

NEW ZEALAND

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PROPERTY PROFESSIONAL

MAGAZINE

SIX PILLARS: Building a strong foundation

Regulation of residential
property management

A LOOK AT PROPERTY RISK

The changing toolkit of the
property consultant

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NEIGHBOURS' RIGHTS**

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SEEKING RELEVANCE IN A CHANGING WORLD

Thank you to those of you who have called or emailed to express kind words of support and appreciation following the announcement of my intention to leave the Institute.

I've enjoyed most of the past four years – and I'm immensely proud of what we've achieved. When I reflect back on the position that PINZ was in when I took up the role of CEO in 2014, it's remarkable to see how far we've come. PINZ was facing significant internal challenges, as well as looming deregulation of the Valuation industry and uncertainty about our 'place' as a membership organisation – and two of the main priorities I was set were to give clarity to our direction and to raise the profile of the Institute. Both of these challenges stemmed from a lack of organisational confidence (an issue faced by many organisations) – and both could be summed up in one aspiration: we wanted to be relevant.

That's why making us relevant has been the focus of my four years at the helm – and we've achieved it. We're now, very much, at the centre of commentary on property issues in New Zealand – and our brand, which just a few years ago wasn't even strong among property professionals, is now familiar to the industry and the general public, alike.

People now know who we are and why we exist – and as a result, we're starting to see the fruits of that profile. Our views on issues facing the industry are listened

to, and respected, by decision-makers and stakeholders; our individual professional communities have a new-found confidence to achieve more on behalf of their members – and we're starting to grow. The recent integration of the Independent Property Managers Association, into PINZ, is an example of this and is simply the early stages of what I am confident will be a strong period of membership growth in the years ahead.

So, having achieved most of what I came to the Institute to do, it's time for me to move on. As a 'change manager' my focus will always be on introducing big change and rebuilding organisations from the ground up – and these are no longer the skills that PINZ needs. In the years ahead the organisational focus will move to the fine-tuning of processes to streamline growth, manage delivery and consolidate gains – and my departure will provide the Board with an opportunity to place the next stage of our development in the hands of someone better suited to those functions.

However, that doesn't mean that the big issues facing our industry are now behind us. In a very real sense, PINZ will continue to face the same challenges that you do as a Property Professional – and the services which it provides must continue to provide answers to the questions that you should be regularly asking of yourself and of your business: 'who am I?', 'what's my purpose?', and 'why do I matter?'.

Finally, there are so many people to whom I owe an enormous debt of gratitude – too many to mention – but I do want to single out my friend and past PINZ

President, Blue Hancock for his support over my four years as CEO; my mentor and sounding board, former PINZ President Greg Ball for his always sound guidance and depth of wisdom; and my very capable Wellington team, particularly my loyal and tireless friend, Jenny Houdalakis.

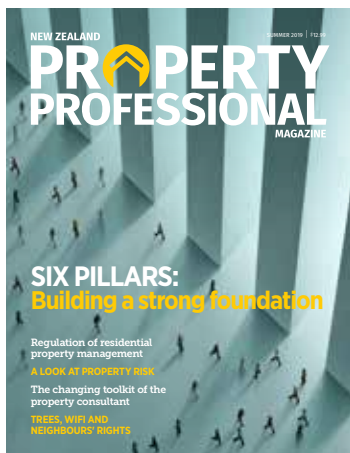
I hope to see many of you again before I go – but if I don't, please feel free to contact me at any stage in the future. My mobile number (027 486

1770) will remain the same – and I can be reached, at any time, on ashley@nzemail.com or by connecting with me on LinkedIn.

Once again thank-you all for the support and kindness you've extended to me over the past four years – and all the very best for your future 🙏



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The national conference is a highlight on the networking and CPD calendar for PINZ members

Building from a strong base

The Property Institute of New Zealand has come a long way since it was established in 2000.

PINZ has more than 2,000 members working in a broad range of fields throughout New Zealand and the world. It is now a leading media contributor and commentator on the property industry, fostering debate, and providing advocacy and representation on topical subjects and relevant issues.

The organisation was formed to act as the voice of property professionals and incorporated the membership of the New Zealand Institute of Valuers (NZIV), the Institute of Plant & Machinery Valuers (IPMV), and the Property & Land Economy Institute of New Zealand (PLEINZ).

These days, its membership is mostly made up of Valuers, Commercial Property and Facilities Managers, Property Advisors, Consultants, Residential Property Managers, and Infrastructure, Plant & Machinery Valuers.

However, over time it has also attracted a number of other professionals, such as property lawyers, investors and developers, with further broadening of the membership base still underway today.

PINZ offers a range of benefits, products and services to members, including regular research, publications, networking, online resources and continuing professional development (CPD). It also publishes this magazine, *Property Professional*, which is distributed free to members.

The Institute is a leading professional body for standards, qualifications and ethics, and works with government, industry and other groups to promote its standards and views.

Our members play an active role in promoting professionalism, ethical conduct and innovative thinking.

Where PINZ started

When PINZ was established it developed a comprehensive set of 11 objectives, many of which are as relevant today as they were nearly 20 years ago.

- 1 National organisation:** to provide a national organisation, branch and professional community structure for property professionals in New Zealand and promote PINZ and its members to the public and to the property industry
- 2 Provide strategic planning and management:** to provide strategic planning and management to give effect to the objects of PINZ



A foundation for the future

Promoting property as a career is an important priority for the Institute

- 3 **Property-related interests:** to protect and promote the professional interests of property professionals in relation to property matters in a manner consistent with the interests of the public
- 4 **Encourage ethical conduct:** to promote ethical professional standards and encourage ethical conduct by property professionals
- 5 **Dispute resolution:** to provide a means for the amicable settlement of professional differences between or with property professionals, including appropriate disciplinary procedures
- 6 **Education:** to facilitate and promote the continuing education of property professionals, and to foster relationships with tertiary education providers teaching property courses for the purpose of ensuring the appropriate education of persons training to become property professionals
- 7 **Support graduates:** to foster the interests of graduates in property-related disciplines and enhance their job and career prospects
- 8 **Law reform:** to consider, promote and lobby for amendments to laws pertaining to property and related subjects and to initiate and lobby for law reform to meet the changing needs of the property industry and to produce efficient and effective outcomes for property professionals and the public
- 9 **Strategic alliances:** to foster strategic alliances with appropriate organisations in order to promote and enhance the knowledge base and reputation of PINZ and its members
- 10 **Encourage networking:** to encourage networking among members and other professional property-related organisations in order to enhance the business of members and their professional standing in the community
- 11 **Other objects:** to do all such other acts, matters and things as in the opinion of the Board may be incidental or conducive to the attainment of any of the foregoing objects and to the promotion of professional property standards.



Economist Paul Bloxham speaks at the successful 2018 Annual Conference



Networking and fellowship are the second pillar of the PINZ Six Pillars strategy



PINZ plays an active role in industry advocacy and leadership and communicates regularly with Housing & Infrastructure Minister Phil Twyford among others

Since then, those objectives have been refined into what the Institute now calls 'The Six Pillars', which provide the foundation for the work PINZ is focused on today.

1 Status and standards

Status is about the things we do to position ourselves as the benchmark by which professionalism in the property industry is measured. Our challenge is to evolve into an organisation that sets the standard for the property industry and in which membership is viewed as an essential element of professional status.

Current initiatives

- The PINZ Membership Advancement Programme:
 - Affiliate to MPINZ
 - MPINZ to SPINZ
- Member recognition activities:
 - The Annual Professional Awards Programme
 - The Fellowship Programme
 - The Life Membership Programme
 - The Annual Awards Ceremony
- Management of standards
 - Minimum membership criteria
 - Development of professional standards
 - Adoption and exposure of professional standards
 - Management of an Ethics Programme
- Quality assurance and accreditation
- Professional collaborations

2 Networking and fellowship

Networking is recognised as one of the primary reasons that professionals join professional organisations. Our challenge is to reach a point where attendance at a PINZ networking event is seen as a mark of distinction and an essential indication of professional status.

Current initiatives

- Annual conferences
- Regional network events
 - Keynote meetings
 - Branch events
 - Membership promotions
- Study tours

3 Technology and innovation

Technology and innovation are about preparing PINZ for the future. It includes collecting data and using it to accurately anticipate emerging professional trends. Our challenge is to prepare our members for coming trends and to be at the forefront of technological, economic and social change.

Current initiatives

- Annual member surveys
 - Needs Assessment Survey
 - Satisfaction Survey
 - Bespoke surveys
- Public polling (through Curia)
- Research partnerships
 - PINZ / Valocity Regional Insights Report
 - A future commercial report
- Projects focused on the future
 - The Young Leaders Programme
 - An Internship Programme
 - Women in Property project



Property Professional magazine is a strong part of the PINZ brand



Lifetime learning and education are critical parts of the Institute's drive to elevate the status of members

4 Promoting the industry

Promotion of the industry is about the things we do to project the property industry – and particularly the professions that we represent – in a positive way. Our challenge is to increase career participation in our professions and raise public confidence in the services provided by members.

