggests that lawyers (and other trusted professionals, such as accountants) should be thinking about in terms of how they might engage with the issues raised in the book. She notes that our profession, and others like it, have responsibilities which go beyond simply doing a client’s bidding and following the letter of the law without thinking about what is behind it:

“It’s not just about getting the law right – you can have principles-based legislation and regulations or legislation and regulations that are very detailed – but if those responsible for observing and implementing them don’t have a culture that considers the public good, then the underlying culture needs to change as well. This needs to happen from the top down, including in how we conduct our education in law schools and in the professional sphere.”

This, she considers, is particularly relevant given New Zealand’s traditional presumption in favour of “no regulation” or “co-regulation”. “That only works if those being regulated agree to operate in the spirit of the rules”, as well as to their letter. “I think we have been much too ‘hands-off’ in our approach in the regulation of finance. We have allowed the ‘capture’ of the advisory process by those being regulated and those who profit from the matters being regulated.”

More generally, and though she stresses that she is not offering “a blueprint for the future” in the book, Professor Kelsey does think New Zealanders need to confront some of the questions we avoided post-GFC. She says that international commentators, including at the IME, have identified New Zealand as being at high risk of financial collapse because of our huge debt burden, now seen in issues plaguing the rural sector, the ongoing residential property bubble, the high proportion of household debt linked to the property market, high exposure by banks and Christchurch re-growth not meeting expectations.

“We need to start having that debate before we have a crisis. We need to stop dealing with



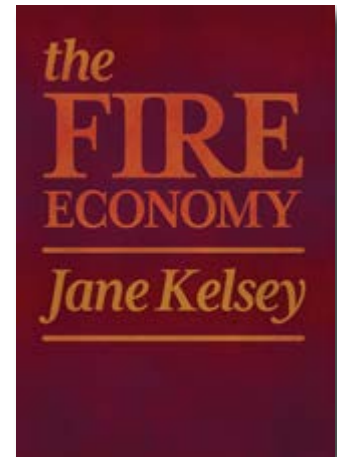
domestic problems in ‘silos’ and look at the systemic issues behind them. We need to plan and think ahead, not just focussing on the individual risks that could arise. We need to look at what is being said internationally and how we could do things differently – both to pre-empt another crisis or if one was to happen.

“How can we better protect the vulnerable against third-tier lenders? What about people who are completely over-leveraged in their borrowing? What mechanisms can we look at to prevent these kinds of social disasters? We also need to have a sensible discussion about why New Zealand is the only OECD country not to have a minimum guarantee for bank deposits, let alone KiwiSaver.”

She also has some suggestions about other economies to which we could look for examples of how to deal with a possible financial collapse. Iceland is one such case which she mentions, in terms of social protections and economic measures including capital controls.

## Impact of the TPPA

That leads us on to the other of Professor Kelsey’s “twin obsessions” – the potential negative impact of international trade agreements on our ability to re-regulate financial markets and take (or not take) appropriate corrective steps (such as the use of capital controls) during a financial crisis: “That is a question which has been somewhat overshadowed in the debate around the TPPA –



it is easier to preoccupy ourselves with questions over medicines and tobacco packaging.”

Indeed, in Professor Kelsey’s view, many of the same issues canvassed in *The FIRE Economy* also play out on the international stage in the context of such agreements and the negotiations around them.

“These agreements have the effect of locking the government into a failing model – foreclosing the possibility of retreat and putting handcuffs on what future governments can do. My objection has continually been about constraints on domestic regulatory autonomy.

“The new generation agreements go further – not only do they set constraints on actual law and policies, but they also seek to influence how a country makes decisions and require the most light-handed regulatory approach to be taken, even if that is not the best way to achieve public policy objectives. And if you have a policy you want to implement or a desire to change the paradigm in the future, it becomes extremely difficult to do so.”

Professor Kelsey drew attention in a previous issue of *Law News* to proposed rights of offshore arbitration for affected commercial interests under the TPPA (see *Law News* Issue 35, 18 October 2013). But she also wants to shine the spotlight on another issue which has not had much air time – the question of the US “certification” of a country’s compliance.

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## LAWNEWS

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# Cloud computing – electronic retention and tax reporting

By *Lloyd Gallagher, Director/Arbitrator/Mediator, Gallagher & Co Consultants Ltd*

Following on from the introductory article on Cloud computing in the recent special “Technology & Law” edition of *Law News* (Issue 27, 14 August 2015), this article looks at the implications of tax reporting and document retention when clients or firms adopt Cloud-based services.

The earlier article noted that implementation of Cloud infrastructure allows a firm to transfer its IT budget from capital expenditure to operating expenditure, which sees an immediate improvement for income tax as assets are no longer pooled into capital depreciation but are given the normal treatment of operating expenditure under the Revenue Acts. However, I also pointed out that where the service is provided by an overseas provider, GST is zero-rated due to the non-resident nature of the service provider (see IRD’s “e-Commerce and GST” [www.ird.govt.nz/ecommerce-tax/ecommerce-gst/business-australian-ecommerce-gst.html](http://www.ird.govt.nz/ecommerce-tax/ecommerce-gst/business-australian-ecommerce-gst.html)).

