

Spring 2022

Newsletter Your Legal Update





Where law meets life

Spring 2022 Newsletter | Your Legal Update

In this issue

Page 1. CEO Introduction

Page 2. GQ in the community

Page 3. Congratulations and celebrations

Page 4-5. Partner spotlight: Paul Franklin

Page 6-8. Taranaki truly offers it all

Page 9. Welcome to our new team members

Page 10-11.

Birth injuries now covered by ACC after passing of new law

Page 12. New Active Investor Plus Visa open for applications

Page 13. Selections resume for the Skilled Migrant Visa Category

Page 14-16. Looking to subdivide or buy a subdivided property?



CEO Introduction

I've been reminded recently of why Taranaki is a one-of-a-kind place to live and work. With the Taranaki Arts Festival and Garden Festival providing laughs and inspiration, the Around the Mountain race and Coastal Five providing physical challenge and camaraderie and the various philanthropic fundraising events and sports and business awards providing opportunities to support our community and celebrate success. There is always something positive to be a part of in Taranaki and with the world in the state it is, it's nice to reflect on how fortunate we are in our corner of the world.

We understand, however, the significant impact and hardship this year has had on our clients, their families, and businesses, having to navigate a relentlessly tough and complex environment. As we draw this challenging year to a close, the team at GQ are continuing to make every effort to support our clients and community.

In this uncertain time, it remains our mission to ensure you are informed of things that might be important to you, so please keep an eye out for GQ updates by email, and on our social media.

Noho ora mai, Sophie Braggins

GQ in the community



GQ were proud to sponsor this year's Taranaki Heritage month.

Presented by Heritage Taranaki, Taranaki Heritage month includes a long programme of activities focused on facilitating discussion and exploring both the shared, and divergent, understandings of Taranaki's complex and fascinating past.

GQ Partner Lauren Wallace opened the Taranaki Heritage Month Panel Discussion at The Plymouth International on the 7th of October.

It was an excellent event with a stellar lineup of speakers and great attendance.



GQ were proud to sponsor two stellar running events in the Taranaki region this November - the Coastal Five and the Around the Mountain Relay!

The GQ team put in an awesome effort (both runners & support crew!) in this year's Around The Mountain Relay. It was a rainy, early start (2:30am), but everyone gave it their all to complete the 150km relay through our beautiful region.

Up next was the Coastal Five series. This year GQ is sponsored the final and most iconic event of the Coastal Five - The Devon Mile. The team got their running shoes on for the 1.6km dash down Devon Street and despite the rain, it was an excellent day out!





The GQ Sapphires braved the rain for their first game in the Netball Taranaki's Spring Social League.



Our GQ team are enjoying being involved in a few spring league competitions over the region.

We have a long standing relationship with Inglewood Golf Course that dates back to the 1980s, so it's great to see our team in full support and participation.

Congratulations and celebrations



Congratulations Rochelle

We are proud to share that GQ Associate Rochelle Farmer has been appointed Deputy Chair of Sport Taranaki.

Rochelle has been a board member for two and a half years and it's the important work Sport Taranaki does for communities around the Maunga that makes this such a special role for her.

"Sport Taranaki's vision for an active, healthy Taranaki is so important. We're working to lead the kaupapa of physical activity and, in particular, focus on the parts of our communities at risk of missing out. I'm thrilled to be involved with this mahi and to have been appointed Deputy Chair!"



Thank you and congratulations

We would like to acknowledge the hard work and commitment of Fleur Coombe, as August marked her 15th year with the firm.

Fleur is one of our talented Registered Legal Executives in our Personal Planning Team, whose compassionate nature has helped her clients through life's challenges and celebrations.

From all the team and our clients, thank you and congratulations.



All the best

GQ would like to wish Legal Executive Beth Seaver and Associate Rochelle Farmer all the very best as they both start their new chapter into the joys of motherhood.

Beth will be on leave until mid-2023 with Rochelle returning October 2023. We look forward to welcoming them both back next year.