Current initiatives

- Media engagement
 - Topical releases
 - Responses to enquiries
- Digital communications
 - Member newsletters
 - Social media
- Professional marketing
 - Community branding
 - Property Professional magazine
 - Professional Websites (PINZ and NZIV)
 - Propertyjobs.co.nz
 - Careers expos
 - Targeted advertising

5 Lifetime learning

Lifetime learning is about providing robust, relevant and engaging education – within an easy to understand framework – to enable professionals to comply with their professional obligations while continuing to enhance their practical and theoretical knowledge.

Current initiatives

- CPD programme management
 - Programme development
 - Webinars
 - Seminars
 - Site visits
 - Modules
 - CPD compliance
- University degree accreditation

6 Leadership and advocacy

Leadership and advocacy is about those things which enable the Institute to establish, and maintain, a position from which it can influence the shape of policy and change through informed opinion, robust submissions and regular engagement with key decision-makers.

Current initiatives

- Opinion leadership (primarily through media)
- Ministerial interaction
- Legislative submissions
- Stakeholder engagement

Watch this space

The Six Pillars are a framework for growth. As recently as October the Board of the Property Institute held a meeting to further refine and shape the strategic direction of PINZ, setting priorities for the years ahead 🔄



TWO STEPS NEEDED TO REGULATE THE RESIDENTIAL PROPERTY MANAGEMENT INDUSTRY

DAVID PEARSE

No quick fix

Let me start by saying that regulation and/or licensing of the residential property management industry must happen. Every week there are stories about private landlords or property managers failing to meet their responsibilities. Anglican Advisory and Renters United have represented tenants who feel that they have not been given a 'fair go'.

The discussion then becomes one of how to regulate or license the industry. It appears that most are seeking a 'quick fix' by suggesting that residential property

management be brought under the Real Estate Authority (REA). This is extremely simple but will not solve the real problems that need to be addressed.

Property managers manage 34% of private rental houses

What real impact will regulation have when property managers are regulated, but 66% of rental properties and tenants that are managed by private landlords are not (2013 Census)? As a property manager for 20 years, I have continually had to take over the management of properties from

private landlords who found out that being a landlord is not as simple as collecting rent or doing the occasional inspection. Even last week I had to get an owner to lodge a bond for the tenancy as it was never done. Talking with my peers in the industry, we believe that 50% of private landlords do not lodge bonds with Tenancy Services.

Ignorance about the Residential Tenancies Act 1986 amendments passed in 2010 is still extremely high. I regularly come across cases where private landlords are living in Australia. The last case was a private landlord living there and who was

thinking about a property manager as he was moving to England. He had not lodged a bond and was not keeping a rent record. This is not an extreme or rare case.

Ignorance about the Residential Tenancies Act 1986 amendments passed in 2010 is still extremely high.

My daughter rents a property in Wellington and when visiting I noticed that there were no smoke alarms. I asked if she had seen an ingoing condition report for the tenancy and she had not. So I then asked if she had been given an Insulation Disclosure and all she had received for a record of the tenancy agreement was a photo of the front page. I suggested that she check that the bond had been lodged and she found it had not. Hers is not an isolated case.

I have produced an e-book entitled *What Landlords Need To Know* as the reality is that most have very little knowledge when it comes to the Residential Tenancies Act, let alone the new legislation impacting on residential rental properties such as the Health and Safety at Work Act 2015 or the Asbestos Regulations. Also to come are the Healthy Homes Guarantee Act and the Residential Tenancies Amendment Act No 2, which landlords will need to be aware of.

Step one – regulate 100% of landlords

Any regulation and/or licensing must cover 100% of landlords (private and property manager) for there to be any real improvement to the industry. How can the Ministry of Business, Innovation and Employment (MBIE) provide education and enforce compliance by landlords if they do not know who they are? The current system is that they only know about landlords who have lodged bonds.

This must be the first fundamental change to improve the residential property management industry and countries like Wales have already led the way in this area. Rent Smart Wales (www.rentsmart.gov.wales/en) is an example of a government bringing in licensing of all landlords. This allows them to know who the landlords are and ensure they have sufficient training. Rent Smart Wales also has strong enforcement powers. The bottom line is that if any landlord offends they can lose their licence to be a landlord.

Step two – Develop residential property management as a standalone profession

Those of us who have been in property management for a long time are very aware that our sector is often seen as a poor cousin to real estate sales. I have attended numerous real estate conferences where the chief message was that the two reasons to have a property management service were:

1. To have income to cover expenses when sales are down; or
2. To sell 10% of the rental portfolio each year as you make 10 times more money selling properties than managing them.

Those of us who have been in property management for a long time are very aware that our sector is often seen as a poor cousin to real estate sales.

I have spoken at length with real estate property managers who are expected to manage too many properties and are physically unable to do the job properly. The last survey undertaken in Australia showed that the average length of time in

the job for a real estate property manager was seven months.

At a property management conference I attended in Brisbane it was good to see in Australia the emergence of specialist property management companies who appeared to be a breath of fresh air to the industry there, which has been regulated by the real estate industry.

In New Zealand we have some passionate independent property managers who are leading the way with providing a quality property management service, and this could be lost by regulation under the REA.

With the coming together of the Independent Property Managers Association and the Property Institute we have the basic ingredients for this to happen. The Minister of Housing Phil Twyford has said that regulation of the residential property management industry is unlikely to happen in this term of the Coalition Government. This will possibly give this group two years to develop a professional industry group to lift the standard of residential property management in New Zealand. It would be a dream come true to see the industry come out from the shadows of real estate 🙏



David Pearse is Franchisor of Pukeko Rental Managers in New Zealand, a franchise with a unique method of providing property management services.
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The team at the Property Institute of
New Zealand would like to wish you
all a very *Merry Christmas* and a
prosperous New Year.



PROPERTY
INSTITUTE

PROPERTY RISK

Saving New Zealand Inc.

MELISSA HEATH



Climate change brings increased flooding

In August this year Melissa Heath presented a webinar hosted by the Property Institute called 'Understanding Property Risk'. The feedback was overwhelmingly positive and most comments were along the line of, 'That makes perfect sense – why haven't we done this already?'

This article covers what is happening with property risk in New Zealand. But first, a quick overview for those who may not have had an opportunity to view the webinar yet.

Christchurch Earthquake Sequence

The Christchurch Earthquake Sequence (CES) was a pressure cooker environment for learning, and on a daily basis for seven-and-a-half years I had every opportunity to examine the causes for the damage inflicted on the buildings of Christchurch. The single most important take away was that *where* a building was situated directly impacted the level of damage inflicted during the respective earthquakes.

It wasn't simply a case of distance from the epicentre as one would expect. It directly correlated to the land conditions under (and around) the structure in question, be it liquefaction, rock fall, cliff collapse, landslide, boulder roll, other structures, or any number of other hazards nearby.

A saving grace was that the offshore quakes of June and December were not large enough to generate tsunamis, as that would have added to the list of hazards that had already bitten property owners.

Everyday versus slower hazards

Also, over my years of experience in disaster recovery I have observed equally horrific damage to property built in the path of 'everyday' hazards such as flood, fire, landslide and storm surge. I saw enough to understand what would happen in lahar, ash and lava

events. Similarly, the slower events are pretty awful too – coastal inundation and erosion, mass land movement, subsidence and tomo appearances. These are perhaps more financially destructive for property owners, as there is no insurance cover for slow and predictable events. They are specific exclusions to insurance policies.

Essentially, the grief, frustration and devastation that overcomes affected property owners for *years* after these events is largely avoidable.

New insurance pricing regime

Right now, New Zealand Inc. is caught in a trap. The increasing frequency of natural disasters, combined with increasing costs to reinstate the damage wrought, is beginning to overwhelm our longstanding, world class ... and *cheap* ... insurance cover. In April this year, a new regime of insurance

The increasing frequency of natural disasters, combined with increasing costs to reinstate the damage wrought, is beginning to overwhelm our longstanding, world class ... and cheap ... insurance cover.

A lot of property has had cover that will in the coming years be found to be unaffordable – or simply not offered. This will instantly impact the market value of the affected property.

cover was introduced to New Zealand – risk-based pricing.

A lot of property has had cover that will in the coming years be found to be unaffordable – or simply not offered. This will instantly impact the market value of the affected property.

Also, the economic impact to New Zealand from a disaster where there is not enough insurance cover is too dire to dwell on for too long.

Increasing number of properties

And so, to today ...

A firestorm of interest has been ignited, along with a desire for more information and a path forward. Not only in the sphere of valuers and property investors, but with banks, reinsurers, academics, local government, and now central government. I am pleased to report that so far the message is being heard and propelled higher and higher up the policy-making chain. There is clearly an urgency once the message is heard as it was only April this year that I seriously began to broadcast my message.

