

NEW ZEALAND

SPRING 2021

# PROPERTY PROFESSIONAL MAGAZINE



## PINZ NATIONAL CONFERENCE 2021

### AWARDS & FELLOWSHIPS

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Construction sector supply chain issues

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### CHANGING FACE OF INDUSTRIAL BUILDINGS

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Unwanted land covenants

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**VIV GURREY**

# SUPPORTING MEMBERS THROUGH LOCKDOWN

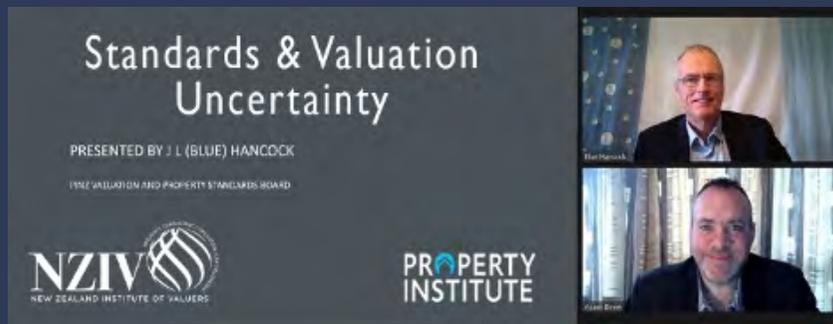
**Ngā mihi mahana kia koutou katoa.  
Greetings to you all.**

I hope you and your families are feeling safe during the lockdown. The Property Institute and our National Support Team have again seamlessly transitioned to working from home and have been very busy planning our next steps as we navigate this cycle of uncertainty.

As we did during the last lockdown, we have a number of free online events coming up for members, which kicked off with the exceptional Standards & Valuation Uncertainty live session with Standards Board Chair Blue Hancock. This webinar attracted a record number of participants through our online platform with nearly 500 registrations. The webinar is available on our website and it is free to members.

We have also made free four of the recorded sessions from the recent National Property Conference in Auckland and they are available in our [WEBINAR Library](#).

Our team is following up several other experts who will be able to assist members in these challenging times, locking in subjects, dates and times. Members should regularly check our [EVENTS page](#) for the latest additions to the programme.



You should also keep in mind that some face-to-face events will inevitably need to be recalibrated, depending on alert levels. One of those has already shifted to an online forum. The [Massey-PINZ Property Seminar on Rural Property](#) has moved from a face-to-face event over one day to a virtual event spread over two days. Unfortunately, it may not be the last event that has to pivot.

The team is here to help members in whatever way we can to ensure they stay personally safe and professionally up to date with the best and latest information. As usual, we urge you all to follow the Government's guidelines and don't put yourself or those around you at risk.

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**As usual, we urge you all to follow the Government's guidelines and don't put yourself or those around you at risk.**

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These are indeed the times when we all need to show aroha to each other and offer a hand if things are looking tough for those we care for. The Property Institute, our Professional Communities and the New Zealand Institute of Valuers will provide you with regular updates as information comes to hand.

### **Giving life to the new strategy**

I hope by now you've all had a chance to digest the new PINZ Strategy which was announced by President Luke van den Broek at our July conference. It is available on our website and has been circulated to all members. [There is also more information about it later in this magazine.](#)

Today I want to spend a little time talking about 'Priority 2' in the plan, *Delivering Specialist Knowledge*, because it's where you, our members, can play a huge part as we work together to deliver on the mission to make the Property Institute the natural 'Home of Property Professionals'.

We have a diverse range of professionals within our organisation and the disciplines of each unique group are different – although, of course, there are some commonalities which make us stronger together. One of the things we're determined to get right in our drive for continuous service improvement is ensuring we have strong and resilient Professional Community Councils that have their fingers on the pulse of their members' needs and know what sort of things they require to become stronger professionals and realise their full potential.

In my time at PINZ, I have been fortunate to work with all our dedicated and committed Community Councillors who sacrifice time and income to give something back to their colleagues and their industries. But they often need new members, and most importantly feedback and ideas from our grassroots about what the priorities are and how we can add value to the work they're doing at the coal face.

In recent times these communities and members have helped guide our programme and this is why we are seeing very positive feedback about a number of the things we are doing, but we can always do better and that is my challenge to you all. If you think you have something to offer – some time, some good ideas, an understanding of what members really need – then get involved. Contact your branch, talk to a Professional Community Councillor, encourage another member to get involved.

One of my personal priorities is to enhance and expand our Future Leaders programme to promote more younger professionals into our decision-making, along with greater diversity of backgrounds and fresh points of view. Nowhere is that more relevant and important than at our branch level, because without building, nurturing and encouraging a resilient and successful branch structure, PINZ can't reach its potential and neither will those who are investing their faith in the Institute to help them achieve their professional goals.

So do please think about giving something back to your profession. As a membership organisation the Property Institute needs its volunteers, and its direction should be owned by its members.

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One of my personal priorities is to enhance and expand our Future Leaders programme to promote greater diversity of backgrounds and fresh points of view.

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### **Full steam ahead – Rotorua 2022**

Many of you might think the National Support Team would take a bit of a break from annual conference planning after the delivery of our very successful event in Auckland during July, but nothing could be further from the truth.

We've been listening to your feedback (more on that shortly), we've scouted locations, met with the local branches to get their on-the-ground advice, and we have even drafted up the bones of a programme for the Rotorua National Property Conference which will be held in June 2022 (not in the school holidays).

As a team we are always looking at ways to improve our service, and we attempt to take a dispassionate view of where things went well and where we can apply our principles of continuous improvement. So, it's fair to say at this early stage that I think delegates can expect a few changes to the 2022 programme to accommodate their feedback and the experiences of our crew at the coal face.



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We have drafted up the bones of a programme for the Rotorua National Property Conference which will be held in June 2022 (not in the school holidays).

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First, we want to offer more educational opportunities to delegates in their specialist fields and we'll work on the 'flow' of the event to improve the transitions between sessions. We think the technology, such as the Whova app, was very successful and again we will look to enhance this process.

Second, your feedback from the 2021 delegate survey has been very positive. On a scale where 1 is poor and 5 is excellent, 84% of you selected 4 or 5 when asked what you thought of the overall conference programme. Using the same scale, 81% of you gave the awards and dinner a 4 or 5. Some 81% also confirmed there were sufficient conference presentations that were of interest to you and, very pleasingly, 88% told us that they added to your understanding of property-related issues. This last figure is hugely satisfying and shows that for nearly 9 out of 10 of you we got the balance about right. We do thank those who took the time to complete the survey.

A number of delegates offered comments and constructive feedback that we always take on board, and they will most definitely help shape our planning for 2022 🙏

Ngā mihi mahana

**Viv**



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National Property Conference 2021  
*Charting a new course for tomorrow, together*  
Held 14–16 July, Auckland

VIV GURREY

# CONFERENCE REPORT

## A huge success

Tēnā koutou katoa.