To keep up with the latest updates and ongoings from GQ, like us on Facebook facebook.com/GovettQuilliam





Partner spotlight: Paul Franklin

If you're a long-standing client of Govett Quilliam's you're likely to recognise long-standing partner Paul Franklin. He is often out and about meeting with clients and catching up with family and friends or smacking a few golf balls at his local golf club – Ngamotu.

Get to know Paul below.

Where were you born?

Morrinsville.

How long have you worked at GQ? Since 1984.

What do you love about working in Taranaki?

The province is similar to my home province of Waikato just a bigger and better named mountain (re Mount Misery near my family home) and the beaches are better. I have met some amazing clients and work colleagues during my time at GQ. Life-long friends.

Best spot you have lived?

Family home that we built on Frankley Road. Hours on the ride on and vacuuming the swimming pool.

Best achievement?

Honoured to be awarded a New Plymouth New Zealander of the Year Award for my contribution to Taranaki Cancer Society and the Velodrome Trust.

How do you juggle work/life balance?

I start work early and enjoy the evenings and weekends. Kaye (my wife and consultant at GQ) and I enjoy planning overseas travel whenever we can, especially to visit our son in London.

Finish this sentence: When I'm not at work you will find me...

Hacking my way around a golf course, wobbling up the mountain on my bike or drinking a hazy at the Itch bar.



We know Taranaki is a special place to live, work and play. Our team is continuously growing and more commonly are we seeing growth from outside the region join our firm.

With top-tier firms in Auckland, Wellington, and Christchurch calling for the best lawyers, why is Taranaki and GQ so attractive?

GQ needs to be a pretty special place to offer these talented professionals the same challenges and opportunities, without compromising on the things that really matter.

We are lucky to have a vibrant region continuously heading in a brave direction. The natural landscape around us, family ties, the lifestyle on our doorstep, and the unique opportunities are only a few of the reasons why these lawyers choose to cement their legal careers in our region.

Below we speak to some of our 'adopted' Taranaki team members to discover their reasons for making Taranaki, and GQ their new home.

Ellie Wilson

Ellie joined GQ as Special Counsel in June of this year from the capital - Wellington.

Ellie works in our Family and Litigation Teams and has a particular interest and expertise in all areas of health law including ACC processes, complaints and investigations, civil claims, professional disciplinary processes and privacy matters.

What brought you to Taranaki?

We moved to be nearer our "village". My husband is from Taranaki and his family are here too, so we

visited often from Wellington. We had always loved coming to Taranaki and had often talked about moving here – New Plymouth is obviously beautiful, but it also has a great feel to it. As time passed in Wellington, and our own family grew, we began to struggle with the load of two kids and two demanding jobs. Our support network in Wellington was also shrinking (many of whom moved to Taranaki too!!) so in the end it was a no brainer.

What do you love about working in the Taranaki region?

There's a real sense of camaraderie here. Clients, colleagues, opposing lawyers – there's no real egos which makes doing business extremely pleasant. That, and my commute is 1/5 the time that it used to be; with beautiful views of the mountain.

If you were to give people visiting/moving to Taranaki a 'must-do' here, what would it be?

We are still exploring all Taranaki has to offer – so still taking recommendations myself! Onaero beach at low tide is incredibly beautiful – one of my favourite spots. And the ice cream sandwiches from Little Liberty in Inglewood.



Angela Paton

Angela joined GQ in March 2022 as a lawyer in our Personal Planning Team.

New to Taranaki, Angela was born and raised in Auckland but has lived and worked across Aotearoa. She also has a multinational family scattered across the globe.

With a foundation in Ag Science, Angela worked in the primary sector for many years, in NZ and overseas. This included farm consulting, dairy manufacturing/exportation, thoroughbred breeding and ecology. A University of Waikato

graduate, Angela's passion is personal planning in the rural arena.

What brought you to Taranaki?

Working for GQ was an opportunity I didn't want to pass on! Also from time to time I have family staying in the area - so a win, win really.

What do you love about working in the Taranaki region?

The rural law opportunities through GQ got me very excited. Taranaki is such a great region to work in the rural space. Along with the wide exposure to different areas of the law - GQ offers it all.