There are 1.7 million homes and 250,000 other buildings (both commercial and industrial) in New Zealand. The value of residential property in this country is over \$1 trillion and commercial property is a 10th of that. Each property carries (or should carry) insurance cover. There are about 800,000 mortgages on residential properties in any given year, turning over at an average of 130,000 new mortgages a year.

There are also more than 40,000 consenting applications made to councils

each year (for residential and commercial), which could be for new builds, repairs, renovations, extensions and land improvements. Applications are also made for change of use for existing buildings. Homes are converting from residential dwellings to short and long-term rentals.

Help needed for risk assessment initiative

I mention these as they are valid points of capture for triggering a requirement for a property risk assessment, and I am working with interested parties to see if this can become a requirement through legislation. I am still firmly of the opinion that valuers and loss adjusters are the best people to complete these assessments.

For example, a risk assessment required at the time of a mortgage application (and I am proposing an easily interpreted reporting system) would let a buyer make informed choices. It would also give the lender confidence in the security of the asset mortgaged. Also, over time (perhaps within a decade), the property market would move of its own accord away from riskier property towards safer investments. These reports are being developed with input from the banks and local councils who most benefit from the reports.

Process, programmes and training is currently being developed and is progressing apace. A pilot project is proposed and could be completed early next year. Other matters are currently being discussed with the Ministry of Business, Innovation and Employment (MBIE).

Your contributions are valuable, and I urge you to get in contact with your ideas if you are interested in being part of this audacious project. The goal is to assess 170,000 properties per year. Local government have indicated they would like properties to be assessed every 10 years so this would be a permanent industry. We will therefore need a lot of assessors.

We Kiwis are an innovative bunch, and this project seems to be a world first. I would love you to be part of a team of committed suppliers who play a most important part in making New Zealand more resilient in times of disaster. Although there is still a way to go yet to get this initiative embedded and underway, there is clearly a will demonstrated. I'm now navigating a path forward. Your support is most appreciated 🙏



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AML/CFT COMPLIANCE

Implications for property professionals

NICHOLAS GILMOUR

In 2017, New Zealand approved legislation to implement changes to prevent and detect money laundering and terrorist financing. By updating the 2009 Anti Money Laundering Act (the Act), New Zealand more closely aligns itself with global expectations, particularly in the fight against organised crime and terrorism. This article looks at issues surrounding this area.

Image permission: Nicholas Gilmour

Financial institutions and specific business sectors are now required to undertake specific anti money laundering (AML) activities, such as know your customer (KYC), customer due diligence (CDD) and customer profiling (CP).

Terrorism financing

What the new legislation now means for those who live and work in New Zealand depends on who you ask. Some say it means more controls and increased costs to business, while others suggest it introduces a simple straightforward and formalised process for all.

Money laundering has been an activity undertaken by criminals for many centuries. The process of money laundering provides opportunities to benefit from illicitly gained funds, while at the same time incentivising the overall profitability of crime.

More recently, terrorism financing has drawn significant global attention, not only driven by events leading on from the 9/11 attacks, but also the nexus that exists between organised crime and terrorism. The challenge with detecting terrorism financing is that the amounts of money are typically smaller and are not necessarily derived from crime. It is only its use (terrorism) that assigns it to criminality.

Role of the Financial Action Task Force (FATF)

The approaches to preventing these activities have been the subject of global discussion for many years. Driven by the FATF, various methods have been introduced to detect and prevent the typologies or methods through which money laundering and terrorism financing can be undertaken.

Financial institutions and specific business sectors are now required to

undertake specific anti money laundering (AML) activities, such as know your customer (KYC), customer due diligence (CDD) and customer profiling (CP). Such activities can lead to the need to also report to individual country Financial Intelligence Units.

Role of the New Zealand Act

In this country, Phase 2 of the Act has been driven by New Zealand's obligations to meet the expectations of FATF. With a forthcoming Mutual Evaluation Report in 2020, and the New Zealand Government's reaction to the Panama Papers, New Zealand Inc. has passed legislation to bring this country up to the international expected level for fighting money laundering and terrorism financing.

The updated Act seeks to further strengthen the preventative opportunities by expanding the AML obligations of a greater number of business sectors.

The Act now covers what have been labelled professional gatekeepers because of the role they play in providing authenticity to activities such as opening trusts and facilitating the purchasing of valuable assets, including homes and businesses. They include lawyers, accountants, real estate agents and some high value dealers, and the New Zealand Racing Board.

To ensure these sectors are captured, the Act provides under section 5(1) a series of activities that, if conducted, mean the

business becomes a captured entity under the Act. Businesses covered by one or more of these activities face a series of AML obligations.

Business risk assessment

The business risk assessment (BRA) is the initial requirement. It establishes a benchmark for the business allowing it to recognise and record its risks to/ of facilitating money laundering and/or terrorism financing. The AML programme follows on from the BRA by identifying how the risks will be addressed by the business and how AML activities will be implemented.

Customer profiling also needs to take place by those businesses captured under the Act. This requires the business understanding their customers, their requirements and the activities they are likely to undertake, and to then establish parameters in which they can be effectively monitored. Once profiled, those customers determined as high risk can be monitored more easily on an ongoing basis set by the business.

The monitoring of transactions is also required. The frequency will depend on the business and the risks it carries through the services it offers. This practice allows the business to detect suspicious activities and report accordingly.

Politically exposed person (PEP) screening and sanctions screening are also required. Several large and continually maintained databases exist to help



businesses meet their obligation to deal with those who are identified as PEPs and countries on which sanctions have been placed.

Coinciding with these sanctions is the need to identify and address geographical risks associated with activities in regions across the globe. This includes threats from corruption, serious and organised crime and terrorism.

Reporting suspicious activities is a further obligation on reporting entities. Suspicious activity reports (SARs) represent a significant change to former reporting of transactions only. Now businesses covered by the Act need to report all activities considered suspicious, even if a transaction has not taken place. Importantly, the Act sets out that a reporting entity must not 'tip off' a person on which a SAR is to be submitted.

Domestic physical transactions over \$10,000 and international transfers over \$1,000 are captured by the prescribed transaction reporting (PTR) obligation. PTRs need to be documented in a formal manner and supplied to the New Zealand Financial Intelligence Unit via GoAML.

What property professionals need to know

With so many obligations for businesses captured by the Act, how should this be broached by property professionals? There are several initial steps which property professionals can undertake to assess their

obligations. First, businesses should review the Act's applicability to their business. Is their business captured by the Act through the activities it undertakes? If unsure, a business should contact the Department of Internal Affairs (DIA) for clarification.

If a business is captured because of the activities they undertake, they should then determine their obligations. If a business is not captured, ongoing monitoring should still take place, with a regular review of the Act, any future changes to the Act and/or changes to the services which the business provides. Changes may lead to the business still becoming a reporting entity in the future.

The next steps to developing a long-term AML compliance practice are to:

1. Ensure the correct people are in place
2. Make sure training is provided
3. Determine obligations for independent audits
4. Ensure the correct AML culture exists
5. Set policy and procedures
6. Determine language for declining relationships with clients or potential clients.

As a property professional you are not alone and help is available. Although there is guidance provided by the DIA, maintaining AML compliance is important, and property professionals and businesses may consider the options now available in New Zealand. These include AML outsourcing, web-

based solutions for completing BRAs and AML programmes. Further options include services to manage customer profiling and transaction monitoring.

Finally, as a reporting entity, failure to meet obligations has significant consequences. The starting figure for enforcement action by the DIA for failure to compile the initial BRA is set at \$2 million 🐼



Dr Nicholas Gilmour is an Executive Consultant at AML360. He is a former Senior Advisor involved in the development of the AML Act which formally introduced gatekeepers. Nicholas works with businesses and professionals to assist them in meeting their AML obligations and can be contacted through www.AML360.co.nz



THE CHANGING TOOLKIT

of the property consultant

VAUGHAN WILSON



Drones are improving all the time with modern versions now flown by smart phone. They can fly at very fast speeds and at great heights and their price has also dropped markedly.

This article looks at some of the growing number of tools available to property consultants to assist their clients.

Speed of change

Our property consultancy Wilson Hurst began in 2006 and has since evolved into a thriving business of over 35 professionals providing property advice and services to corporates, private companies and government entities. We have carved out a specialty in achieving various forms of tenure for our clients, particularly in the telecommunication and wind farm industries.

Over that time the tools available to us to achieve our client's objectives have changed remarkably. This has gone from what effectively was the telephone and White Pages, not to mention a lot of shoe leather and driving plenty of miles, to a fully integrated online and desk-based investigation and on-site analysis using technology we could only dream of a dozen years ago.