What a fantastic event. It's not often I struggle for words – but the amazing talent on display, the great people and the fantastic feedback make me immensely proud to be the Chief Executive of the Property Institute of New Zealand.

First off, I need to thank the National Support Team – my team. It was a whirlwind few weeks for the team and many members may not realise the countless hours that each devoted to ensuring every aspect of the conference was planned and well executed.

Venue, food, speakers, transport, site visits, photos, entertainment, sponsors, communications, member liaison – all of it was meticulously worked through and delivered seamlessly. They are a talented bunch of professionals who stepped up to the next level with Conference 2021 and I am privileged to lead them.

I also want to thank our members and delegates for making the event so memorable and so special. To coin a phrase, 'it has been a long time between drinks', and the enthusiasm on display during our three days in Auckland was plain to see.

We had record numbers at this year's conference and I'd like to think this is a result of the strong engagement we're now seeing at all levels of the organisation.

I'd like to thank our Board, and particularly our President Luke van den Broek, for their incredible support and guidance and I'd like to thank our sponsors. Without them, big events like this just would not be possible.



**Venue, food, speakers, transport, site visits, photos, entertainment, sponsors, communications, member liaison – all of it was meticulously worked through and delivered seamlessly.**

Last, but not least – I want to congratulate all our award winners, those who've advanced to Fellowship, and our new Life Member Phillip Curnow. The talent and commitment on display was amazing and it shows the Institutes are in terrific shape. A record crowd of well over 430 turned out for the Gala Dinner and 2021 National Property Awards.

You may have noticed we're now using a new brand logomark. This is part of the strategy unveiled by our President at the conference.

Also, I want to welcome Adam Binns as the new President of the New Zealand Institute of Valuers. His focus on advancing the profession will serve NZIV immensely well in the next couple of years.

Shortly, we'll be circulating a survey for delegates to complete for your conference feedback. We really appreciate delegate opinions and like to weave these in for planning so that we can continuously improve the service we offer to members.

### Heads up Conference 2022

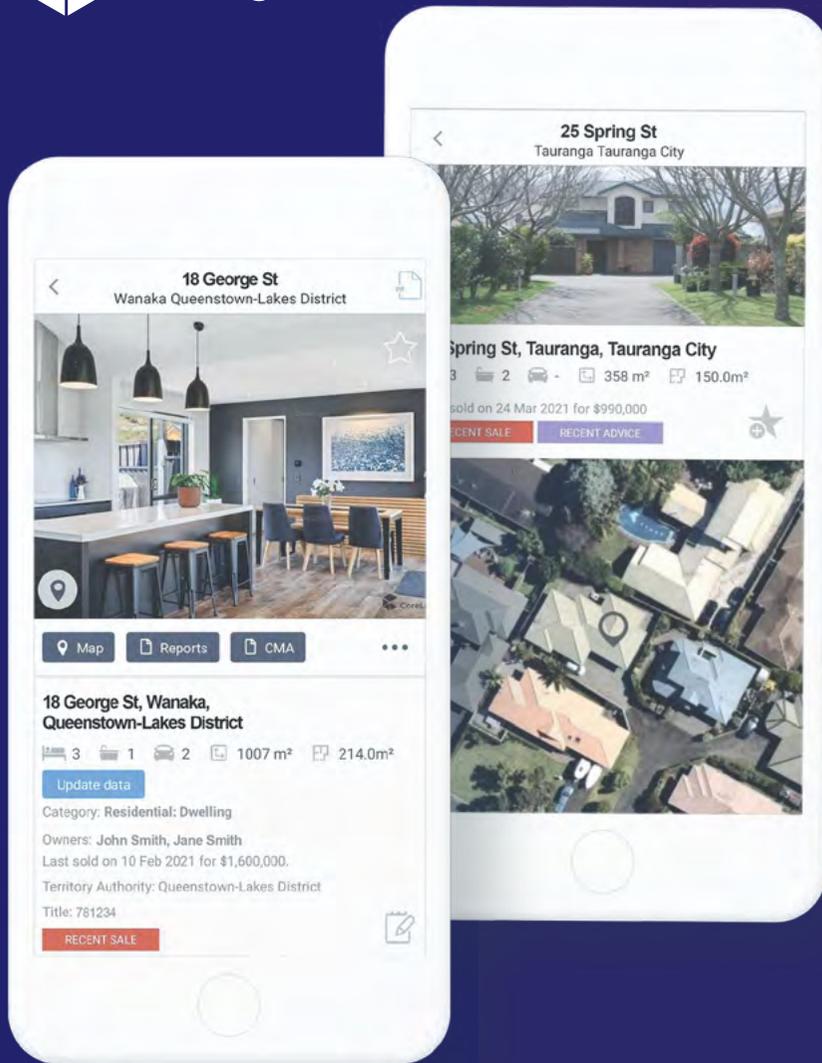
For those who haven't yet caught up with the news, we have already announced that Conference 2022 will be held during June 2022 in Rotorua. We certainly have work to do to top this year's event, but I have every confidence we've got the right team in place to do it. Watch this space soon for a save the date 📅