In this article, I will be focusing on additional issues under the Revenue Acts as well as compliance and reporting duties under other legislation due to the requirements of the *Electronic Transactions Act 2002* (ETA). Such obligations may result in Cloud services being of little benefit in terms of reductions in physical paperwork, due to the treatment of electronic documents and the way in which they must be retained. Here, I highlight what a practitioner should consider when looking at what Cloud services can offer to the firm or when giving advice to clients who intend to move to Cloud services for electronic documents regardless of the Cloud services location, whether offshore or within New Zealand.

## Revenue law record retention

Like many statutes, the *Companies Act 1993* provides a number of sections that require document retention, including sections 189-191, 194-195 and 215-218. When it comes to tax reporting, section 194 places strict duties on the board of directors, requiring them to ensure at all times that accounting records record correctly all transactions of the company, (section 194(1) (a)), that they are kept according to generally accepted accounting practices (GAAP) (section 194(1)(b)), that they must establish and maintain satisfactory control of accounting records (section 194(2)), and that the accounts must be in English, or easily converted into written English (section 194(3)). Section 22(7) of the *Tax Administration Act 1995* (TAA) says that the accounting records include books of accounts whether manual, mechanical or in electronic format that record receipts or payments or income or expenditure.

Similarly, section 75(1) of the *Goods and Services Tax Act 1985* (GSTA) stipulates that records include those kept in electronic form and that



Lloyd Gallagher

these records must be kept in English and in New Zealand unless specifically authorised by the Commissioner (section 75(3BA)). The requirements of section 195 of the *Companies Act* make it clear that where the records will be used in the furnishing of returns (or under any other Act) they need to be maintained in New Zealand. Further, these records are required to be kept in paper or electronic form in sufficient detail to ensure a complete audit trail that allows tracing between accounting records and tax returns.

Where these documents are retained in electronic form, such as on a Cloud server or in-house server, they will only satisfy the sufficient detail test where they meet the requirements outlined in section 25 of the ETA. Essentially, a document held in electronic form will only meet the test if the electronic record provides a reliable means of assuring the maintenance of the integrity of the information, and the information is readily accessible and usable for subsequent reference. This has implications when the internet connection or backups fail (to be discussed in a future article).

Section 26 goes on to say that where records (which are not in paper form but electronic alone) have been retained for the purposes of returns or as required by another Act, the same burden or access and maintenance shall apply. However, section 26 has an additional requirement imposed by section 27 that the information retained must also enable identification of the electronic communication’s origin, destination and time of sending and receiving. This information must also be readily accessible and usable for subsequent reference.

The *Electronic Transactions Regulations 2003* (ETR) also place a heavy burden on firms wishing to move to the Cloud as their only record retention system. Clause 4 of Schedule 1 provides that records retained for use under Revenue Acts will only comply if they are readily able to be produced in paper form and that paper form is a duplicate of the original paper or non-electronic form. This is difficult to prove if

the original has been destroyed to save archiving costs.

Further, subclause 2(b) requires that no annotation or indexing references obscure the original information and that any such annotations are clearly distinguishable from the original. In addition, records are required to be maintained for seven years (or ten years if the Commissioner deems under certain circumstances), resulting in the need to maintain physical archives even if documents have been converted to electronic form, resulting in Cloud services being of little help to reducing paper, archive record retention or ink costs.

Tax agents also have particular liability as they are required to understand these issues and make a third party application if storing client information in electronic form or an offsite Cloud. This places a heavy burden on tax agents to seek legal advice before undertaking any Cloud service for record retention. If a tax agent or accountancy firm engages a Cloud service for this purpose, the taxpayer remains the sole responsible party to meet these obligations and the burden of proof will fall on the taxpayer to show they either did not know of or were not provided advice about these obligations.

If parties, agents, accountants or firms wish to retain electronic documents, whether offshore or within New Zealand, the Commissioner has discretion to allow this (as highlighted by Inland Revenue in recent Revenue Alert 10/02). This alert confirmed that the Commissioner may authorise a taxpayer to keep their records outside New Zealand subject to them being readily available in New Zealand on request, in English, and at no cost to Inland Revenue in obtaining the information. The Commissioner confirmed that each application will be considered on its individual merits, having regard to the taxpayer’s compliance history and whether storing business records offshore is likely to impede compliance activities, and that paper-based systems are still needed.

Therefore, parties wishing to engage the Cloud for retention of accounting records will need to gain a specific written agreement from the Cloud supplier that the service and data is within the domain of New Zealand or seek written approval under section 22(8) of the *Tax Administration Act 1994* for offshore retention.

## Other retention

Revenue is not the only place where retention issues arise and the ETA falls squarely on the shoulders of any party considering Cloud services for delivery or electronic retention. Section 32 of the ETA requires holders of information in electronic form to have the paper original ready for review so it can be compared to the electronic version. This, like the Revenue Acts, makes a move to purely electronic retention and delivery impossible.