GPS

Global positioning system (GPS) receivers provide the user with a high level of site accuracy that even early users of the technology could not attain. GPS was originally developed in the 1970s by the US Military for military applications. It was first operational in 1978 and has since then become a staple in non-military applications and hardware.

Your cellphone relies on GPS for much of its basic functionality. Originally GPS had a built-in inaccuracy (known as SA – Selective Availability), which meant GPS outputs were purposely inaccurate by as

much as 100 m, depending on the location. This inaccuracy was built into the satellites to thwart those groups or individuals who sought to use GPS for terror and violence. This SA has now been withdrawn and the latest GPS satellites cannot carry out this function. This has resulted in incredibly accurate readings by users around the globe. The US Military (Airforce) continue to upgrade the GPS satellites with new models and more of them to improve the accuracy and reliability of the system. The US Airforce is preparing to use SpaceX for the next set of launches in late 2018.

GPS can be used with some of the following technologies to further reference the exact location desired and then be easily located on maps, cadastral software and, of course, for the property consultant when on-site.

Drones

Drones or unmanned aerial vehicles (UAVs) have been around for some time and, as with much of the technology we enjoy today, their applications were initially military. The first recorded use of an UAV was on 22 August 1849 when Austria attacked the Italian city of Venice with unmanned balloons that were loaded with explosives. The technology was used in World War 1 and again in World War II. Today the US Military leads the way in high-tech military applications.

These advances in drone technology have resulted in more commercial drones and applications that are only limited



Theodolite app

by people's imaginations, budgets and the lifting capacity of drones. Drones are improving all the time with modern versions now flown by smart phone. They can fly at very fast speeds and at great heights and their price has also dropped markedly.

Several negative outcomes have come from their popularity – one is the risk to air traffic. The Civil Aviation Authority have been quick to establish rules for drone operators to ensure they do not conflict with private and commercial air traffic. People's privacy has also been invaded by drones, and these aviation rules are also designed to remove this negative element and prevent them being used for the invasion of private property and privacy.

However, a property consultant can now use this technology to provide video and still imagery on a plethora of locations and situations that were previously prohibitive or costly to access. In former times we hired aerial cameras or cranes to gain the height for photography. Now engineers can inspect roofs and inside structures with relative ease and safety. Drones can be set to fly at a certain height above the ground to provide

the user with an exact bird's eye view of what can be seen and what elements in the landscape may interfere at certain heights.

Smart phones

Smart phones have allowed the property consultant an infinite toolkit of applications, many of which are free. The humble camera has for many been replaced by the in-built camera on their phone, capable of taking quality photos in most light situations. We still use high-powered lenses on SLR-type cameras for identifying faraway point-to-point locations, but otherwise the smart phone allows a quick and easy repository of photos and a simple method of sending these instantly.

Similarly, there are other applications we use that are embedded in the smart phone, such as theodolites providing altitude and compass positioning. Laser measuring is also possible with the latest generation of phones and a small attachment.

Even the commonplace Facetime can provide others with an on-site view if the property consultant is at a property.

This allows for quick decisions which can save thousands of dollars in travel and time delays.

GIS and geospatial information

A geographic information system (GIS) is designed to capture, store, manipulate, analyse, manage and present all types of geographical data. This technology is built around geography, meaning that some portion of the data is spatial. GIS users can operate with either built-in software or a Cloud-based content management system for maps, applications and data. The authoritative content uses web and mobile applications that are typically easy to use and freely available.

Geospatial information, also known as location information, describes the location and names of features beneath, on or above the earth's surface. In a very simple format this can mean the basic topographical information found on a map. More complex versions can include different location-related datasets combined into layers that show information such as land use, common statistical information like

population density, and other data sets such as seismic history.

Possibly the first example of basic geospatial information being combined with other layers of information dates back to 1854. A British physician, John Snow, plotted individual cases of cholera on a map during an outbreak of the disease in London. This enabled him to trace the source of the outbreak – a water well that was becoming contaminated from sewerage entering the water table. From his findings the great London sewer system was designed and constructed, the first of its kind.

Geospatial information supports a wide range of business, government and community activities. This includes helping emergency services locate addresses and other important information so they can quickly respond, and for the government to decide where to build critical services like a hospital or a new school.

Geospatial information is widely used in New Zealand and already contributes over \$1.2 billion a year to the economy. Geospatial information is already embedded into this country's knowledge

infrastructure. It enables innovation and better decision-making and is a large part of district and regional councils' supporting databases.

Today the technologies and systems that enable geospatial information to be used are evolving rapidly and the range of applications for this kind of information is ever-expanding. I am aware of at least one large property consultancy in New Zealand investing millions into its own in-house geospatial Cloud-based system. It will provide the user with a wide range of information on any one geographical point in the country and will interlink with the New Zealand Census information and other data sets.

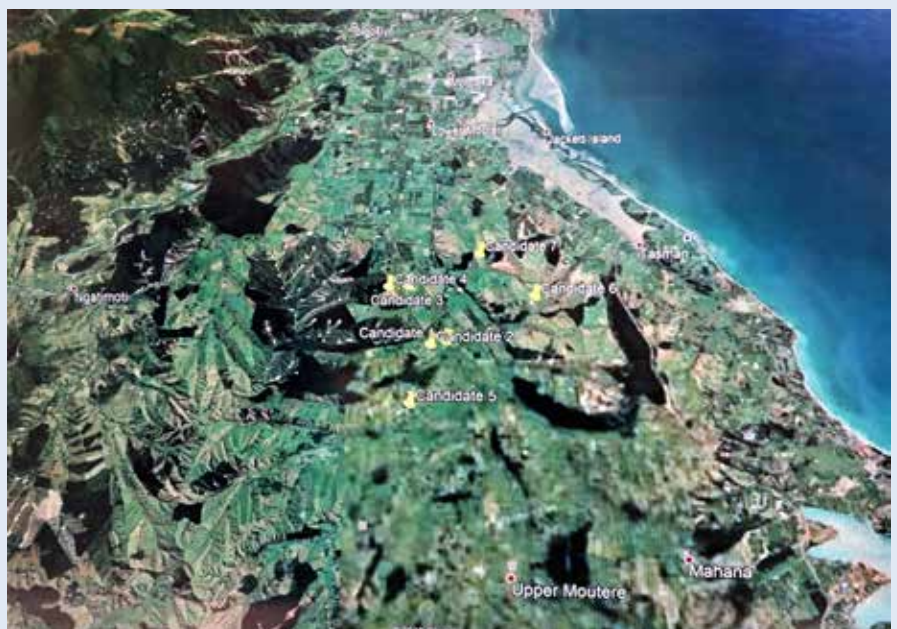
The Census took place in March 2018, but the data will not be available until 2019. When it does become available it will allow a more up-to-date set of data to be included into geospatial systems. Imagine putting your cursor over a position on a map (such as the intersection of Willis Street and Lambton Quay in Wellington) and being able to easily read the average age of the buildings, the average income

of the people passing this intersection on a Monday, the seismic risk of the land beneath the street, and a photo of each building now and over each of the last 15 decades.

Probably the biggest game changer has been the one most people take for granted – Google Earth and Google Street View. Both these free applications provide an almost infinite set of information on properties in New Zealand, both from a legal standpoint through to the physical, including surrounding properties, topographical environments, physical environments and visuals on the subject site.

KMZ file formats can be directly embedded into reports to provide the reader with a direct reference in Google Earth to the subject area, along with customisations of this area such as thumb tack site references. GPS coordinates can be gleaned from any cursor location, and side topographical views can be studied to provide the user with relatively accurate altitudes across a cross-section of two points. This is particularly important in determining if a line of site is physically

Today the technologies and systems that enable geospatial information to be used are evolving rapidly and the range of applications for this kind of information is ever-expanding.



Google Earth with site overlays

There are several excellent cadastral software packages on the market, providing the user with a plethora of information on every property in New Zealand including coordinates, landowners, boundary measurements, topography, sales data and much, much more.



Cadastral software

possible before visiting a location for microwave links.

Both applications have limitations, depending on how old the satellite imagery and the street view photography are, but for most areas of New Zealand they are relatively current. Street View does not provide views on private land or private roads (e.g. within ports), but for most users it is a valuable tool that seemed impossible only a short time ago.

There are several excellent cadastral software packages on the market, providing the user with a plethora of information on every property in New Zealand including coordinates, landowners, boundary measurements, topography, sales data and much, much more. These packages are usually updated regularly, providing the latest sales information, subdivided parcel changes and landowner changes. There are links giving a view of the properties and their cadastral boundaries onto Google Earth as an overlay, further enhancing the use of both applications.

What3words is a free application that has carved up the entire planet into 3 m x 3 m squares and denotes each of these

with a three-word reference. We currently use this instead of GPS coordinates to provide an easy reference to a semi-specific location. Future applications will include highly accurate automated delivery, such as with drones and automated cars that deliver to a specific spot rather than to an address, which can be less than specific in terms of letterbox and front door locations, or differentiating apartments from one another, etc.