If you were to give people visiting/moving to Taranaki a 'must-do' whilst here, what would it be? You can't beat a walk, run or bike ride along the coastal walkway, stopping for coffee on the way - of course!

Richard Lyttelton

Richard is a Senior Associate based in our New Plymouth office and leads our Family Law Team alongside Kaye McKenzie. Richard joined GQ back in July 2021.

Originally from the South Island, Richard has certainly made a big change moving to New Plymouth.

Richard has been practising almost exclusively in family law and has extensive experience in relationship property, estate litigation, care of children, guardianship, Oranga Tamariki and family violence matters.



What brought you to Taranaki?

To escape Auckland! I had been working in Auckland since my early 20's and was getting sick of my up to 3 hour commute to work each day. My partner and I kept missing out on houses so we decided to look to the regions. I saw the job opportunity at GQ, came down to meet the team and the rest is history.

I had only visited Taranaki twice before, one to compete in the amazing Oxfam trail walk and the other for a hike around the maunga. We love it here and can never see us moving again. It's that good that we even managed to convince my parents to move down too!

What do you love about working in the Taranaki region?

I really enjoy the variety of work in Taranaki. The local family law community have been great and we have an incredible family team here at GQ. Everyone is very supportive.

If you were to give people visiting/moving to Taranaki a 'must-do' here, what would it be?

Due to my parents moving down, I have had some time to think about this. My top recommendations would be the Taranaki Garden Festival, Festival of Lights, trip (or a watch a concert) to the Bowl of Brooklands and the around the mountain tramp!



Peter Williams

Peter joined GQ in August 2022 as a lawyer in our Family team, after three years in a general practice in Dunedin.

His expertise includes care of children matters, guardianship issues, family violence, relationship property disputes, and matters involving Oranga Tamariki.

What brought you to Taranaki?

I was working as a lawyer in Dunedin and my partner Kristin was living in New Plymouth. Long distance had to come to an end (or something else



would!). Kristin was not tempted to move down (which I now understand why - Taranaki is stunning) so I took up the challenge of moving up. Career wise, I was attracted by the chance to work for GQ as it has a great reputation across the motu.

What do you love about working in the Taranaki region?

The regions are a great place to work and live in general. I am already loving the Taranaki lifestyle. It is a beautiful place from the coast to the mounga, has great places to wine and dine, and most importantly has good people.

If you were to give people visiting/moving to Taranaki a 'must-do' here, what would it be?

The must-do that everyone has told me is to climb the mounga, but I am waiting for sunnier weather before tackling it!

Anya Graeff

Anya joined GQ in January 2022 after completing her law degree at the University of Otago.

Originally from Wellington and having studied in Dunedin, Anya was very excited to call the beautiful Taranaki region home!

Anya is part of our Family Team and assists with care of children, guardianship, family violence and relationship property matters.

What brought you to Taranaki?

While I enjoyed my time studying in Otago, I was

looking forward to moving back up to the North Island for work. The South Island is beautiful but the North Island climate is far superior. I wanted to settle somewhere big enough to offer a variety of work but small enough to escape the commute. When an opportunity with GQ arose, it felt like the perfect fit.

What do you love about working in the Taranaki region?

I love the breadth of opportunities available to develop professionally. Being a regional city, there is certainly a wide variety of legal work available. I also enjoy how Taranaki is perfectly placed between the two big North Island cities, meaning visits to either are just a few hours in the car.

If you were to give people visiting/moving to Taranaki a 'must-do' here, what would it be?

This is a tough one, but it would have to be visiting the maunga. It truly is stunning and not surprising it is such a popular destination in Taranaki.

With Taranaki providing the perfect environment for action, sport and culture, we have worked to provide a similarly diverse and challenging professional environment for our team.

We are proud to attract committed and passionate legal talent, and we base our reputation on legal excellence and strong, lasting professional relationships. Our people provide the capabilities and knowledge, within and beyond the law, needed to achieve the outcomes our clients require.



Welcome to our new team members



Richard Williams Senior Associate | Property Team

Richard brings with him over 15 years of experience. He will be working across our New Plymouth and Stratford teams.