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## + Member benefits

# Come fly with me – earn Airpoints Dollars™ under ADLSI's new partnership with Air New Zealand

### Does the wintry weather have you dreaming of sunnier climes or an escape from the everyday?

Well, while we can't wave a magic wand to instantly transport you elsewhere, ADLSI is doing its bit to turn those daydreams into reality, with the opportunity to earn Air New Zealand Airpoints Dollars™ on a range of products and services purchased from us. Now, as well as building up your Airpoints Dollars tally by whizzing through the skies, lawyers will be able to rack up even more with ADLSI.

ADLSI has also partnered with Air New Zealand under its new Airpoints™ for Business programme (more on this below), as Air New Zealand's first partner in the legal sector, giving law firms the opportunity to earn Airpoints Dollars when they purchase a range of ADLSI products and services for the business.

### Airpoints and ADLSI

From 16 September 2015, ADLSI members are able to earn four Airpoints Dollars per \$100 spent (exclusive of GST) on a range of products and services purchased from ADLSI. Non-member lawyers will also be able to take advantage of the Airpoints Dollars earning potential and can earn two Airpoints Dollars per \$100 (exclusive of GST) when they purchase eligible ADLSI products.

Both ADLSI and Air New Zealand are excited by the opportunities presented by this new partnership.

"Our Airpoints programme is unique because it is currency-based – we have 'Airpoints Dollars', rather than points or miles," says Mark Street, Head of Customer Loyalty at Air New Zealand.

"With other airline rewards programmes, you don't really know how much your points are worth until you try to redeem them. But with Air New Zealand, 1 Airpoints Dollar equals NZ\$1, so it is easy to understand and use. So easy in fact, that 750,000 flights were taken in the past 12 months paid for using Airpoints Dollars.

"For us, working with ADLSI presents a great opportunity for ADLSI to reward its members (as well as non-member lawyers who use ADLSI's products and services) with Airpoints Dollars, and the rate at which they can earn Airpoints Dollars with ADLSI represents a really good earn rate."

ADLSI President Brian Keene QC said: "We are very proud to have joined in this partnership with Air New Zealand, covering the legal sector nationally. It is really pleasing to be able to reward our customers – both members and non-member lawyers – with Airpoints Dollars. Almost everything that lawyers buy



*"For us, working with ADLSI presents a great opportunity for ADLSI to reward its members (as well as non-member lawyers who use ADLSI's products and services) with Airpoints Dollars, and the rate at which they can earn Airpoints Dollars with ADLSI represents a really good earn rate."*

*Mark Street, Head of Customer Loyalty at Air New Zealand*

from ADLSI will qualify with one or two very small exceptions. So whether it's continuing professional development, text books, annual membership or tickets to ADLSI's popular collegiality events, members and non-member lawyers will be able to earn Airpoints Dollars in many ways."

### Airpoints for Business

While Air New Zealand's Airpoints programme is already hugely popular, with 1.9 million members and counting, Airpoints for Business takes things to a new level. ADLSI is pleased to be part of the Airpoints for Business initiative, joining other key business partners including Westpac, Bayleys, Avis, Budget, Umbrellar (New Zealand's largest domain name registrar and web hosting company), Z and Mitre 10, with more partners coming on-stream over the coming months.

"We wanted to reward New Zealand small and medium-sized businesses (which would include many of New Zealand's law firms) with Airpoints Dollars on business-related flights and purchases," says Mr Street. "The person in the aircraft seat, doing the actual travelling, is not always the person who has paid for the ticket –

and we wanted to reward those people as well."

It works like this. A business owner or firm sets up an Air New Zealand Airpoints for Business account, and then invites others (such as employees) to become members of that account. When the business spends with an Airpoints for Business partner (for example when a law firm spends with ADLSI), it will earn Airpoints Dollars. In addition, every time an employee travels on Air New Zealand, the business will be rewarded with bonus Airpoints Dollars on top of those accrued by the employee on his or her own Airpoints account. The business will receive the equivalent of 20 per cent of the value the traveller gets – for example, if the business' employee earns 100 Airpoints Dollars in a trip, the business will get 20 Airpoints Dollars as well.

"There is no change to an individual's Airpoints Dollar or Status Point earn," says Mr Street. "The traveller continues to earn rewards as usual, with the bonus that their business receives additional Airpoints Dollars when their employees travel on eligible Air New Zealand flights for business purposes. Essentially, the business is getting a bonus."

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To celebrate the launch of Airpoints for Business, Air New Zealand is offering triple Airpoints Dollars for the Airpoints for Business account on eligible flights booked and travelled on between 16 September and 31 December 2015. This will mean that the business will get 60 per cent earn rate on Airpoints Dollars accrued by the individual traveller, as opposed to the usual 20 per cent.

Air New Zealand is also giving business customers who join the Airpoints for Business programme before 16 October 2015 the chance to win a business mentorship with one of five high calibre New Zealand business leaders including Villa Maria's Sir George Fistonich, TV3's Julie Christie, Dame Trelise Cooper and Whittakers' Phillip Poole. All businesses which join before this date will automatically be entered into the draw.