What will the future look like?

Technology is so interwoven with our everyday activities, whether it be work or play, that we seem to be oblivious to the continuing leaps of change and improvement. The changes happen so quickly and our abilities to adopt and accept are so seamless in our subconscious that the advantages in time, cost and complexity are blurred. We quickly forget what it was once like to use 'old school' technology, and instead grab the new and run with it until it itself is surpassed.

Where the technology is going in the future is only limited by one's imagination. What the property consultant's toolkit

will look like in 10 years' time is hard to say. Virtual reality will no doubt play a larger role in providing the user with an on-site experience without leaving the office. And from there – perhaps technology that provides enrichment to other senses such as smell and hearing, to further demonstrate what the localised environment is like. Exciting stuff for the humble property consultant 🤖



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INFRASTRUCTURE PLANT AND MACHINERY (IPM) update

STEVE C. BOWN

In February 2017, Steve took over the role of Chair of the Infrastructure, Plant & Machinery Council. He has just passed his 40th anniversary within the profession, having also combined plant and machinery valuation with auctioneering for over 25 years of his illustrious career. Steve has worked on some of the largest insolvency valuation instructions and actions in the UK for numerous respected high-profile valuation practices, and plied his trade in the UK and Europe before moving to Aotearoa some 13 years ago. In this article he gives an update on the need for more, and younger, IPM valuers.

Role of IPM

The role of IPM has become better understood within the wider business community over the last few years, mainly due to finance and insurance principles requiring their valuers to be registered. IPM constitutes the valuation of all things not land and building including:

- Mobile plant, production plant and processes
- Building infrastructure and services
- Planes, boats and trains, cars and commercial vehicles
- Art, antiques and jewellery.

We as a profession are called upon to value assets in all industries including (but not limited to):

- Road, sea, air and rail transport
- Viniculture, forestry, agriculture, dairy, poultry, feedstuffs, fertilisers, brewing
- Engineering, foundries, metal plating, woodworking, plastics and rubber moulding and extruding, and window and glass manufacturing
- Meat, vegetable, seafood freezing, processing and packing
- Print and broadcasting, paper production and conversion
- Mining, oil and gas processing and exploration, power generation
- Water and sewerage distribution, cleaning, filtration and storage
- Construction, civil, industrial and residential, road building
- Fine arts.

Valuers produce values for a number of reasons, such as insurance for replacement or to recover physical loss, loan purposes, financial reporting, market value in situ for sale or transfer of business, open market ex situ for acquisition or disposal of assets, due diligence, property taxation and depreciation analysis, and litigation and expert witness work. Our profession values assets around the world and it can involve a great deal of travel.

IPM education and demographic

During the past 12 months we have endeavoured to provide our community with IPM-specific webinars. We are also working towards presenting further related topics over the next year, to help our members broaden their professional knowledge and meet their CPD requirements.

Although the active IPM community is ageing rapidly, as with most other professional disciplines, we now have two newly qualified keen young guns on our IPM Council. Along with the rest of our board they are actively trying to attract younger IPM valuers.

My own route into IPM valuation was as an engineering apprentice with Vickers Crayford (the home of the bouncing bomb and the Maxim machine gun) studying technical engineering at Greenwich University. I then moved on to join the long-established UK-based property consultancy partnership of Edward Symmons as a trainee Plant & Machinery Valuer and Auctioneer.

In 2006, Steve decided to make a major lifestyle change and emigrated with his then wife to Wellington, bringing his market valuation experience to Aotearoa. On arrival he hit the ground running, being involved in an insurance valuation of some 60 plus residential homes in towns and cities he could hardly pronounce being so fresh in the country. But in his words he found it an invaluable geography lesson.

Private life

Steve is currently serving his third term on the board of the Petone Working Men's Club. He also spends any rare spare time as a vinyl DJ on the radio or in the clubs and bars of New Zealand, Australia and the Islands. He still has an insatiable wonder lust and loves exotic travel.

Conference

The last IPM conference was held in Tauranga in November 2017 and we were delighted with the turnout of 32 members, which in percentage terms exceeds the expectations of most professional bodies. This was also despite the three day 10th International Conference on Valuation of Plant Machinery and Equipment being held in Sydney just two months earlier.

The speakers in Tauranga ranged from the now National party leader, an insolvency specialist, a lending bank and a haulage expert through to a detailed overview of the salvage of the *Rena* container ship. Along with a review of valuation lessons

learned during the plant and machinery valuation and disposals on the Waterview Tunnel, we also had an overview of the 10th International Conference in Sydney from delegates who had attended.

Strong need for IPM valuers

The need for registered IPM valuers is as strong as ever, especially with banks and insurers urging their valuation panels to stay in line with professional indemnity requirements, so I would encourage registered valuers to consider exploring this type of valuation as a career 🤖

The need for registered IPM valuers is as strong as ever, especially with banks and insurers urging their valuation panels to stay in line with professional indemnity requirements.



Steve C. Bown is a Senior Plant & Machinery Valuer with JLL based in Wellington. steve.bown@ap.jll.com



Jessica Pearless at The Met, New York

THE VALUE OF PINZ MEMBERSHIP

Jessica Pearless

I have been working as a valuer in the art world for 15 years, specialising in the valuation of art, antiques and artefacts for market, insurance, post-loss or financial reporting purposes. In 2018, I launched Paragon Matter, an independent art services agency that specialises in valuations for private collectors, museums, art institutions and art organisations.

I have previously worked as a valuation specialist within a gallery or art auction house context.

On becoming an independent valuer, the importance of having an industry accreditation to give clients faith in my professional ability was a priority.

At present, an organisation that monitors and supports specialist art and antique valuers has not currently been established in New Zealand. Given this, I contacted the team at the Property Institute of New Zealand and was advised that I was eligible for an Affiliate Membership.

My motivation for joining PINZ was to become a member of a recognised body of professionals who are working to best practice standards across the industry. Along with the accreditation, the access to education, resources, events and services that are available to PINZ members meant becoming one made perfect sense. Having the membership gives me confidence in marketing my services and shows clients that I am an active member of New Zealand's recognised valuation body.

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A typical valuation job for Paragon Matter involves working with many of New Zealand's museums, art galleries and art collectors. We assess and analyse works of art, artefacts, decorative arts, modern design – any object that holds cultural, historical and artistic significance has a value.

Valuation of this type of asset can be a tricky area to negotiate as the intrinsic nature of a work of art can mean that a monetary value is subjective. To determine a value we reflect on the markets, both primary and secondary, and the rarity factor, among other things, in our assessment of all items. This is undertaken in accordance with established protocols around the valuation of heritage assets 🏠

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GET AHEAD OF THE COMPETITION

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A portrait of Glenda Whitehead, a woman with curly brown hair, wearing an orange top, standing outdoors in front of a green field and a dark building.

GLEND WHITEHEAD

Forging a path for women in valuation

Glenda believes that Lincoln contacts can lead to jobs, and that there is a good understanding in the market of the quality of property graduates from the university.

Lincoln start

Glenda was raised on a beef farm in small town New Zealand – Ruawai. Unfortunately, she says, small towns like Ruawai in Northland suffered from the centralisation economic theory and closures of banks, post offices etc. If you were not going to be a farmer (not necessarily a sound career choice given the economics back then), or tradie, there was no choice but to leave town.

Deciding on Lincoln University, she completed a BCom (VPM) and a postgraduate diploma. The latter was initially intended to be in rural valuation, but the rural outlook remained quite depressed so her focus turned to finance and economic-related topics. This decision has meant her career has had an urban

focus and led to many years working in Auckland (not a natural fit for her).

Later, while working, she obtained her Master of Property Studies through Lincoln. For her the Lincoln network reach is wide. Glenda believes that Lincoln contacts can lead to jobs, and that there is a good understanding in the market of the quality of property graduates from the university.

Property-related work

Much of her early working life in the 1990s was spent under Bob Lawton at Rushton Valuations in Mt Eden. Here she was exposed to a very broad range of property types and valuation scenarios. Glenda also spent a lot of time on Waiheke Island valuing alongside Bob, back in the days when many locals considered

registering their cars an option, although the increasing frequency of ferries and the island's popularity has led to many changes since. It was during her time with Rushtons that she became registered.

A one-year stint in 1998 on residential valuations at Bristow Valuations in New Lynn followed before heading overseas. Glenda also gained her ANZIV at that time. She feels that her exit timing was such that had she not left she would probably have been laid off as economic cycles impact strongly on the property sector.

On returning from overseas her Lincoln network helped her gain a position with the National Bank in their property team, managing the bank's properties and commercial and retail branches. This was followed by a body corporate secretary role in central Auckland for a couple of years. It was around the time the leaky building issues came firmly to the fore, which she notes was a challenging time that has sadly not passed.