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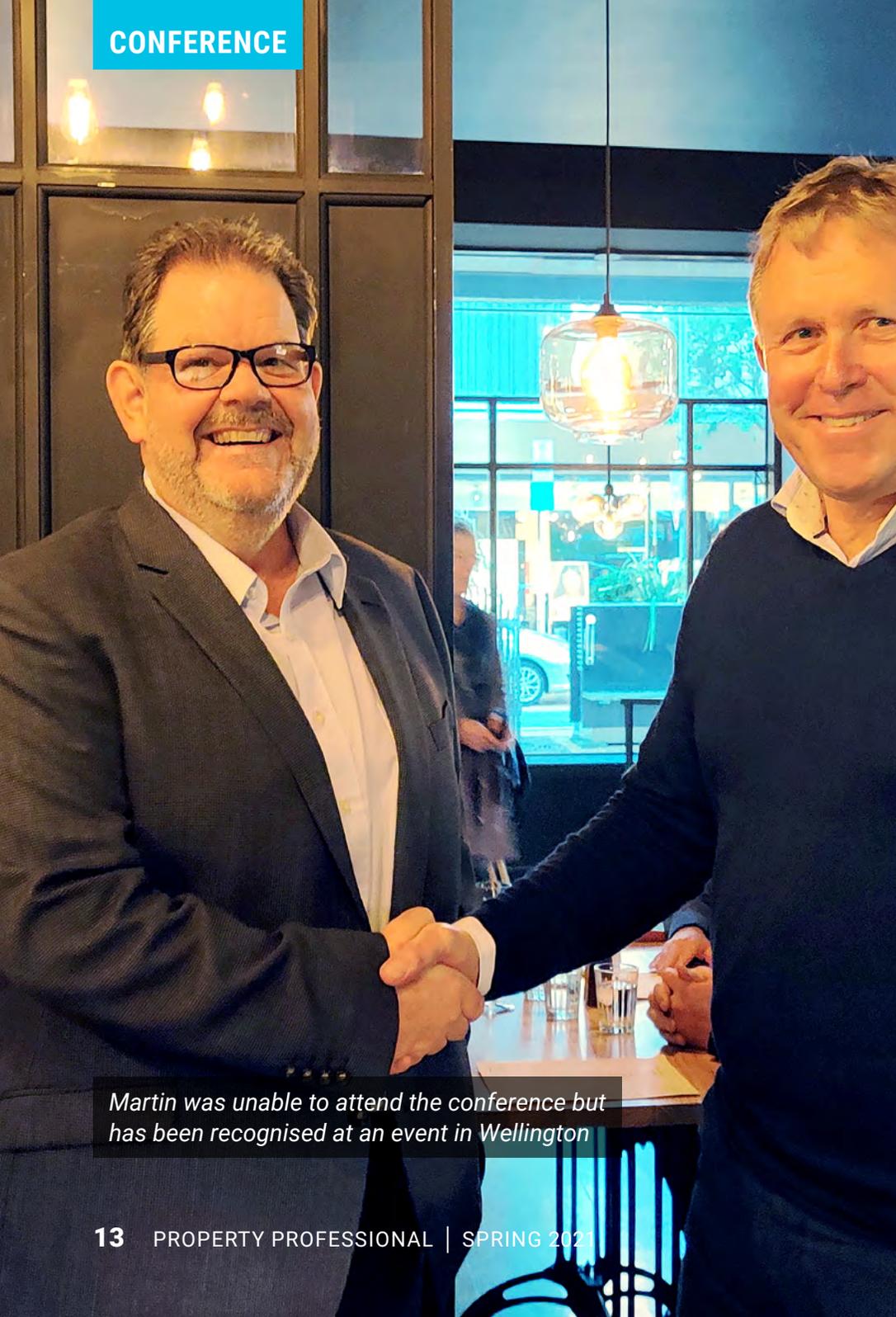
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# FELLOWSHIPS & LIFE MEMBERS





*Martin was unable to attend the conference but has been recognised at an event in Wellington*

# Martin John Veale

## NZIV/PINZ Fellowship

Martin graduated from the University of Canterbury Lincoln College in 1985 with a Bachelor of Commerce in Valuation & Property Management. He became a Registered Valuer in 1988 and joined RYT in 1990 as a Senior Commercial Valuer where he became a Director in 1996. In 2000, RYT merged with several other companies to form TelferYoung and he has worked for them since and spent time as a Director on the National Board.

Martin served on the Wellington NZIV branch committee between 1987 and 1992 where he was involved with organising local educational events and the annual pedestrian counts. He has also assisted the branch by undertaking interviews for NZIV Associate Membership. He has been a member of the NZIV Professional Conduct Committee since 2020.

Martin believes in returning value back to the valuation community and has trained and mentored at least nine graduate valuers through to registration, with some of these individuals now occupying positions of influence in the valuation profession. He is regularly contacted by valuers for advice and mentoring on valuation matters, both technical and ethical, and always gives his time freely where there is no conflict. Prior to becoming a Fellow of NZIV and PINZ, Martin was an Associate Member of NZIV and a Senior Member of PINZ.

# Marvin Bruce Clough

## PINZ Fellowship

Marvin was born in New Plymouth and graduated from the University of Canterbury in 1996 with a Bachelor of Engineering in Electrical and Electronic. He initially worked at an electrical laboratory conducting fault analysis, insurance investigations and testing products for compliance with regional and international safety standards. He then spent four years overseas in various project roles related to construction and asset improvement.

On his return to New Zealand in 2001, Marvin was employed in Auckland by Beca Valuations Ltd and worked in asset management and plant and infrastructure valuations. His broad background from working overseas in various project engineer roles allowed him to understand the drivers of asset life-cycle costs, asset performance and assessment of condition.

In 2007, Marvin was appointed to the role of Manager for Beca Valuations, leading a team of 10 property and plant valuers. He continued to expand his knowledge and focused on specialised asset valuations across local authorities, airports, heavy industry, manufacturing and brewing. He has worked across New Zealand, Australia and the wider Pacific region including China, the US and Fiji. In 2009, Marvin was made a Principal at Beca.

From 2007 to 2010, Marvin managed and lectured the Prop312 Plant & Machinery Valuations paper at the University of Auckland.



He is a regular contributor to internal valuation standards and conferences on behalf of PMVI. He is also heavily involved in plant and machinery valuation education, professional pathways and the PMVI exam process. Prior to becoming a Fellow of PINZ, Marvin was a Senior Member of PINZ and remains a Certified Practising Valuer with the Australian Property Institute and a Chartered Valuation Surveyor with the Royal Institution of Chartered Surveyors. He is a member of PINZ's Taranaki branch.

# Phillip Allen Curnow

NZIV/PINZ Life Member



Having begun his valuation career in Canterbury with the Christchurch Valuation Department in 1972, Phillip moved to Hamilton in 1981 where he founded Curnow Tizard with Geoff Tizard in 1987. He became a Registered Valuer on 14 July 1977 and has previously served as Chairman of the Waikato branch of NZIV, and following this he was a National Councillor and President of NZIV from 2003 to 2004. Following the 2014 NZIV AGM he served on the Service Level Agreement Review Committee which reported directly to the NZIV Council.

Phillip was appointed a member of the Valuers Registration Board in 2007. In addition to being a Fellow of NZIV he is also a Fellow of PINZ and a Fellow of the Arbitrators and Mediators Institute of NZ where he serves as an arbitration panel member. Having valued the majority of commercial properties in Hamilton over the last 33 years he is now heavily involved in property-related arbitration disputes across the country.

Phillip was also instrumental in establishing the Valuers Education and Integrity Foundation in 2016 as the inaugural Chairperson. Outside of the valuation profession, he served on the Board of Trustees for Hamilton Girls' High School for a number of years.

Over the years, Phillip has been instrumental in the guidance of a large number of graduate and younger valuers. In recognition of his contributions to the industry, he was awarded the John M Harcourt Memorial Award in 2016. This award is bestowed at the discretion of NZIV Council to individuals who have given outstanding service to the valuation profession.

Phillip is passionate about the profession and is well known throughout the industry, not only for his detailed knowledge of a variety of valuation issues, but also his friendly and approachable nature and willingness to help fellow valuers. He has a unique approach to valuation matters in that he has the ability to often look at complex issues from a totally different perspective. This undoubtedly has influenced his success in being an effective member of the Valuers Registration Board and has drawn strong demand from the market seeking an independent arbitrator.

It is without doubt that Phillip Curnow has rendered pre-eminent service to the Institute and the profession over a long period of time and it is difficult to think of a more deserving recipient of Life Membership.