#### Two ways to earn Airpoints Dollars with ADLSI

1. ADLSI members and non-member lawyers who are Airpoints members can start earning Airpoints Dollars with ADLSI straightaway, simply by registering their personal Airpoints membership details on our website [www.adls.org.nz](http://www.adls.org.nz). Eligible purchases charged to their personal ADLSI account or credit card will then automatically earn Airpoints Dollars.
2. Law firms can earn Airpoints Dollars with ADLSI under Air New Zealand's new Airpoints for Business scheme on eligible purchases charged to their ADLSI firm account or credit card.

Firms must first join Airpoints for Business (visit [www.airpoints.co.nz/business](http://www.airpoints.co.nz/business) to check eligibility and join) and then the lawyer who is the business owner simply needs to register their details with ADLSI on the Airpoints for Business section on the ADLSI website.

Airpoints for Business is free to join and there are no annual membership fees or minimum spend requirements. Lawyers practising on their own can also become part of the Airpoints for Business programme, says Mr Street: "It works for sole traders as well and enables them to earn bonus Airpoints Dollars on their travel."

Once firms have started accruing Airpoints Dollars in their Air New Zealand Airpoints for Business account, there are various ways in which they can be used. Of course, they can be redeemed for future business related flights, but firms may also wish to transfer Airpoints Dollars to their employees as incentives, enabling them to purchase flights or other rewards such as Koru memberships and Airpoints Upgrades.

#### Frequently asked questions about how to earn Airpoints Dollars with ADLSI

##### How can I start earning Airpoints Dollars with ADLSI?

ADLSI members and non-member lawyers must register their Airpoints membership details with ADLSI at [www.adls.org.nz](http://www.adls.org.nz) to start earning Airpoints Dollars on a range of ADLSI purchases charged to their personal ADLSI account.

Law firms must join Air New Zealand's new Airpoints for Business programme and then register their Airpoints details with ADLSI to be

eligible to earn Airpoints Dollars with ADLSI on purchases charged to their ADLSI firm account. Terms and conditions apply: for Airpoints see [www.airnewzealand.co.nz/airpoints-terms-and-conditions](http://www.airnewzealand.co.nz/airpoints-terms-and-conditions); and for Airpoints for Business, see [www.airpoints.co.nz/business](http://www.airpoints.co.nz/business).

##### What range of products and services supplied by ADLSI will I be able to earn Airpoints Dollars on?

Airpoints Dollars can be earned on purchases of ADLSI CPD, legal texts and publications, hard copy forms, a range of ADLSI print subscriptions, ADLSI ticketed collegiality events, ADLSI venue and meeting room hireage fees, and ADLSI membership subscription fees and membership cards. In addition, law firms which have joined Airpoints for Business and which have subscribed to WebForms will be able to earn Airpoints Dollars on WebForms forms purchases (excluding set up, licence and user fees).

##### Can I earn Airpoints Dollars on purchases of less than \$100?

Airpoints Dollars earned on eligible ADLSI purchases will be pro-rated and rounded to two decimal places, so for example, an ADLSI Member spend of \$50 (excl. GST) would earn two Airpoints Dollars.

##### Where do I find out more about earning Airpoints Dollars on ADLSI purchases?

Visit [www.adls.org.nz](http://www.adls.org.nz) for full details, terms and conditions of the ADLSI Airpoints Dollars offer. If you have any further questions about the programme, please contact ADLSI Member Services by emailing [membership@adls.org.nz](mailto:membership@adls.org.nz) or phoning 09 303 5270. 

## + ADLSI event

# Annual ADLSI Golf Tournament 2015

#### Golfers from all levels are invited to the Annual ADLSI Golf Tournament on Monday 12 October 2015.

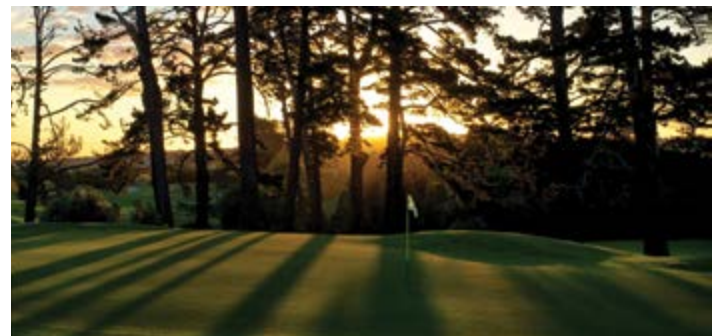
Join us for an 18 hole round at the prestigious Remuera Golf Club in Remuera, Auckland. Play is in fours, so enter as a single entrant or get a group together and practitioners are welcome to invite their clients.