It was also at this time that Glenda finally completed her Masters dissertation entitled 'A Study to Determine What Forms of Housing, Community Facilities and Support are Suitable for the Elderly to Enable Them to "Age in Place"'. She still keenly watches this part of the market, and thinks that while it has evolved there is still further work needed as many of the options now available are not widely affordable.

After this she went back to valuation, now with Rolle led by Mike Sprague, a company which is no longer in existence. From there she moved to QV and took on managing their Auckland market valuation team, and later this included remotely overseeing the Whangarei office team. She had a team of 12+ valuers in Auckland and three in Whangarei and it was a high pressure time for her. During this time QV also increased their level of media coverage, and as one of those who fronted this she found it a steep learning curve.

Glenda's seven years at QV included the climb to the market peak in 2007 and the difficult times that followed for many, but she decided to head south in 2012 with the aim of eventually living and working in Cambridge. In the interim she spent nearly six years at the Maori Trustee Hamilton office undertaking advisory style work, property management including numerous ground rent reviews, managing physical upgrades of properties, and creating Land Management Plans. She believes her valuation skills in the leasehold area were firmly required, tested and expanded on in this time through overseeing many ground rent reviews.

From June 2018, Glenda returned to valuation with residential and lifestyle work at her destination goal of Cambridge in the office of TelferYoung.

PINZ involvement

Since being in the Waikato Glenda has been involved at the branch level, currently as branch Chair. Initially this involved the branch committee arranging short through to whole-day events to help members satisfy their CPD requirements, as well as social events. However, the role of branches has been changing from providing for general CPD requirements to a need to only provide for local content, with PINZ Wellington running events that cover the wider picture. More social events for the branch would be beneficial.

Since being in the Waikato Glenda has been involved at the branch level, currently as branch Chair.



Glenda believes that valuation is very much a career that is suitable to women, but notes that the majority who do tread these boards start and generally remain doing residential work versus commercial, industrial and rural work.

Women in valuation

Glenda feels one of the larger issues affecting the property sector is the roles women fill. For her, the industry remains very male dominant. She says, 'The day I was preparing this profile was women's suffrage day, 125 years since women got the vote in New Zealand. My impressionable high school years, as I sought out what to do for a career, were under the 80s mantra of "girls can do anything". And while I'm sure we "could" do anything, I know my bright ideas were given a good dose of reality as I actually made my choices.'

Not understanding the possible careers that could come out of a four-year management degree at Waikato, valuation was her choice. She was encouraged toward urban valuation, rather than her rural preference, as it was thought that farmers (mainly men) would not like taking advice from young females. 'The younger me was more timid and took this advice, but similar advice given to me more recently got quite a different response,' she says.

In Glenda's experience it hasn't been easy being a woman in property, more specifically valuation, and she feels it is still not anywhere near a norm or an easy road. To her, it was highlighted in a profile of the valuation profession which showed that in 2017 registered valuers were 85.4% male and 14.6% female – the actual numbers 942 versus 161.

She notes, 'This industry make-up has had a big impact on my career and is still very influential today. These are interesting numbers because from memory my 1990 university valuation classes were close to 50:50 female/male. Property valuation was therefore seen as a valid career option for women. I am aware of a number of my female contemporaries who remain in the wider property sector, but I think there are only two women from our class

actually practising valuation. One is myself and the other (Victoria Murdoch) is now to her credit on the Registration Board.'

Glenda believes that valuation is very much a career that is suitable to women, but notes that the majority who do tread these boards start and generally remain doing residential work versus commercial, industrial and rural work.

She says, 'Hats off to the few practising female rural valuers and those who have pushed into the commercial and industrial sectors, because it is here that the percentage of male valuers is much higher. Residential work is far more fast-paced and the markets more changeable than commercial work. It very much requires an ability to deal with the emotive buyer or seller, and to understand how these emotions are then reflected in the market evidence and movements. It is not simple work, something that it is often portrayed as, and unfortunately the fee levels reflect this misconception.'

Glenda also believes she would not be where she is today without the help of a number of men in the industry who also believe that women can do valuation as well, or better, than men and have the commitment.

'For today's female graduates, I believe there is at least a hope of an "equal" chance in the property sphere. My observation is that young women have far more confidence and expectations than our group in 1990 did, so I very much see things improving in the next decade or so,' she says 🍷

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CO-WORKING SPACES

BEN GILL

a new model for corporate real estate in London

Largest takers of commercial space in Central London 2017

Source: Cushman & Wakefield

WeWork 2,577,864 sq ft	Amazon 1,012,649 sq ft	Deutsche Bank 857,839 sq ft
	The Office Group 853,524 sq ft	i2 Office 457,995 sq ft
Google 1,344,121 sq ft	Apple 515,865 sq ft	Facebook 381,065 sq ft
	Regus 512,219 sq ft	Société Générale 280,797 sq ft

Typically, real estate represents the second largest cost for organisations after staffing. In an age of significant business disruption, it is therefore no surprise to find organisations seeking to change this approach and offer tenants an alternative to this significant cost – flexible, co-working spaces in serviced offices.

How it works

Organisations and individuals can rent a space, from whole floors to single desks, for a time period that suits their needs. Take-up of this space in London has been particularly strong, from start-ups (for whom a traditional office lease may not fit with their business model) to other professionals working on a freelance basis.

While still only a fraction of London's commercial property space, growth in this new market has exploded in recent years, with demand increasing over 150% in 2017 alone. This growth has been driven in no small part by one of the world's largest providers, WeWork. At the time of

WeWork was notable in 2017 for being the single largest occupier of new commercial space in London.

writing, this company has 39 locations in London alone, with 461 locations available worldwide. Even more significantly, WeWork was notable in 2017 for being the single largest occupier of new commercial space in London, with nearly 223,000 m² leased at the end of last year (see diagram).

Companies like WeWork may be so successful in securing new premises because they have achieved sufficient scale to lease a new space in its entirety. This provides the owner with an incentive to contract with one party, rather than having to seek multiple tenants. It is telling that the most supportive comments in the media about the company's business model tend to come from developers working on new offices for WeWork.

The benefits

So why are these spaces proving so popular? In addition to the greater lease flexibility for tenants identified above, the following benefits have also been suggested:

- The opportunity for tenants to rent space in higher quality, more central and more expensive locations than may otherwise be available under a traditional lease
- The design of these new spaces supports more collaborative working environments, which is better aligned to modern ways of working
- The ability to customise the working environment and move from rows of desks to conference tables etc as the demands of projects change
- The more flexible and less formal environments are seen to be a potential attractor of millennial talent, which can give organisations (particularly start-ups) an advantage when recruiting.

These benefits may help to explain WeWork's membership numbers more than doubling from 80,000 to 175,000 in 2017.

However, this may not represent an accurate picture of the number of active users as WeWork does not publish this data. It is highly likely that some memberships are taken up on a one-off basis only.

The challenges

WeWork does face a number of challenges. First, the offering of space to start-ups and other fledgling companies clearly presents more risks about payment than leasing to well-established companies. When you add in the fact that there could be 20 or more of these kinds of tenants on one floor, the revenue risk to companies like this can be significant. Of course, monitoring and managing all of these tenancies with rapid turnover also presents higher management costs compared to traditional models.

Also, WeWork in particular has sought to differentiate its commercial spaces by incorporating a number of features designed to create a more fun working environment. One innovation they piloted was an unlimited beer tap in the communal kitchens. While many would welcome such an addition to their own office, there have been incidents that question whether this is appropriate in a professional environment, however informal.

WeWork has since suspended the beer taps in its California offices and is reviewing whether existing taps will remain in other locations. While not all innovations will backfire, the company has to work constantly to innovate and create product differentiation between their spaces and those of competitors.

Finally, the company's biggest challenge may lie in providing an accurate valuation of their business. The company is effectively arbitraging the difference between their own long-term lease on a property and the short-term leases offered to tenants. According to the *Financial Times*, using

multiples of WeWork's revenue provides a company valuation of US\$3 billion at most. However, a recent fundraising round placed an effective valuation of US\$35 billion on the company, which obviously creates quite the range of values. Future fundraising rounds, and their implications for WeWork's company value, will be closely watched.

Conclusion

The sustainability of WeWork and similar companies appears to be highly dependent on the continued growth of tenant numbers, the migration of mainstream corporate occupiers to more modern and flexible spaces, and of course company revenues finally meeting costs. For instance, since being founded in 2010, WeWork has yet to turn a profit. While WeWork may be mimicking Amazon's approach, and channelling any revenue into further expansion, the estimated US\$18 billion in future rental liabilities needs to be paid at some point ☹



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IS YOUR NEIGHBOUR'S PRIZE CAMELLIA BUSH BLOCKING YOUR WIFI SIGNAL?

NICK WILSON AND SOPHIE CRAIG

Well, sharpen up your secateurs and hide away your headlamp as there is no need to be a covert topiary tactician anymore. This article examines a recent High Court decision that has extended an owner's rights to enforce trimming or removal of their neighbour's trees.