Richard is an avid road and trail runner, and has completed numerous, half, full and ultra-marathons. He is also a committee member of the Stratford Business Association.



Peter Williams Lawyer | Family Team

Peter studied at the University of Otago and then began his career practising family and employment law. He has a wide range of experience in the Family Court including care of children matters, guardianship issues, family violence, relationship property disputes, and matters involving Oranga Tamariki.

Originally from the south, Peter enjoys tramping, skiing and all things outdoors.



Belinda Sharplin Legal Support | Personal Planning Team

Belinda has over 20 year's experience working in the legal industry. This experience includes various law firms, the Public Trust & Perpetual Guardian. In her spare time she likes exploring Taranaki's many cafes & restaurants, spending time with her family (including her new grandchild), and walking her chocolate Labrador.



Mikala Galvin Client Trust Administrator

A Taranaki local, Mikala has experience across a range of industries including financial services, administration, hospitality and retail. Mikala is the go-to person if you want a good coffee!

Outside of work, Mikala enjoys spending time with her son and cultivating her collection of plants.



Katrina Lyons Law Clerk | Rural & Property Teams

Katrina is from a dairy farming family in Hawkes Bay, and it's that farming upbringing that ignited Katrina's passion for the agriculture sector and rural law. Katrina has recently completed her Law and Management Studies (Agribusiness) degrees at the University of Waikato.

New to Taranaki, Katrina is keen on getting involved in the rural community, checking out the beaches, cafes, and outdoor activities that Taranaki has to offer.



Merianne Martul Client Trust Administrator

Based in our Stratford office, Merianne has experience in managing various types of property portfolios, but more recently in aspects of legal work.

When she's not at work, Merianne can be found relaxing with a good book and a good wine, or solving Sudoku puzzles.



Birth injuries now covered by ACC after passing of new law

GQ Special Counsel Ellie Wilson gives her take on the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill.

The passing of the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill has been applauded for providing cover for birthing injuries.

But the Bill contains "other matters", which have not garnered the same publicity. Amongst the 'other matters' are a series of small but significant changes with a broad reach – meaning this Bill likely will touch on most of us.

Cover for birthing parents

Birthing injuries. Parents or not, we have all been regaled with tales from the delivery suite. We have heard of tearing, of sutures, of prolapses, and - usually - of recovery. Or at least, so we think when we see the new mum smiling benignly at her newborn in the pictures she releases to the world.

But for some birthing parents, this is not how their story ends. They are left with lasting, debilitating, extremely painful injuries. Some of these injuries are permanent. This is a no-brainer for ACC cover, you might think. But in cases where there was no injury caused by treatment, there was no cover available to these parents. To have cover for injuries caused by accident, there must have been an application of force or resistance "external to the human body".¹

The Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill changes this position. From 1 October 2022, the definition of "accident" will be updated to include "an application of force or resistance internal to the human body at any time from the onset of labour, to the completion of delivery" - provided it results in a defined list of injuries.² The list includes 12 injury categories, including prolapses, tears, uterine ruptures, fractures, and dislocations.³

It is clear, reflecting on the nature of the injuries to be covered, that this change is well overdue. However, this Bill has taken the unusual step of defining the list of injuries that are to be covered. This is a novel approach for ACC, with the result that cases on the margin will not be covered simply by virtue of not being on the list. The list is not necessarily permanent and is to be reviewed "as soon as practicable" after 25 October 2025. Recommendations for change may be made then.⁴ However, given the reactive nature of this review, and in the absence of any retrospective application, any change will likely come too late for those that need it.

So an improvement - but definitely baby steps.

Not a birthing parent? There's something for you, too

As the name of the Bill suggests, there are "other matters" which it touches on. These smaller changes may not make headlines – but they do represent an overall more generous approach within the ACC scheme.

One of these relates to the Act's consideration of "Vocational Independence" – or how you may be rehabilitated if you become too injured to go back to your pre-injury employment. In this circumstance, ACC will assess you to determine whether there are other jobs you could do instead, and will then rehabilitate you into this new role. Once this is achieved, your weekly compensation payments are stopped - whether you have found a new job or not.