Compete for the esteemed Hailsham Shield (four-ball best-ball stableford), plus there will be prizes for individual stableford, best client score, the Fuji Xerox Closest to the Pin and ASB Longest Drive. The Barfoot & Thompson refreshment cart will be available throughout the day. Following the round, the Giltrap Group BBQ and prize giving will be held in the clubhouse.

- Date:** Monday 12 October 2015
- Time:** Arrival by 11.45am for 12.30pm shotgun start
- Venue:** Remuera Golf Club, 120 Abbotts Way, Remuera, Auckland
- Tickets:** \$70.00 + GST (\$80.50 incl. GST) per person for ADLSI members and the judiciary;  
\$85.00 + GST (\$97.75 incl. GST) per person for non-members and clients.

**Registration:** To register your team, or as a single entrant (we will put you in a four), please visit [www.adls.org.nz](http://www.adls.org.nz); alternatively contact [adls.events@adls.org.nz](mailto:adls.events@adls.org.nz) or 09 303 5287. Spaces are limited so register before 1 October to secure your spot.

ADLSI's standard cancellation policy applies for this event.



ADLSI Annual Golf Tournament Major Sponsor



ADLSI Annual Golf Tournament Associate Sponsors



+ **ADLSI event**

# Council Dinner, 31 August Photos

ADLSI's periodic Council-hosted dinners provide an opportunity for smaller groups of guests, including practitioners and members of the judiciary, to catch up with each other and with Council members in a more intimate setting, and to hear about what the organisation has been up to.

Pictured here are some of the attendees at the most recent dinner, held on Monday 31 August 2015.



*Professor Warren Brookbanks, Lorraine Smith and Brian Keene QC*



*Joanna Pidgeon, Michele Wilkinson-Smith and John Brandts-Giesen*



*Peter Smith, William Spring, Mary Anne Shanahan, Steve Cullen and Dan Gardiner*



*Guests mix and mingle before dinner*

+ **ADLSI event**

# South Auckland Lawyers' Lunch

ADLSI is continuing its successful Lawyers' Lunch series for 2015. Held regularly across Auckland, these Lawyers' Lunches offer lawyers the opportunity to meet and network with fellow practitioners in their local area.

We have a Lawyers' Lunch coming up in Manukau on Wednesday 23 September 2015, at Republic Bar & Kitchen. Practitioners from across South Auckland are invited to join us for a relaxed lunch and to enjoy a short presentation by ADLSI and Lawyers' Lunch sponsor OfficeMax.

The lunch will be \$24.95 (incl. GST) from a set menu, and we are pleased to offer ADLSI members an exclusive Lawyers' Lunch rate of \$14.95 (incl. GST). Numbers are limited, so register now to avoid missing out.

**Time & date:** 12.30-2pm, Wednesday 23 September 2015

**Venue:** Republic Bar & Kitchen, Shop 260 Westfield Amersham Way, Manukau

**Registration:** \$13.00 + GST (\$14.95 incl. GST) per person for ADLSI members;  
\$21.70 + GST (\$24.95 incl. GST) per person for non-members.



Register before 21 September 2015 to secure your spot, subject to availability. Visit [www.adls.org.nz](http://www.adls.org.nz) to register and pay online; alternatively, contact [adls.events@adls.org.nz](mailto:adls.events@adls.org.nz) or 09 303 5287.

ADLSI's standard cancellation policy applies for this event.

ADLSI South Auckland Lawyers' Lunch sponsored by OfficeMax



+ **Book**

# Drafting, 17th Edition

**Editor:** David Emmet

This helpful manual contains practical advice on the skill of drafting in a number of legal settings, including contract, tort, and criminal proceedings.

Each chapter contains numerous examples accompanied by detailed commentary on the key features of the draft. Exercises are included throughout the manual, offering the opportunity to practice and perfect your own style of drafting.

(Note: This is a UK text rather than being specific to New Zealand.)

**Price:** \$83.47 plus GST (\$96.00 incl. GST)\*

**Price for ADLSI Members:** \$75.13 plus GST (\$86.40 incl. GST)\*

(\* + Postage and packaging)

**To purchase this book, please visit [www.adls.org.nz/adlsi-store](http://www.adls.org.nz/adlsi-store) or contact the ADLSI bookstore by phone: 09 306 5740, fax: 09 306 5741 or email: [thestore@adls.org.nz](mailto:thestore@adls.org.nz).**



+ **Upcoming event**

## Te Rangimarie Charitable Trust fundraising dinner



### Te Rangimarie Charitable Trust

**Te Rangimarie Charitable Trust invites you to its inaugural fundraising dinner to be held at the Northern Club in Auckland on Friday 2 October 2015.**

In addition to a fine Northern Club dinner, there will be a fundraising auction and a guest speaker, his Worship Tim Shadbolt.

The purpose of the Te Rangimarie Charitable

Trust is to support the vulnerable and underprivileged members of society who are affected by the criminal justice system and help rebuild their lives. It does this through personal contact and by developing and promoting productive dialogue, co-operation and understanding between the communities, social services and the justice system.