Right to remove obstructions

The case we are referring to is the recent High Court appeal decision *Vickery v Thoroughgood* [2018] NZHC, which extended the interpretation of section 335(1)(b)(vi) of the Property Law Act 2007 (the Act). Justice Sally Fitzgerald held that section 335(1)(b)(vi) gave a property owner the right to remove obstructions, including having trees pruned

or removed where they interfere with that owner's wifi signal.

Prior to the Vickery case, there was already an arsenal of specific undue interferences that the Act provided as grounds to grant a trim and removal order (in accordance with section 335(1)(b) detailed below). The inclusion of wifi as an undue interference is an interesting

extension of the meaning of 'reasonable use and enjoyment of land' that reflects the changing needs of our communities and the increasing importance of (internet) connectivity in our society. The decision also highlights the high level of importance that is placed on a property owner's right to use and enjoy their property without interference.

The inclusion of wifi as an undue interference is an interesting extension of the meaning of 'reasonable use and enjoyment of land' that reflects the changing needs of our communities and the increasing importance of (internet) connectivity in our society.

The Vickery decision

The background to the *Vickery v Thoroughgood* decision unfolded in Kaipara Flats, a rural area northwest of Warkworth. Neighbours, Ian and Karen Vickery and Christine Thoroughgood, struggled to reach agreement over a row of trees planted on the boundary between their properties. The trees stretched 45 m along the boundary between the properties and consisted of a densely planted mixture of species with heights of between 1.0 to 3.5 m. The Court established that the trees were originally planted in October 2006, some two years after the Vickerys purchased their property.

The Vickerys brought the application to the District Court and argued the trees should be removed for two reasons; first that the trees interrupted their easterly views; and second, that they interfered with the wifi connectivity to their property.

The District Court concluded that the trees did not cause undue interference with either the Vickery's view or their wifi signal and that with regular trimming they were unlikely to cause such interference in the future. The Court required an undertaking from the Thoroughgoods that they would trim the trees to their current height. Given the District Court had assurance that they would remain trimmed, it was not necessary for it to consider whether interference with wifi signal constituted an undue interference with the reasonable use and enjoyment of the property.

The Vickerys appealed the decision to the High Court where Justice Sally Fitzgerald declined the appeal and held that the District Court did not err in its judgement. Of perhaps most interest from her judgement was the statement that undue interference with a wifi signal caused by trees could constitute an undue interference with the reasonable use and

enjoyment of an applicant's land for the purpose of section 335(1)(b)(vi) of the Act.

Hold on to your hedge clippers though, as it is very important to note that the threshold for 'undue interference' is relatively high. Prior High Court decisions referred to in the decision, *Warbrick v Ferguson* (2004) 5 NZCPR 520 (HC) and *Yandle v Done* [2011] 1 NZLR 255 (HC), provide a number of principles that are instructive to the Court on the approach to trim and removal orders and they effectively limit its discretion. These principles include:

- The discretion of the Court is constrained by the factors listed in section 336 of the Act:
 - a) the interests of the public in the maintenance of an aesthetically pleasing environment
 - b) the desirability of protecting public reserves containing trees
 - c) the value of the tree as a public amenity
 - d) any historical, cultural, or scientific significance of the tree
 - e) any likely effect of the removal or trimming of the tree on ground stability, the water table, or run-off
- The jurisdiction to make orders under section 333 (under which the Court may order removal or trimming of trees or removal or alteration of structures) is to be exercised conservatively and cautiously
- Given the word 'undue' in the legislation, it is not necessarily appropriate to approach the issue solely from the perspective of the party whose view [use] has been obstructed.

In addition to the relevant case law, section 335(1) of the Act provides that in determining an application for a trim or

removal order the Court must be satisfied of the following:

- a) the order is fair and reasonable; and
- b) the order is necessary to remove, prevent, or prevent the recurrence of –
 - (i) an actual or potential risk to the applicant's life or health or property, or the life or health or property of any other person lawfully on the applicant's land; or
 - (ii) an undue obstruction of a view that would otherwise be enjoyed from the applicant's land, if that land may be used for residential purposes under rules in a relevant proposed or operative district plan, or from any building erected on that land and used for residential purposes; or
 - (iii) an undue interference with the use of the applicant's land for the purpose of growing any trees or crops; or
 - (iv) an undue interference with the use or enjoyment of the applicant's land by reason of the fall of leaves, flowers, fruit, or branches, or shade or interference with access to light; or
 - (v) an undue interference with any drain or gutter on the applicant's land by reason of its obstruction by fallen leaves, flowers, fruit, or branches, or by the root system of a tree; or
 - (vi) any other undue interference with the reasonable use or enjoyment of the applicant's land for any purpose for which it may be used under rules in the relevant proposed or operative district plan; and
- c) a refusal to make the order would cause hardship to the applicant or to any other person lawfully on the applicant's land that is greater than the hardship that would be caused to the defendant or any other person by the making of the order.

The Court is required to balance out the interests of the affected parties to ensure that the outcome is fair and reasonable. For example, if the trees block your wifi signal but the removal of the trees would significantly reduce your neighbour's privacy, these two factors would be weighed up against each other.

A judge must also have regard to all relevant circumstances and take into account the fact that the risk, obstruction or interference complained of was already in existence when the applicant became the owner or occupier of the land (in accordance with section 335(2)(b)). So unfortunately, if your neighbour's prize camellia was there before you were, you might be out of luck!

In the Vickery case, the Court accepted that the wifi transponder (or receiver) did not need to be in the most convenient location within the property in order to overcome the interference. There was expert advice that the location of the pole that the Vickery's wifi transceiver was mounted on, which was a little distance away from the rear of the house, provided satisfactory wifi signal and was in an acceptable location. This is despite Mr Vickery's preferred location being closer to and attached to the back of the house itself, where he would more easily be able to access and service the transponder.

Ultimately, the appeal decision did not favour the Vickerys and their appeal was dismissed. The judge's statement has created authority for the Court to take into account wifi signal in considering whether there has been any undue interference with an owner's reasonable use and enjoyment of their property.

Implications for property owners in the future

If your wifi does not work and you suspect it has something to do with the neighbour's trees or structures, or your views become blocked, it is worth considering the following key principles from *Vickery v Thoroughgood*:

- Are there alternative options available to reconnecting the wifi, such as finding a different location on the property or a

better service provider for your particular property? It is important to note that Mr Vickery's personal preference as to the location of the internet receiver was not considered to be a significant factor by the judge. Taking this into account, if you have explored all of the available options and have genuinely been unable to re-establish an internet connection then the interference is more likely to meet the threshold for an 'undue' interference

- Are you able work with your neighbour to manage the interference and mitigate the impact it is having? The outcome of *Vickery v Thoroughgood* was that regular trimming of the contentious trees to their current level was sufficient to prevent the trees from becoming an issue in the future. If your neighbour is willing to work with you to reduce the impact of the interference, such as by reducing the height or size of trees or a structure, it might be difficult to establish that an interference does or will actually exist
- Did the interference exist prior to you taking ownership of the property? A lot of emphasis was put on establishing when the contentious trees were planted in the District Court decision of *Vickery v Thoroughgood*. If what is causing the interference was already on the property at the time you took ownership, the judge will take into account that you had the opportunity to consider the possible impact it could have on your ability to use and enjoy the property before purchasing it. However, if that cause has changed significantly, e.g. where a few seedlings have turned into an impenetrable six-foot hedge, the judge will weigh these factors against each other.

As we become more reliant on internet connectivity in our homes and workplaces, it is more likely that property owners will want to preserve the right to have it on their property. Creating an interference could be an unanticipated side effect of establishing a new garden, or building a new verandah, garage, tree hut or garden shed, and it could

limit a neighbouring property owner's right to use and enjoy their property. Because of this, it is important to bear your neighbour's rights in mind when making changes to your home or garden. Where possible neighbours should try to achieve amicable resolutions by working together, rather than utilising any of the stealthy resolution styles implied in this article.

Disclaimer

The information contained in this article is general in nature. It does not constitute legal advice and should not be relied on as such 🙏



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*Curia Market Research,
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BRANCH & RE



Future of Residential Property Management event

We got a good turnout to our recent 'Future of Residential Property Management' free event in Auckland. We successfully signed up some new affiliate members, and are now planning similar events in Wellington and Christchurch.



Infrastructure Plant & Machinery Conference

The Property Institute 2018 Infrastructure Plant & Machinery Conference was held at the Copthorne Hotel in Wellington on 8 and 9 November. The conference consisted of a field trip followed by a networking dinner, as well as a full day of presentations on topics relevant to the industry.



TelferYoung annual conference snaps

TelferYoung held its annual company conference in Mt Maunganui during September. The conference had an overall theme of 'Audacity – Navigating a New Age', with the message of being bold and adapting to a changing world.