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**Phillip has rendered pre-eminent service to the Institute and the profession over a long period of time.**

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# PINZ/NZIV AWARDS



# Anna Lovett

## 2021 Residential Property Manager of the Year

This is the first year this award, sponsored by Tenancy.co.nz, has been made at the Property Industry Awards. The winner, Anna Lovett from Pukeko Rental Managers in Gisborne, has shown outstanding talent throughout her career. She is an experienced property manager with a thirst to constantly improve and upskill. She likes to keep things simple, but employs sophisticated systems to ensure delivery for her clients.

Anna's referees noted that she has a level of determination above and beyond most in her field. Her employers say she never fails to amaze, with an ability to focus on growing the business and providing the very best service.

Described as a high achiever, Anna has earned high praise from her clients – who say she is professional, efficient, committed and exceptional. She is an owner-operator with 'skin in the game', has two young children, and also contributes to the local community.

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**Anna's referees noted that she has a level of determination above and beyond most in her field.**

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# Ben Gill

## 2021 Property Advisor of the Year

This award is sponsored by Simpson Grierson and the recipient, Ben Gill, has a strong pedigree with PINZ. He has served at many levels of the organisation and contributed a massive amount of time to advancing its status.

In his day job he offers strategic advice and provides property business cases to clients. He particularly enjoys working with the not-for-profit sector, which allows him to contribute to the public good to generate lasting benefits for New Zealanders.

His referees say he demonstrates a high level of expertise and is able to astutely navigate his way through complex operating environments. Described as successful, effective, tenacious and credible, Ben works well with all demographics and testimonials say he is friendly and charismatic, with a positive 'can do' attitude. He is a natural leader, well liked, well regarded and has a strong work ethic. Ben was previously among the PINZ Young Leaders Group of 2015 and he is now the Vice-President of the PINZ Board.

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**He is a natural leader, well liked  
and has a strong work ethic.**

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# Michael Sprague

## 2021 Inaugural Iain Gribble Memorial Award

This is a Premier Award of NZIV that can be awarded annually to a member who has given significantly in the area of mentoring and support to the valuer community, who embraces the comradery of the profession, and who is an advocate for valuer concerns and issues.

It is the NZIV Council's view that Michael more than meets these criteria. He is described in testimonials as selflessly providing mentoring and support and embracing the comradery of the profession. He is also described as a strong and well regarded advocate for valuer concerns and issues.

Michael makes himself available as a 'sounding board' providing new – and not so new – fellow valuers with candid advice and wisdom. According to those who know him well, his honesty and absolute integrity are reflected in many of the roles he has taken up as a valuer and valuers' advocate.

Those who have worked with him truly appreciate the time he offers so freely to help in whatever way he can. Michael is described as a gentle man – in both meanings of the phrase – but he will fire up to staunchly defend the rights of valuers who require his unique form of support. He has a great instinct for knowing what's right and what isn't.



Michael has previously served as an NZIV Northern Region Councillor for four years, been an active member and Chair of the Auckland branch committee (including the Auckland Fellowship Committee), and currently serves as a mentor for valuers going through a complaints process. He was registered in 1977, and in 1988 became a Fellow of NZIV and PINZ. In 2008, he moved into private practice working with his close school friend, Iain Gribble.

# Roger Gordon

## 2021 John M Harcourt Memorial Award

This is another Premier Award of NZIV that can be awarded annually to any person who the Award Committee considers to have given outstanding service to the valuation profession, whether during the calendar year or over a longer period. The winner, Roger Gordon, exceeds these criteria.

He was advanced to Fellow status in 2016, but it is his contribution to the profession since then that has warranted this award. This includes serving as President of NZIV, initially for a two-year term, but extended for a further year due to his popularity and effectiveness. After stepping down as President in 2019, he remained on hand to assist the Council for more than a year. During this time, he also served on PINZ's Finance, Audit and Risk Committee, contributing valuable wisdom and expertise.

He has devoted countless hours and massive amounts of energy to advance the valuation profession. Roger has been a shoulder to lean on, a talented confidante and a voice of the Institute.



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# Jarrold Hedley

## 2021 Young Property Professional of the Year Award

The Young Property Professional of the Year Award sponsored by Valocity recognises an outstanding and emerging young professional within the New Zealand property industry and is awarded to encourage our future leaders. As the award recipient, Jarrod has demonstrated initiative, innovation, leadership and a strong positive contribution to his professional community.

Jarrold works in the Waikato and he graduated from Lincoln University in 2017. He sees property not as a job, but as a passion, and has held numerous leadership roles throughout his life including captaining sports teams. He is currently an area manager working with his team to manage high workloads. Despite his relative youth, Jarrold helps coach and mentor those with less experience and he has been a strong contributor to PINZ in his working life.

Jarrold describes himself as having a positive attitude, with an ability to turn talk into action. His referees describe him as having recognised leadership capability, a proactive approach to professional development, and an energy and willingness to pass on his experience to younger staff. He has impressed others with his intelligence, diligence and character, and is well respected and well liked by his peers.

# Avella Collopy

## 2021 Women in Property Award

The Women in Property Award sponsored by CoreLogic advances diversity and inclusion within the property industry and recognises inspiring women who have made an outstanding contribution to the industry and to their particular field of speciality. Avella is a role model to other women in the property industry. She has demonstrated exceptional leadership abilities and shown a deep level of commitment to the industry and improving the professionalism of others around her.

Avella is a Registered Valuer, a leader and someone regarded as a highly motivated professional. She is passionate about diversity in the industry and is a founder of a Women in Property networking group, which has grown to include more than 100 members.

Avella is described as an influencer and in 2019 was awarded the Emerging Professional Award by her employers. She is involved with the Institute, has been on branch committees, and now serves on one of the Institute's national committees.

Her colleagues say she goes above and beyond to champion women in the sector and willingly gives up her time to help guide young professionals in their career journeys. Avella regularly contributes to Auckland University events and is described as being inspiring and passionate. She is seen as striving for positive change and as a role model for other women in the industry.



# Phillip Merfield

## 2021 Inaugural PINZ President's Award

A new award, the PINZ President's Award, is bestowed at the discretion of the PINZ President to recognise an individual who has demonstrated exemplary, longstanding commitment and dedication to the Property Institute and its objectives.

Phillip has been a consultant with Simpson Grierson in the firm's Commercial Property Group for over 25 years. He has made his mark on many large infrastructure and property-related transactions over that time, advising public corporations, utility companies and investors on all aspects of property law, including commercial leases, acquisitions and disposals, subdivisions, infrastructure and development. His expertise extends widely to significant due diligence investigations on infrastructure, property, farming and forestry assets, where he has subsequently negotiated the acquisition or disposal of these assets.