The aim of the Trust is to deliver this invaluable service in the Auckland District Court through the ongoing funding of Michelle Kidd QSM. Ms Kidd has worked tirelessly at the Court for over 16 years and is now employed within the security of the registered Trust. The intention is to maintain these activities with your help and support, and expand this service to other courts (where feasible and appropriate) in the future.

The Trust is completely reliant on donations for funding and would welcome your attendance at the dinner (and participation in the auction) to support it. Eftpos and credit card facilities will be available on the night for auction purposes.

- Date:** Friday 2 October 2015  
**Timing:** 6.30pm Arrival and drinks (for 7.15pm start)  
**Venue:** The Northern Club  
19 Princes Street, Auckland  
**Dress code:** Business attire  
**Tickets:** \$150.00 per ticket. Tables of 8 can be purchased for \$1,200 and tables of 10 for \$1,500.

Register before Friday 25 September 2015 to secure your space, subject to availability. To register and pay for this dinner, please phone 09 303 5287 or email [terangimarietrust@adls.org.nz](mailto:terangimarietrust@adls.org.nz). (Note: ADLSI is providing administrative support to the Trust for this event.)

*If you are unable to attend, and would still like to make a contribution to the Te Rangimarie Charitable Trust, please visit its Give-a-little page <https://givealittle.co.nz/org/terangimariecharitabletrust/donations>.*

+ **EJP event**

## “The Euthanasia Debate”

**The Auckland University-based Equal Justice Project is hosting a public symposium this month entitled “The Euthanasia Debate”.**

Taking place on 23 September 2015, speakers Paul Rishworth QC, David Dickinson and Mary Panko will focus on whether terminally ill people enduring intolerable suffering should have the choice to request medical assistance to end their lives.

- Time & date:** 6pm, Wednesday 23rd September 2015  
**Venue:** University of Auckland, General Library Basement - B10

*For further information, please contact Joy Guo and Maree Cassidy at [oncampus@equaljusticeproject.co.nz](mailto:oncampus@equaljusticeproject.co.nz), or visit [www.equaljusticeproject.co.nz](http://www.equaljusticeproject.co.nz).*



## Featured CPD

Tuesday  
22 September  
2015  
12pm – 1pm

1 CPD HOUR



Webinar

### A 'Capital Idea' – Getting to Grips with the New Residential Land Tax Rules

Taxing the gains from property speculation as a mechanism to cool down the overheated Auckland property market is a significant Government initiative with proposed new "bright-line" tax rules designed to take effect from 1 October 2015.

#### Learning Outcomes

Become familiar with:

- the new bright-line tax rules and what land transactions they apply to;
- any exemptions from the rules and how the rules interact with existing tax rules applying to land transactions;
- the nature of advice and warnings that will need to be given to clients in terms of reporting and other related obligations; and
- the rules that will capture transactions made through related-ownership vehicles.

#### Who should attend?

Property lawyers and legal executives, trust lawyers, commercial lawyers and general practitioners advising clients on property investment strategies.

*Presenter:* **Denham Martin**, Barrister

Thursday  
15 October  
2015  
4pm – 6:15pm

2 CPD HOURS



Seminar



Live stream

### Criminal Law Pot Pourri 2015

This year's Criminal Law Pot Pourri will traverse three significant topics: counter-intuitive evidence; the duty to cross-examine; and recent developments in the treatment of child complainants.

#### Learning outcomes

- Become more familiar with the nature and admissibility of counter-intuitive evidence and recent Supreme Court case law.
- Understand the duty to cross-examine prosecution witnesses, and the importance of briefs of evidence.
- Learn about the impending changes to how child complainants are to be treated and the likely problems for conducting, and therefore effectiveness of, cross-examination.

#### Who should attend?

All lawyers wishing to practise criminal law more effectively.

*Presenters:* **Ian Brookie**, Barrister, Sentinel Chambers; **Denise Wallwork**, Barrister, Liberty Law; **Ish Jayanandan**, Barrister;

*Chair:* **His Honour Judge Collins**

Wednesday  
30 September  
2015  
12pm – 1pm

1 CPD HOUR



Webinar

### Professional Disciplinary Tribunals: Achieving the Best Outcome

For many practitioners, the realm of disciplinary tribunals, which relate to numerous professional bodies, is somewhat of an unknown, particularly in respect of procedural matters. Because the livelihood and reputation of clients are involved, the stakes are high. This webinar will focus on a number of tribunals but not on those of the legal or medical disciplinary tribunals, although examples may be drawn from them and some of the content will apply to them.

#### Learning Outcomes

- Gain an understanding of common themes across a variety of frameworks and disciplines.
- Gain a better understanding of how a matter is dealt with, and the lawyer's role, at the various stages.
- Learn more about the procedures, rules of evidence and the possible outcomes of a hearing.
- Gain insights into how best to manage clients facing disciplinary charges and how to limit reputational damage.

#### Who should attend?

General practitioners and litigators who may be called upon to advise clients facing professional disciplinary investigations or charges.