The group shot is on the beach, which has the whole TY team in it, and took place after a team-building activity – a beach clean-up at Mt Maunganui through Sustainable Coastlines, who TY recently partnered with as its official charity.

The Awards Night had a theme of 'Treasure Island' and, as you can see, the dress-up effort by almost 100% of attendees was outstanding.

ValuePRO Young Valuer of the Year – **Fergus McCool, TY Rotorua**. Administrator of the Year – **Fiona Simcox, TY Hawke's Bay**. Community Service Award – **Mark Passey, TY Tauranga**. Personality of the Year – **Rowan Cambie, TY Taranaki**. Special Contribution to TY – **Craig Russell, TY Northland**. Office of the Year – **TY Taranaki**.



From Grad to Great

One of the Institute's highest priorities is to grow and improve the talent pool of Young Property Professionals in our industry.

In late October PINZ hosted the 'From Grad to Great' Young Property Professionals day in Auckland. For the first time in a long time we were on the cusp of upgrading to a larger room because the interest was stronger than in previous years. This is a good problem to have and we hope the growth trend continues.

Valuer Summits prove popular

The Property Institute hosted a series of Valuer Summits throughout New Zealand in September and October. The event in Christchurch was a sell-out and the seminars in Hamilton and Wellington also proved popular.



Auckland Branch Valuers' Half-Day Seminar

Another event that attracted good numbers was the Auckland Branch Valuers' Half-Day Seminar on 18 October. It covered off affordable housing, unit titles and process payment assessments amongst other things.

REGIONAL NEWS

Taranaki reflections

The Taranaki branch of PINZ had an active August with two events in two days, one celebrating its senior valuers, and the second being a panel discussion on the future of the region's oil and gas.



At the Taranaki senior valuer dinner held in New Plymouth on 25 August are (from left): Charles Le Breton, Ian Baker, Phil Hinton, Max Dick



Taranaki senior valuer dinner (from left): Ian McKillop, Linda and Jeremy Wichman



John Larmer (left), and Taranaki Branch Chair Stephen Hodge at the senior valuer dinner



Taranaki panel discussion on the region's opportunities following the Government's ban on oil and gas exploration

Membership advancements: May – October 2018

ANZIV

Matthew Binnie

Branch: Canterbury/Westland
Workplace: Ford Baker Valuations Ltd

Matthew Parratt

Branch: Canterbury/Westland
Workplace: JLL

Michael O'Connell

Branch: Auckland
Workplace: Gribble Churton Taylor Limited

Matthew Straka

Branch: Auckland
Workplace: Bayleys

Courtney Paterson

Branch: Canterbury/Westland
Workplace: TelferYoung (Canterbury) Ltd

Steven Marshall

Branch: Canterbury/Westland
Workplace: Knight Frank, Christchurch

Martin Winder

Branch: Canterbury/Westland
Workplace: TelferYoung (Canterbury) Ltd

Peter Davis

Branch: Auckland
Workplace: Seagar & Partners (Manukau) Ltd

Steven Flexman

Branch: Auckland
Workplace: Opteon Solutions

Jared Shaw

Branch: Auckland
Workplace: Prendos New Zealand Ltd

SPINZ

Luke van den Broek

Branch: Canterbury/Westland
Workplace: Aon

Sulanja Kottege

Branch: Overseas
Workplace: CBRE Residential Valuations (SYD)

Jonathan Dix

Branch: Canterbury/Westland
Workplace: Aon

Jared Shaw

Branch: Auckland
Workplace: Prendos New Zealand Ltd

Steven Marshall

Branch: Canterbury/Westland
Workplace: Knight Frank Christchurch

Chris Patete

Branch: Wellington
Workplace: Darroch Limited

Jared Shaw

Branch: Auckland
Workplace: Prendos New Zealand Ltd

MPINZ

Ben Hamelink

Branch: Hawke's Bay
Workplace: Logan Stone

Melanie King

Branch: Waikato

Workplace: Darroch Limited

Hamish Merriman

Branch: Wellington

Workplace: Darroch Limited

Katherine (Katie) Beveridge

Branch: Auckland

Workplace: The Property Group

Elizabeth Newman

Branch: Auckland

Workplace: Bayleys Valuations Limited

Damon Jon Pere

Branch: Auckland

Workplace: Colliers International

Desmond (Des) Wai

Branch: Auckland

Workplace: RCG Ltd

Ross Burns

Branch: Overseas

Workplace: Jones Lang La Salle

Laura Mitchell

Branch: Canterbury/Westland

Workplace: Bayleys

Katherine (Kate) Campbell

Branch: Waikato

Workplace: AP Gollan Registered Valuers

Bo Peng

Branch: Auckland

Workplace: QV

Liam Rooney

Branch: Auckland

Workplace: JLL Auckland

Sandeep Narayan

Branch: Overseas

Workplace: Rup Investments Limited

Yuen Hsiou (Grace) Chang

Branch: Auckland

Workplace: Property InDepth

Michael Hall

Branch: Auckland

Workplace: Opteon Solutions

Matthew Stubbs

Branch: Auckland

Workplace: Opteon Solutions

Paul McCorry

Branch: Wellington

Workplace: QV

Andrew McQuire

Branch: Auckland

Workplace: Property Valuations Ltd

Matthew Straka

Branch: Auckland

Workplace: Jones Lang La Salle

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**CONTRIBUTIONS
WELCOME**

Do you have regional or branch news that could appear in this magazine? Send submissions to jason@property.org.nz.

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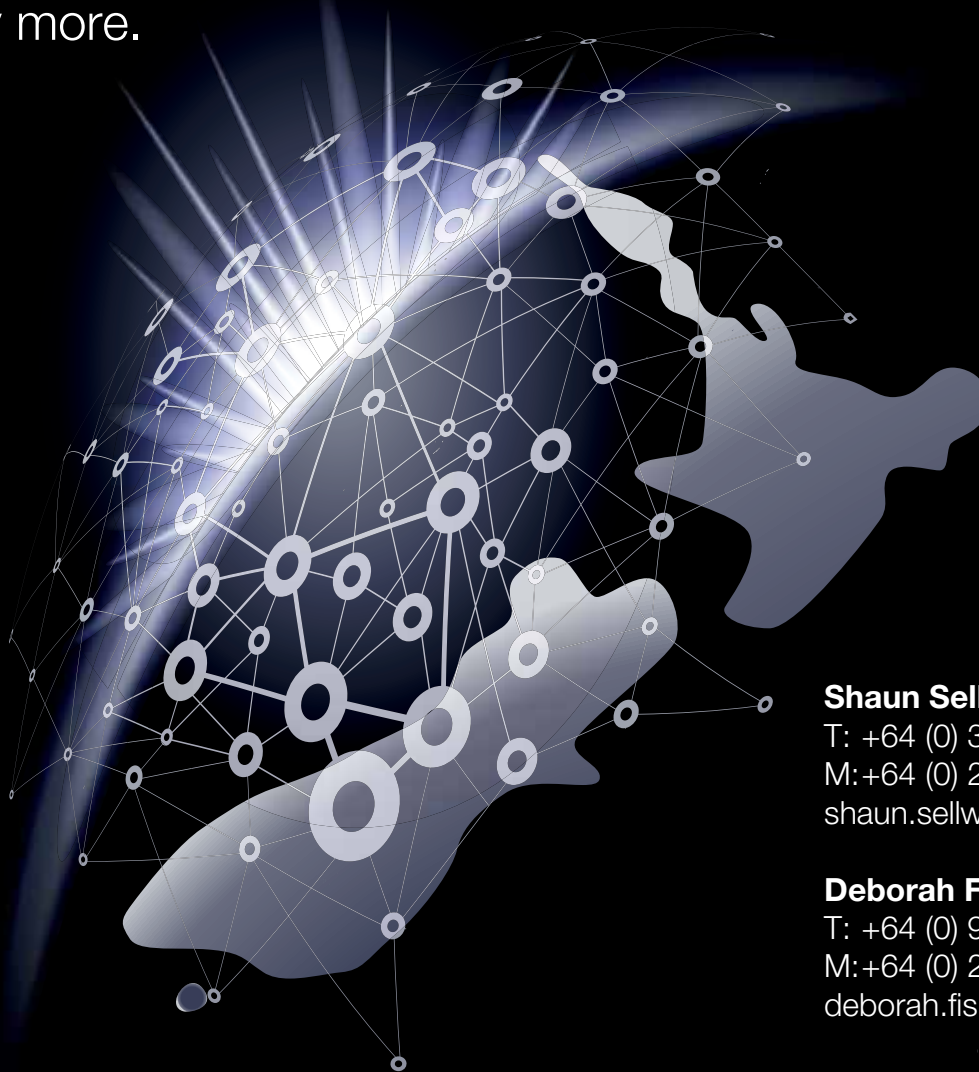
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