Phillip is an Honorary Fellow of PINZ and held the role of Independent Director on the Property Institute Board from 2005 until the 2021 conference. He has governed alongside eight Presidents in that time. His legal mind has provided valuable insight into complex matters, allowing for robust debate about challenging issues and ensuring the Board was in a position to make well informed decisions.

He has served some 16 years as Independent Director and it is a contribution that is likely to go unmatched. Phillip's wise counsel,



humour and unwavering commitment is worthy of celebration and the highest level of respect, and the Institute has certainly benefited from his contribution.

# Boyd Gross

## 2021 Property Industry of New Zealand Supreme Award

The Supreme Award is the most prestigious award presented each year, and at the conference it was presented in conjunction with PINZ's principal partners, Marsh. The award is given to an individual who has demonstrated the qualities of leadership and vision and positively impacted on the property sector, the economy and the community. It is a very high bar and past winners of this category are among some of the giants of the property industry.

Boyd Gross has an unmatched loyalty to and passion for the valuation profession and has made a substantial contribution to the public, his colleagues, his business and the community. He is a rural valuer who has gone the extra mile to learn the trade and better understand the rural sector. Boyd is described as having integrity, taking pride in serving the public, generously giving up his time and expertise to colleagues, and being dedicated to quality and continual improvement.

He is a trusted advisor and mentor, and has served the Institute over many years at all levels, including on the NZIV Council. Boyd's referees say they are privileged to work with him and he has delivered so much to the profession and continues to give in many ways.

He is a Fellow of NZIV and PINZ, is held in high esteem, and has a willingness to share knowledge and debate concepts. He has a



strong intellect, extensive experience and is a champion of ethical and practice standards. Boyd's clients say they are impressed with his attention to detail and he is liked by everyone he deals with. He is respected and his opinions are regarded as reliable and robust, and he is a hugely deserving recipient of this award 

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CONFERENCE PHOTOS



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CONFERENCE PHOTOS



# WHY A REGISTERED VALUER?

**Over 40 pieces of legislation and many legal documents and lending institutions in New Zealand specifically refer to and rely on Registered Valuers because they are considered the authority when it comes to providing valuation advice on real property.**

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If independent expert valuation advice is important to you, talk to a Registered Valuer.

**Registered Valuers are most trusted to give an accurate market valuation**

*\*Curia Market Research,  
Feb 2018*



# NEW PINZ STRATEGY DOCUMENT

Charting  
our journey  
*together*

After more than two decades of service, the Property Institute of NZ leadership set about asking some tough questions about why we exist, who we serve, what we do well, what we don't, and how we can future-proof the organisation so it remains strong and relevant tomorrow and beyond.



Critical to our identity, these questions were key to helping us define our present and frame our future. So after months of work and several iterations, we are delighted to present our refocused strategic plan, which seeks to establish high-level values and aspirations for PINZ as it sets itself the goal of becoming 'The Home of Property Professionals', where our unique blend of members is our focus.

We have identified three main priorities, which are underpinned by high ethical and professional standards – with a programme of delivery that centres on the needs of our members and supports them through their career journey from graduation to retirement. What became clear as we engaged with members during this process is the immense professional pride they drew from being part of the Institute. They agreed that as a group we are stronger together, sharing experiences, knowledge and best practice. They agreed that our place was one of leadership – where professionalism and raising standards should be at the heart of our mission.

At this time we wish to thank everyone who shared their thoughts with us, whether it was through the member survey, at the various AGMs, or providing feedback through your professional community or branches. The Board have distilled your feedback to establish our refocused strategic framework. This agenda is backed by an implementation plan and key performance measures to ensure the Board holds itself accountable for delivery, and to ensure our vision remains front and centre in everything we do. We invite you to read it, examine it, understand it, and work with us to make PINZ the natural Home of Property Professionals. Welcome to our journey 

[🔗 You can view the full strategy document here](#)

**Luke van den Broek**  
*President*

**Viv Gurrey**  
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# NEW ZEALAND CONSTRUCTION SUPPLY CHAINS

PROFESSOR JOHN TOOKEY

expectations, illusions  
and possible  
solutions

**The New Zealand housing sector is in trouble. Demand, process, capacity and policy are out of balance leading to serious problems of affordability and supply. This article investigates some of the root causes and discusses potential ways ahead.**



## **Expectations**

Construction in New Zealand is a never-ending train wreck. Building is getting more expensive. The country needs more housing, but affordability is apparently cratering. First home buyers can't get on the ladder. Construction can't cope with demand. Building quality and standards are abysmal. In the years that I have been a commentator on these issues, nothing much has changed. On top of which we get continual false equivalencies presented. In Europe this standard is adopted. In the US that cutting-edge technology is used. Of course, the ultimate throw-away line – 'Australia is cheaper for ... everything.'

2020 was the year of COVID-19, which progressed through into 2021. Economic meltdown was predicted, but didn't materialise. In contrast, there was a spike in house prices and building costs driven by all-time low interest rates and a wash of stimulus money released by governments around the world. Despite high costs and prices, demand relentlessly grows. Recently, all-time high volumes of building consents were issued – 41,000 nationally (18,000 in Auckland). Prices are up. Valuations are up. Demand is up. The situation is contradictory and makes little sense.

In reality, New Zealand is a developed economy with some advanced capabilities, but also subject to immutable supply constraints. Ultimately, we are a small island-based economy with limited supply chains. Constraints remain around investment, market scale, international demand, supply chain behaviour and expectations, amongst other factors.

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Since 1980, construction productivity has grown 40%, which sounds respectable. In the same period, financial services gained 175%, transport and logistics grew by 227% and IT/telecoms by over 900%.

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### Illusions

For many years, investment in construction has been low and productivity has flatlined compared to other sectors. Looking at the comparative industry productivity statistics published by Statistics NZ is depressing. Productivity compares value created by a process, with the value put into it. Productivity growth requires achieving more with the same level of input, or the same output with lesser inputs. Productivity is the essence of sustainability.

Since 1980, construction productivity has grown 40%, which sounds respectable. In the same period, financial services gained 175%, transport and logistics grew by 227% and IT/telecoms by over 900%. Is it surprising to see this differential? No, because construction has changed little technologically. An Edwardian builder would recognise most processes seen today. By contrast, IT has made immense changes in how other industries add value. Unfortunately, there is no technology game changer in construction, so in order to build more properties we need to expand the number of people employed in construction rather than rely on productivity growth. However, we are not seeing substantial increases in numbers coming

into the sector and labour costs are going up. In the future we need to make construction an attractive career for school leavers and 'change-over' workers seeking to reskill.

Despite flatline productivity, demand for housing is not slowing. Since 2011, demand has risen continuously over 16% p.a. in Auckland and 13% p.a. nationally. This massive increase inevitably produces growing pains. Traditionally, temporary workers enter New Zealand on 'Short Skills List' visas to make up any shortfall. Also, international students studying undergraduate and postgraduate programmes have sought to further their careers in New Zealand construction. COVID-19 restrictions have curtailed migration of all types, and these labour streams in particular. We have the high school graduates and career changers that we have – no more and no less. As the late Donald Rumsfeld, former US Defence Secretary, said: 'You go to war with the Army you have – not the Army you might wish you have.'