*Presenters:* **Michael Hodge**, Partner, Meredith Connell; **Sam Wimsett**, Barrister, 22 Lorne Chambers

Wednesday  
23 September  
2015  
12pm – 1pm

1 CPD HOUR



Webinar

### PowerPoint for Lawyers: How to Enhance your Presentations

Studies show we only retain about 10% of what we hear after a few days and between 10% and 35% of what we read; but we retain about 65% of oral presentations supported by visual aids. Lawyers present to an array of audiences for a variety of reasons. Your use of PowerPoint can make or break your presentations. This webinar will show you how you can use PowerPoint professionally to maximise the impact of your address.

#### Learning Outcomes

- Learn how to use PowerPoint to enhance your presentation and how to avoid death by PowerPoint.
- Learn how to create templates; insert web links and integrate Excel graphs.
- Discover the most useful shortcut keys to help you create slide shows more effectively.
- Get a taste of some more advanced PowerPoint features: using Smart Art, animations and inserting video and audio clips.

#### Who should attend?

Lawyers with a basic knowledge of PowerPoint who want to use it to enhance their presentations.

*Presenter:* **Zureen Ali**, IT Training Analyst, Russell McVeagh



## CPD in Brief

### Property Law Pot Pourri 2015 – 2 CPD hrs

Tuesday 24 September 2015, 4pm – 6.15pm

This year's Property Law Pot Pourri will provide informative content on three important topics: the sale and purchase of units under a management agreement, easements and covenants, and the potential problems and solutions around Authority and Instruction (A & I) Forms.

**Presenters:** Denise Marsden, Partner, Alexander Dorrington; **Thomas Gibbons**, McCaw Lewis Lawyers; **David Chapman**, Senior Advisor, LINZ; **Chair:** Joanna Pidgeon, Principal, Pidgeon Law



### Statutory Interpretation: a 2015 Refresher for Lawyers – 1 CPD hr

Thursday 22 October 2015, 12pm – 1pm

Statutory interpretation is central to all lawyers' legal practice. This webinar aims to refresh lawyers' knowledge of statutory interpretation and to provide a principled approach to it, illustrated and supported by examples of classic and new case law.

**Presenter:** Ross Carter, Parliamentary Counsel, Parliamentary Counsel Office



### Business Sales: Warranty and Indemnity Fundamentals – 2 CPD hrs

Tuesday 20 October 2015, 4pm – 6.15pm

Managing and apportioning risk when buying or selling a business is critical. Appropriate warranties and indemnities are key to achieving an acceptable outcome. This seminar will provide best practice tips to help get the best result for your client.

**Presenters:** Joshua Pringle, Senior Associate, Chapman Tripp; **Kelly Quinn**, Barrister, Bankside Chambers; **Karl Dwight**, Partner, PwC; **Chair:** Geoff Hardy, Principal, Madison Hardy



### When an IP Disaster Strikes: Managing Intellectual Property Disputes – 1 CPD hr

Wednesday 14 October 2015, 12pm – 1pm

Infringement of a client's intellectual property rights often requires immediate action. A lawyer can be faced with a number of possible causes of action and procedural options. This webinar will discuss what intellectual property is capable of protection and how this protection can be achieved. There will also be detailed consideration of practical case studies covering typical IP infringement scenarios.

**Presenter:** Kevin Glover, Barrister, Shortland Chambers



## CPD On Demand

### Rural Law Series: Best Practice for Tailored Succession Planning

Rural properties (including farms) stand apart from other realty and income-generating assets in that they are frequently the culmination of lifetime investments, driving significant emotional attachment. These factors, together with the increasingly complex nature of families, mean that careful attention and expertise are required when advising such clients on succession planning matters. With focus on both legal and financial aspects, this On Demand webinar will equip lawyers with knowledge of how best to advise rural and farming clients according to their individual needs when planning their future, that of the farm and their children.

**Presenters:** John Adams, Director – Tax, KPMG, Hamilton; **Warwick Deuchrass**, Partner, Anderson Lloyd, Queenstown



### Drafting Better Pleadings

The ability to draft pleadings well is a core skill of any litigator and increasingly so given that pleadings have recently been re-introduced into the District Court. Commonly, the time needed to prepare pleadings is constrained by the lawyer's other competing priorities and the client's financial limitations. This On Demand webinar provides an opportunity for litigators to receive invaluable guidance from the Bench to assist in drafting better pleadings. Junior to intermediate civil litigators will benefit as well as those wanting a refresher. (This webinar presumes that attendees are familiar with the relevant District and High Court Rules.)