Previously, your pre-injury earnings were only a discretionary part of this

assessment. This meant that a surgeon earning at the height of their career could cease to receive their weekly compensation because they were now able to work as a parking booth attendant. That they could no longer pay their mortgage on their new wage was not considered a relevant consideration.

The new Bill sees pre-injury earnings become a mandatory consideration when assessing for vocational independence.⁵ While we are yet to see how ACC applies this changes, it is hoped we will see a more compensatory approach to deciding when claimants are able to return to work. Note, however, there has been no change to the way in which "earnings" are quantified, and so issues will likely continue to arise for selfemployed workers who draw a nominal or fluctuating income.

Additional "other matters" include that the test to qualify for work-related

gradual process injuries (such as hearing loss or RSI) has been slightly broadened,⁶ and the threshold to qualify for cover for hearing loss has been reduced from 6% to 5%.⁷

Individually, these two changes represent a wider approach to cover and entitlements. In combination, we see a particular focus on access to support for those who suffer from hearing loss due to workplace factors. While these changes are beneficial for workers, it is also a reminder to employers to ensure their staff have adequate noise protection to reduce the risk of levy increases.

All in all, the changes under the new Bill represent a general widening of cover. While there is always more that can be done, these changes will doubtlessly lead to better cover and more generous entitlements for a number of New Zealanders.

If you require any assistance or advice in respect of ACC matters, please contact our specialist, Ellie Wilson

About the author



Ellie Wilson | Special Counsel (06) 768 3728 021 304 453 ellie.wilson@gqlaw.nz

Ellie has particular interest and expertise in all areas of health law including ACC processes, complaints and investigations, civil claims, professional disciplinary processes, and privacy matters. She has worked from almost all angles in this space – including for patients, practitioners, regulators, and insurers. Her broad experience provides a holistic and practical approach to health care matters.

She has extensive and broad litigation experience, appearing in a range of jurisdictions from Tribunal level to the Court of Appeal. She also works within our Family Team, providing advice and expertise on relationship property matters.



The Government has created a new "Active Investor Plus" visa category, intended to attract high-value investors to New Zealand.

The Active Investor Plus Visa is currently open for applications, and is a replacement for the Investor 1 and Investor 2 categories, which closed in July 2022.

Holders of the Active Investor Plus Visa can:

- Work, live and study in New Zealand
- Stay in New Zealand indefinitely
- After 4 years of keeping their funds in New Zealand, apply for permanent residence
- Include their partner and dependent children aged under 24 in their application

The criteria for this visa category requires applicants to have NZD \$15 million (or the weighted equivalent) in acceptable investments in New Zealand.

Acceptable investments include listed equities, philanthropy, managed funds and direct investments. Property is not an acceptable investment, however investment in funds involved in the property sector may be acceptable if the fund holds 20% or less of their total assets in the property sector. All investments must not be for the personal use of the applicant, they must be transferred to New Zealand and be invested in the New Zealand currency.

The weighting system

Investments carry different weightings. Direct investment is the most favoured category, receiving the highest weighting. Applicants could meet the required investment amount by investing NZD \$5 million into this area.

Investment type	Weighting
Listed equities Maximum: NZD \$7.5 million	Each \$1 invested will be accorded the value of \$1
Philanthropy Maximum: NZD \$7.5 million	Each \$1 invested will be accorded the value of \$1
Managed funds	Each \$1 invested will be accorded the value of \$2
Direct investment	Each \$1 invested will be accorded the value of $$_3$

Other criteria

As well as meeting the investment criteria, there are personal criteria that need to be met. To be granted the Active Investor Plus Visa, you must:

- be able to speak English
- be a fit and proper person
- be in good health
- be of good character
- prove your identity

Applying for the Active Investor Plus Visa

People wishing to apply for the Active Investor Plus Visa, or their representatives, can complete the online form available on the Immigration New Zealand (INZ) website.



Selections resume for the Skilled Migrant Visa Category



The New Zealand Government has reopened the Skilled Migrant Visa Category.