Without significant investment, building is unlikely to change significantly. Similarly, if we don't make careers in construction into 'first choice' options we will continue to struggle to get the skilled labour we need to supply market demand.

## International effects

When we consider the operation of international markets there are huge impacts in New Zealand. Although apparently self-sufficient in many respects, the reality is nowhere near as Utopian. Consider timber in housebuilding. New Zealand forestry is a huge industry, but most of the timber you see in a forest plantation is earmarked for export. A short survey of economic indicators demonstrates the value of timber to the New Zealand economy. Overall, around \$6.4 billion of value at current prices in exports alone, but crucially it is largely exported in log form. Only 14% of exported timber has value added in New Zealand-based processing, which is a huge issue.

About 20 million tonnes of timber is exported annually, up from 1 million tonnes in the late 1990s. Our largest export market is China, at 48% of the total. This market has been growing steadily and our market exposure is substantial. China as a state entity imports bulk logs from New Zealand producers, processing them domestically for concrete formwork and similar applications. It is delivered at a retail price typically below that of wholesale prices here in New Zealand.

VAT rebates and other sweeteners are also used to encourage domestic Chinese producers to use these logs as a loss leader and as a means to generate employment, which is not a sustainable behaviour. Indeed, the PRC Government is indicating that the long-term policy is to remove the reliance on imported bulk timber by 2035. However, in the short-to-medium term this is having a devastating impact on the New Zealand timber market. Increasingly, New Zealand mills are finding it hard to compete with the wholesale prices commanded by exporters.

The skewing of the bulk timber market is also having a massive effect on the long-term structure of the New Zealand timber industry. Surrounded by a metaphorical ocean of timber, there is little to be had by domestic processors. Older and less efficient mills become increasingly priced out of the market. In the face of rapidly expanding demand for sawn timber for housebuilding, we are seeing capacity decline and mills closed. Bizarrely, this leads to the requirement to import processed timber to meet the shortfall for construction. Simultaneously, we are exporting more timber than ever before.

To address a longstanding myth, Australia is not uniformly cheaper for goods than New Zealand, but it does have systemically-based advantages that make it cheaper to do business there. New Zealand has a land mass of 268,000 km<sup>2</sup> and a population of around 5 million. Sydney has a population of around 5 million spread over 12,000 km<sup>2</sup>. The comparative population density means internal logistics

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**New Zealand forestry is a huge industry, but most of the timber you see in a forest plantation is earmarked for export.**

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and supply chains in Sydney benefit from economies of scale that New Zealand can never hope to match. As a result, the Sydney construction economy can be supported by around 400 builder's merchants, whereas New Zealand needs over 800 to supply the same size of economy. Long story short – when we compare New Zealand with Australia it is comparing apples with oranges.

### **Technologies and consenting**

What about new construction technologies? Surely new building concepts will make a difference? Maybe yes, and then again no. It is not without irony that the first Governor General's residence in Auckland was constructed from prefabricated components brought out from London in the 1840s. Subsequently, prefabrication was common through to the 1930s, with kitset homes produced in Frankton for the railways. Post-war state housing relied on prefabrication technologies and pre-cut timber sets to drive productivity. Yet, today the concept of housing prefabrication/off-site manufacturing (OSM) is seen as a 'new' idea.

The history of OSM businesses is one of cyclic introduction and decline. Strong market demand encourages establishment and subsequent market saturation tends to propel their exit. The overheads inherent in sustaining factory-based operations are a challenge in a market subject to boom and bust. By contrast, traditional builders upsize and downsize flexibly using subcontracting. Productivity is less significant than risk minimisation. Furthermore, many of the benefits to be expected are largely eliminated by market controls and behaviour.

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**Post-war state housing relied on prefabrication technologies to drive productivity. Yet, today the concept of housing prefabrication/off-site manufacturing is seen as a 'new' idea.**

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All the same, consents and approvals are used for traditional and OSM housing, so there are minimal benefits from systematic processes and the consistency of factories. Some mortgage lenders dislike 'flat-packed' rather than traditionally constructed housing. Until recently, factory-built details have not been given blanket approvals, and for some reason inspections are scheduled in the same as for a traditionally constructed house, whereas build duration is much faster for OSMs. This means that the duration of a build is often little different compared to traditionally constructed properties. So if mortgage funding is harder to come by, and the duration of build is not hugely reduced, clients see little benefit in building OSM houses.

Productivity seems unlikely to significantly change as the result of technology. To make a game change in construction technology – and facilitate financial investment – a thumb needs to be put on the scales. The Government has the ability to revise both Building Act and RMA provisions that currently curtail change, but whether it will exercise that power is questionable.

## Government housing policy

Since 1980, successive governments have come into power or continued in power elected on the basis of promises to the electorate. Usually somewhere front and centre in all electoral manifestoes will be a commitment to housing policy – where development will occur, who will be assisted into housing and, most importantly, who will be footing the bill. For decades, this policy has been lacking or in denial of the facts. Over that same 40 years, levels of home ownership have declined from around 74% to 64.5% (Census 2018 figures), but in Auckland it is closer to 50%.

The growth in rental occupancy goes hand-in-hand with the demand for rental properties by investors. Primarily, rental properties are being procured using equity in existing properties to fund deposits.

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**Over the last 40 years, levels of home ownership have declined from around 74% to 64.5% (Census 2018 figures), but in Auckland it is closer to 50%.**

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Low interest rates make property investment look more attractive than other forms of investment. As the population ages, and the need to fund retirement plans grows, the skewing of the property market continues apace. Affordability is driven by the cost of mortgages and interest rates are at their lowest levels ever, so despite all-time high house prices mortgage affordability remains relatively – perversely – acceptable.

With so many people reliant on property ownership to fund future retirement, which government would seek deliberately to reduce house valuations? This is the demographic that is most likely to vote. Practically, people's house-buying behaviour, housing policy, resource planning and retirement investment strategy have become completely enmeshed with no easy solution to decouple decision-making, irrespective of the political colour in power. The lack of grasp of this relationship has been abundantly demonstrated with the establishment, promotion, stagnation and ultimate failure of KiwiBuild.