**Presenter:** The Honourable Justice Duffy



## CPD Pricing

Delivery Method	Member Pricing	Non-Member Pricing
Webinar	\$75.00 + GST (= \$86.25 incl. GST)	\$95.00 + GST (= \$109.25 incl. GST)
Seminar (in person)	\$125.00 + GST (= \$143.75 incl. GST)	\$180.00 + GST (= \$207.00 incl. GST)
Seminar (live stream)	\$125.00 + GST (= \$143.75 incl. GST)	\$180.00 + GST (= \$207.00 incl. GST)
On Demand (1-hour recording)	\$85.00 + GST (= \$97.75 incl. GST)	\$110.00 + GST (= \$126.50 incl. GST)
On Demand (2-hour recording)	\$95.00 + GST (= \$109.25 incl. GST)	\$130.00 + GST (= \$149.50 incl. GST)

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# CPD On Demand

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Continued from page 2, "A world on FIRE - Law News speaks to Professor Jane Kelsey"

"There was a letter signed by numbers of leading politicians internationally on this question [see <http://tppnocertification.org/> for more on this]. The US will not bring the agreement into force itself until we have changed our laws to what the US understands they should be. The US has used this process in the past to rewrite agreements, vet another country's laws, monitor their legislative process and to insist on US interpretations of vague wordings."

Professor Kelsey says the concerns about certification among legislators are difficult to assuage because of the paucity of available information about the actual negotiations: "The countries who are party to the agreement will not release documents (aside from the final text) for four years after it comes into force, and Minister Groser refuses to release anything under the Official Information Act, which we are currently taking on judicial review. So how will we know what pressure the US is bringing to bear on the writing of New Zealand laws?"

Professor Kelsey notes that the window for finalising the agreement is getting narrower and narrower because of the political deadline of the upcoming US elections. So some of these questions could become moot, at least for the time being, if the TPPA grinds to a halt of its own accord.

*THE FIRE Economy* was published in July 2015 by Bridget Williams Books (RRP: \$49.99, ISBN: 9781927247839). It is available in paperback and also available as an e-book. For more information, please visit the website for Bridget Williams Books at [www.bwb.co.nz/books/the-fire-economy](http://www.bwb.co.nz/books/the-fire-economy). 

Continued from page 3, "Cloud computing - electronic retention and tax reporting"


Accordingly, firms considering the Cloud as a paper-saving technology need to rethink this idea and realise that Cloud services will not reduce their requirement to maintain physical paper originals of client transactions. How the Cloud can be best utilised is very dependent on the particular law firm or client's activities and a review of the software applications against current workflow and current software used should be undertaken to provide the best answers to any Cloud service deployment.

One example of a carefully considered move to the Cloud is that of UK firm Stephens Scown, which has some 230 users based in three offices in Devon and Cornwall. Stephens Scown implemented the Cloud for ease of access to files across the firm's international locations, better collaboration, note review and annotation, file review and software upgrades. The firm saw savings in downtime waiting on parties to engage with a file and time savings in software upgrade deployment. On the other hand, a small firm with one office may find that the cost in duplication of physical records to the Cloud simply decreases efficiency and time spent.

These two small examples highlight the need for firms to consider carefully whether the Cloud provides the right solutions for their needs and will be discussed in more depth in the final article of this series.

#### Result

Legal requirements for record retention under the Revenue Acts and the ETA give rise to a number of considerations when moving solely to an electronic format and/or Cloud storage system. Despite this, having electronic storage and delivery with Cloud applications can still save firms, accountants and taxpayers on costs, search time and offsite access. When services are combined with note-taking, reporting, scheduling and project management, the savings can be extended into reduced cost for service delivery and customer satisfaction. This is, however, subject to the crossover expenses of archiving, printing, and using a duplicate system of scanning and entry.

While Cloud computing provides potential cost savings and possible increases in efficiency, it comes with a heavy burden in retention requirements that have to be weighed carefully against the business' activities. Firms, and firms advising clients, should carefully consider the duties of compliance when looking to make a move to the Cloud. 



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John George DOBSON, late of 133A Henderson Valley Road, Henderson, Auckland (DOD unknown)

Potuhtemokatama DOBSON, late of 133A Henderson Valley Road, Henderson, Auckland (Died 11'2012)

William Christopher GAGE, late of Manurewa, Auckland, Aged 53 (Died around 17'07'2015)

James William HARDY, late of 4/84 Namata Road, Onehunga, Retired, Aged 84 (Died 01'08'2015)

Maurice William LAURSEN, late of 16L Ngaio Street, Orakei, Auckland 1071, Care Giver, De Facto, Aged 65 (Died 24'07'2015)

John Craig REID, late of Takanini Lodge, 11 Taka Street, Takanini, formerly 11 Howden Street, Waiuku, Aged 79 (Died 11'08'2015)

Lynia Eileen TOMA, late of 32 Armagh Road, Blockhouse Bay, Auckland, Aged 70 (Died 23'08'2015)

Sosefina VAOLIKO (aka Sosefina SALANOA), late of Hutchinson Road, New Lynn, Auckland, Aged 56 (Died 29'07'2015)

Thomas Francis WEDLOCK, late of 87 Duck Creek Road, Stillwater, Auckland, Aged 59 (Died 30'08'2015)

Lois Gloria WEEDALL, late of St Andrews Village, Auckland, formerly 39 Liverpool Street, Epsom, Auckland, Aged 89 (Died 13'05'2015)

Roderick Ormiston WHATMOUGH, late of 5A Parahaki Street, Whangarei (Died 27'07'2015)



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