On 9 November 2022, selections of expressions of interest (EOIs) for the Skilled Migrant Category Resident Visa (SMC) resumed.

A number of changes have been made to the SMC, including the processing of all applications that meet the points threshold. The SMC is a points based Visa, and on 9 November all EOI's with at least 160 points (the current threshold) will have been selected. Due to an INZ website failure caused by the volume of applications, there was an extension until 1pm on Friday 11 November 2022 to get EOIs in under the 160-point threshold.

While all applications will be processed, the points threshold will also be increasing to 180 points. EOIs that meet this new threshold will be selected on 18 January, 2023, and subsequently receive an invitation to apply.

Timeline

9 November 2022	Selections resume. All EOIs with at least 160 points are selected.
11 November 2022	Deadline for EOIs under the 160-point threshold is 1:00pm.
18 January 2023	All EOIs with at least 180 points will be selected.
After 18 January 2023	Selections will be on the third Wednesday of each month. All EOIs with at least 180 points will be selected.

EOI expiry

EOIs will expire, depending on their original submission dates. EOIs submitted before 9 May 2022 that were not selected on 9 November 2022 will expire and will not be reselected.

Other EOIs submitted on or after 9 May 2022 that remain unselected will expire 6 months from the date of submission.

Advice from Immigration New Zealand

Immigration NZ are also asking for patience as they are expecting to receive a large number of EOIs. Once invited, applicants will have four months to submit their application.

Immigration NZ is encouraging those who have already applied for a 2021 Resident Visa to continue with their application, rather than applying for an SMC Visa as well. Immigration NZ are currently prioritising the processing of 2021 Resident Visa applications, with a view to have completed the majority of these by June 2023.

If you you require assistance or clarification, please contact our immigration specialist Amalie Blackman





Amalie Blackman Lawyer

(06) 768 3732 amalie.blackman@gqlaw.nz



Looking to subdivide or buy a subdivided property?

Are you considering subdividing your land or purchasing a house that has been subdivided? This article will help you understand more about the subdivision process, if you can subdivide, what to do once you have consent and much more.

There are a number of reasons for considering subdivision, such as financial or family reasons. Subdivisions can enable landowners to make their land more profitable or better suited for their purposes. For instance, a boundary adjustment may enable land to be more effectively farmed or subdivision of a farm may allow a retiring couple to retain ownership of their family home but sell off the remainder of the working farm.

A Vendor's Perspective

Who should you contact first?

If you are thinking about subdividing it is important that you properly inform yourself of all of the potential implications of a subdivision. This means talking with various professionals. For instance, an accountant will be able to advise you on whether there are any tax issues involved in the subdivision of your land.

Your lawyer will be able to advise you on whether there are any issues with your title and in respect of the district plan rules you will need to comply with.

Your surveyor will be able to prepare a plan of the proposed subdivision and assist in the application for a resource consent. Having a good team of people involved will assist you to navigate through the subdivision process smoothly.

How do you know whether you can subdivide?

Under the RMA (Resource Management Act) activities are classified as permitted, controlled, restricted discretionary, discretionary, noncomplying or prohibited. In order to ascertain the activity status of your proposed subdivision, you will need to review the relevant district plan which applies in your area.

If your subdivision is not a permitted activity, and in most cases it will not be, you will need to apply to your local District Council for resource consent to subdivide land. More complex subdivisions, for example those involving coastal land or access over waterways may also require Regional Council approval.

Your lawyer will be able to advise you on the rules which are likely to be applicable to your proposed subdivision and on the criteria which you may need to comply with in order to obtain resource consent.

This can include matters such as the size and shape of the proposed allotments, proposed building platforms and sewage and storm water drainage.

The subdivision process

Once you have finalised your subdivision plan and application for consent, they can be lodged with the Council. The Council must then decide whether to publicly notify the application or not. If the application is publicly notified, this can mean that a hearing will be held and the process can be prolonged if affected persons oppose your application. The Council may also decide that more information is required before they can assess the application and request further information from you, which can also result in delays.