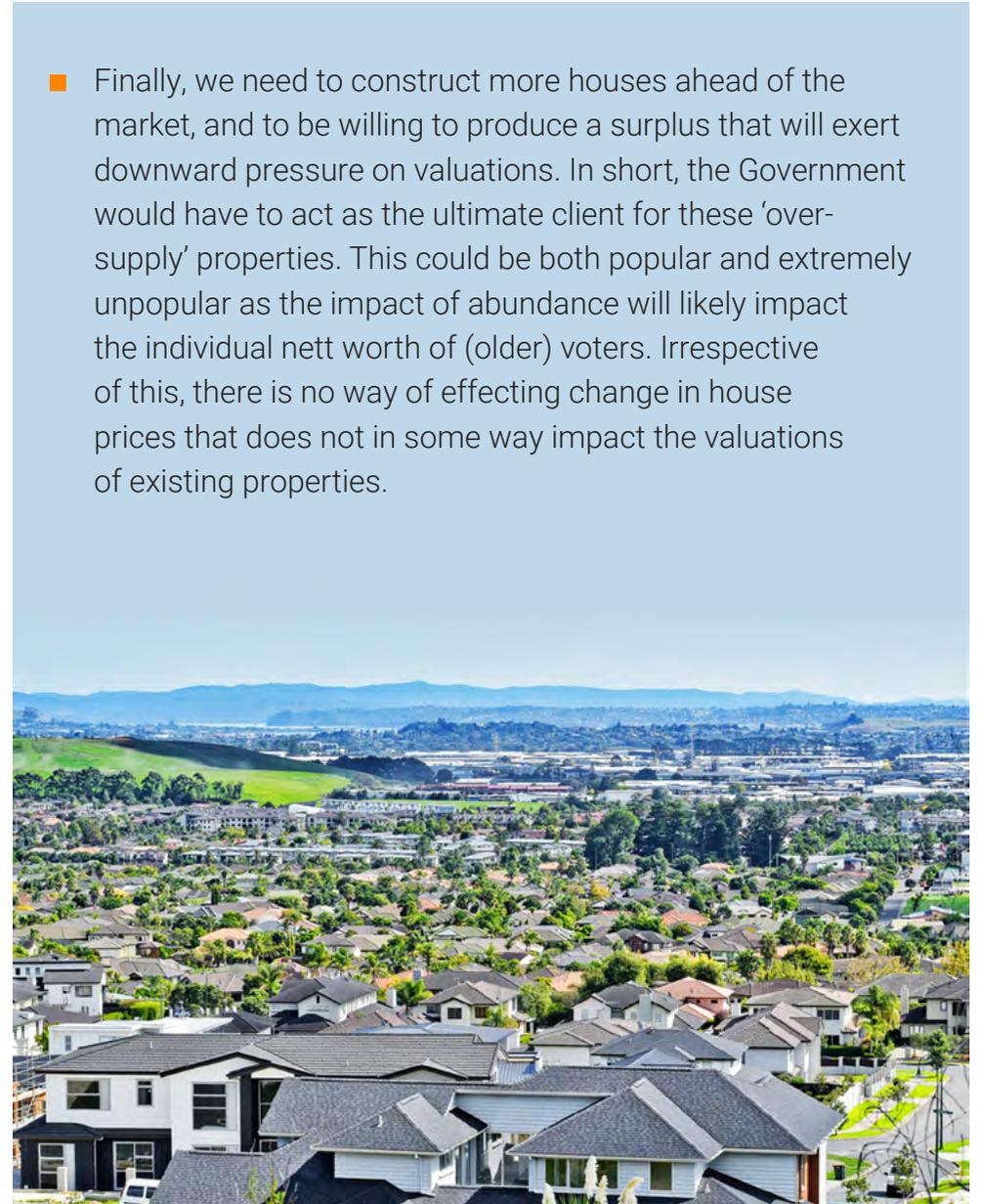
## Possible solutions

Fundamentally, the housing sector is a mess. Philosophers talk about 'wicked problems': insoluble problems cutting across social or cultural issues, which encompass incomplete or contradictory knowledge and have extensive economic impacts on a large number of stakeholders. It could be argued that we have found a new category of problem. The New Zealand housing market is characterised by layers of wicked problems. Perhaps we can call it a 'fiendish problem' – just for the sake of difference.

**On the basis of where we are now, there are no silver bullets and some hard decisions to take. There are many different aspects of this problem that need to be addressed as solutions, but if I were to give a top four they would be:**

- First, we need to work on building capacity. We need more builders and more OSM facilities in operation to grow productive capability ahead of the market. The benefits of careers in construction need to be marketed to the young and those willing to change career direction
- Second, action needs to be taken to secure the future of key support industries like forestry and timber processing. Strategic sourcing to ensure supplies is a huge challenge, but this will help secure long-term price stability. It may be necessary to consider a return to having some form of Ministry of Works to achieve economies of scale for housing construction operations
- Third, if we want to promote inward investment in construction technology, we need to provide some regulatory incentives to specify OSM-type construction in the future. At present, there is not the pronounced financial advantage needed to warrant large-scale investment in capacity growth. Indeed, the history of early technology investments in New Zealand is one in which 'first movers' are financially punished by market fluctuation

- Finally, we need to construct more houses ahead of the market, and to be willing to produce a surplus that will exert downward pressure on valuations. In short, the Government would have to act as the ultimate client for these 'over-supply' properties. This could be both popular and extremely unpopular as the impact of abundance will likely impact the individual net worth of (older) voters. Irrespective of this, there is no way of effecting change in house prices that does not in some way impact the valuations of existing properties.



## Conclusion

While much has been covered in this article, much has been left out. Critical factors include international market manipulation, retirement investment strategy, technology and development policy. What about the future of work? Do we need as much commercial real estate in the future? How can house designs evolve to reflect future demographics and needs? What about climate change and sustainability? And so on. As can be seen by the multi-layered issues discussed here, the New Zealand construction industry faces huge challenges both now and in the future. By extension, the property sector faces the consequences of these issues in its daily operations.

At present we are ill-served by the tendency for the media and politicians to focus on sound bites and silver bullets. We have systemic issues that require large-scale fixes to get back into balance. We are past the point of tidying up the edges and kicking the can down the road to the next electoral cycle. Whether any government has – or will have – either the political capital or the willingness to take the necessary steps is a moot point 🏠

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**We have systemic issues that require large-scale fixes to get back into balance. We are past the point of tidying up the edges and kicking the can down the road to the next electoral cycle.**

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# THE CHANGING FACE OF INDUSTRIAL BUILDINGS IN NEW ZEALAND

Industrial buildings are changing with advances in technology and the transforming demands and needs of tenants. These changes come with challenges, but also offer a significant opportunity to the property developer of industrial space.

VAUGHAN WILSON



## Brief history of some of NZ's industrial buildings

Looking back 100 years ago, New Zealand's industrial buildings were largely constructed around manufacturing and agriculture. We had small dairy factories scattered all over the country. These small single-level buildings, many of which still survive today, were largely made redundant by the invention of the milk tanker truck that was able to retain milk picked up from farms at a constant low temperature. This allowed for much larger milk processing plants located larger distances from dairy farms.