After the application has been assessed

and assuming the application is approved, consent is usually granted subject to certain conditions. Conditions should fairly and reasonably relate to the subdivision. Examples of common conditions include the requirement to provide access, stormwater, sewage and/ or water services, and building platforms.

What do you do once you have consent?

Once resource consent has been granted, you will need to arrange for your surveyor to complete the necessary survey work and the work required by the conditions of the resource consent. When the work has been completed, your surveyor will need to apply for section 223 and 224 RMA certificates from the Council.

The certificates confirm that the Council is satisfied that the survey plan conforms with the subdivision consent and that the conditions of consent have been complied with. The certificates are necessary so that your survey plan can be deposited with the Registrar General of Land and thereafter titles can issue.

As subdivisions can be complex and involve a wide range of conditions, it is not always simply a matter of obtaining resource consent to ensure a subdivision will proceed.



What do we, as your lawyers do?

The subdivision process can be time consuming, complex and contains many legal pitfalls. We understand the unique demands that the subdivision process entails and are familiar with the wide range of subdivision matters. We keep up to date with current economic trends and Government policy that affect the subdivision. A large subdivision is likely to involve negotiations with district and Regional Councils, banks, purchasers and their solicitors, real estate agents and neighbouring owners of the land intended to be subdivided. These parties all have different interests that need to be taken into account. As well as assisting with these negotiations and advising you in respect of your legal rights and the applicable district and/or regional plan rules, we prepare the various legal documents needed for a successful subdivision.

We are also able to advise on the best legal methods for implementing your particular vision. This may include registering covenants over the land to protect certain features on the land or ensuring that appropriate legal structures are in place.

A Purchaser's Perspective

It is commonly thought that purchasing a bare piece of land should be fairly straight forward. Unfortunately this is not always the case. If the purchase of the bare land is subject to the vendor first completing a subdivision and/or obtaining a new certificate of title for the section there are a number of issues that purchasers need to be aware of. You should always contact your lawyer for advice prior to signing an Agreement for Sale and Purchase.

What do you need to watch out for?

When deciding on a piece of land to buy there are a number of practical things to watch for, some more obvious than others. For example:

Search the Record of Title

Your lawyer will be able to obtain a search of the existing record of title for the parent title that is to be subdivided, which your land forms part of. It is important to check whether there are any existing easements, restrictions, consent notices, land covenants or other encumbrances that affect the property.

Often the existing easements and covenants are not surrendered prior to the new title issuing which means you will be bound by them together with any new easements, restrictions or covenants which are required for completion of the subdivision.

Easements

It is important to make sure that you know who owns all rights of access and where water, drainage, power and telephone lines have been laid. If these appear to cross another property before they reach your property, then you will want to be sure that proper legal easements are in place. If that is not the case you may find that your neighbour can prevent your use of these services which cross their property.

The existence of any easements,

restrictions, encumbrances or land covenants may restrict the position in which you can site any building on the land. You should also check any maintenance and repair obligations in respect of any easements registered against the title.

Covenants

In larger subdivisions, the developer of the subdivision may require all purchasers to agree to be bound by various land covenants. Land covenants essentially restrict what you can and can't do on your land. If the land you are considering buying is subject to a covenant, this will be registered against your title and it will bind all subsequent purchasers, which may also affect saleability.

Common forms of land covenants include restrictions on the type of dwelling that you can erect on the land, height restrictions, the types of planting/landscaping that can occur and restrictions on your ability to further subdivide or the number of dwellings that may be erected on the land.

In summary

This article summarises some of the issues you may face when contemplating a subdivision or purchasing land subject to a subdivision. It is important that you properly inform yourself of the potential implications to avoid disappointment, delay or cost blow outs.





Beth Seaver Legal Executive (06) 768 3735 beth.seaver@gqlaw.nz

Our team is experienced in all aspects of subdivision and can help you to successfully navigate through the process. To speak to a member of our GQ Property Team, call (06) 768-3700, or send an email to email@gqlaw.nz

To keep up with the latest legal updates, like us on Facebook facebook.com/GovettQuilliam



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