New Zealand didn't make cars, but instead assembled CKDs (completely knocked down), where vehicles arrived from the car manufacturer's overseas factory in crates and were assembled here via legislative demands for local input. These included New Zealand manufactured components such as seat belts, seats, windscreens, tyres and batteries. A good number of Lower and Upper Hutt's industrial landscape was occupied by car manufacturers' assembly buildings churning out CKDs such as Austins, Holdens and Fords, and another large number of properties making the New Zealand-based components.

Ford used to make cars in Courtenay Place (now the Oaks Hotel) in a vertical factory known as a 'flatted factory', where the CKD would begin at the top of the nine-storey building and a finished car would be completed at the bottom as it wound its way down. Ford moved from there to a more typical single-storey factory assembly plant in Lower Hutt in 1935. The factory was sent out from Ford HQ in crates and assembled much the same way as the cars, with all the parts arriving from Michigan, right down to the desks and chairs.



*Cars outside the Ford factory, Petone, Lower Hutt, 1954*

In 1998, the last of the motor assembly factories was shut down and the buildings re-purposed. The Mitsubishi plant in Porirua, at one stage the largest of its type in Australasia at some 50,000 m<sup>2</sup>, was divided up and a significant part of James Cameron's *Avatar* movie was shot there.

New Zealand's other forms of industrial buildings were dominated by localised manufacturing and the agriculture industry, including freezing works, trucking firms, packing houses, wool processing and storage, and of course cool stores. Much of this need hasn't changed, but the efficiency, design, location and other attributes have, meaning the agriculture buildings of today are much different to those of 50 years ago.

## The future – artificial Intelligence and robotics

This article, however, is about the growing trends of other forms of industrial buildings. Building designs are adapting to meet the changing environment of business and the demands brought on by advancements in technology, logistics and the internet.

Artificial intelligence (AI) and robotics have only just scratched the surface in warehousing and logistics, but technology is changing at a rapid rate. Just a few years ago, an automated forklift retrieving pallets was high-tech. This allowed for high racking that was closer together than typical racking, resulting in increased storage volumes, reduced OSH issues/risks, and a 24-hour operation with reduced heating and lighting.

Going forward, this form of AI is expanding to robots picking product for distribution, minimising human intervention and improving utilisation of floor space. Robotic forklifts will be able to load trucks, reduce wastage inside trucks with Tetris-type precision, and allow for automated truck delivery and even robotic delivery to the door. AI will mean in some cases delivery by drone, which will need warehousing that will support large-scale drone lift-off and arrival ports, like a mini-airport with minimal human intervention.

## Data centres

Data centres are nothing new, but with the intense growth in servers, operators such as Google and Amazon are constructing these massive centres all around the world connected by high-speed fibre. This dispersion of servers helps to alleviate risk if something happens to one location as information can be re-routed.

Data centres require very high levels of security and reliable electrical supply and back-up. They create a lot of heat which must be removed, and this requires even more electricity to provide the HVAC to do this. Of course, they also need to be rigid in those countries such as New Zealand with high seismic risk.

Data centres will continue to grow in size and number and there are initiatives to bring more to New Zealand to take advantage of our remote status from a risk aversion point of view.

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## E-commerce and online shopping

Internet shopping and e-commerce was in a massive growth phase all around the world prior to COVID-19. Some countries had embraced it more than others and some of this was due to the level of warehousing and logistics inherent in their location. New Zealand was a little slow off the mark with face-to-face retailing still being the preferred form of purchase, and in many cases being a form of leisure and socialisation.

Our levels of warehousing allowing quick delivery have historically been restricted to common items, with those less common being on order from overseas. COVID has helped to speed up the transition for many New Zealanders to online shopping and they have continued this trend post-lockdown. Shoppers in New Zealand spent more than \$5.8 billion online in 2020, an increase of 25% on 2019. COVID also started the trend for people to work from home, and for many this location of work preference has been retained (or at least partly retained) by workers on a daily and weekly regime.

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## COVID caused a rapid increase in e-commerce and internet shopping in modern economies.

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COVID caused a rapid increase in e-commerce and internet shopping in modern economies. Suddenly, people found themselves online for things they never would have ordered in this way before, such as groceries, shoes, cars and just about everything they could imagine. Retailers have been feeling the pressure of online shopping for some time now and many have entered the online market as an extension of their retail offering. A good example is the Briscoes Group, with Briscoes and Rebel Sports enjoying double digit growth prior to COVID in their online business. The latest data from the Briscoes Group in August this year is that online sales are expanding to 18.3% for 2021 (up from 11% in 2019) and this trend is expected to continue.

## Fulfilment Centres

One of the new developments in warehousing is the Fulfilment Centre (FC), a large-scale warehouse designed and built around providing a hub for the storage and distribution of small orders to companies and individuals, usually via e-commerce. Often it is where an e-commerce company will have a third-party logistics (3PL) provider (also known as a fulfilment provider) on-site to fulfil customer orders for e-commerce retailers, or the stock is kept at the 3PL's own FC.

An FC exists to get online orders to customers in a timely fashion and relieve e-commerce companies of managing this challenging process. FCs can process both business-to-business (B2B) and business-to-consumer (B2C) orders, where they are shipped directly to an individual consumer's home. These types of orders are generally much smaller than B2B orders, and as such require a different set of

logistics and delivery methods. Robotics and AI are starting to have a significant impact on FCs.

Traditional stock warehousing was used to store goods until they were required, whereas the FC is all about efficiently meeting customers expectations around shipping and delivery. With an FC, stock should not sit around for more than a month. It is like 'just-in-time manufacturing', but for e-commerce. FC operators tend to oversee stock management, and in some cases supply chain management, for the e-commerce company.

Amazon launched in Australia in December 2017 and now offers customers 125 million products across 31 different categories and delivers to New Zealand. Late this year, Amazon will complete its fifth FC site in Australia, with its latest property at the Goodman and Brickworks' Oakdale West Industrial Estate in New South Wales.

This FC, the largest warehouse ever built in Australia, will cover 200,000 m<sup>2</sup> across four levels. Perhaps coincidentally, this new warehouse will be vertical, harking back to the original Ford assembly factory mentioned at the start of this article. The new warehouse will be Amazon Australia's first Robotics Fulfilment Centre (RFC) and the first of its kind in the southern hemisphere.

The RFC will house over 11 million items, doubling Amazon Australia's current capabilities. The site will be equipped with their latest robotic technology, allowing robots to transport 'pods' of stock to employees to pack and send out to customers. This reduces staff numbers (although the site will have 1,500 staff) and provide improved space utilisation, potentially by up to 50% over regular warehousing.

New Zealand will see a number of FCs and the introduction of robotics and AI, but these will typically be smaller than their overseas cousins, reflecting the smaller population.

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### **Dark supermarkets**

Similar to the FC is the advent of the dark store or dark supermarket. These are generally a large warehouse that can either be used to facilitate a 'click-and-collect' service, where a customer collects an item they have ordered online, or as an order fulfilment platform for online sales. Dark stores started in the UK in the early 2000s and spread quickly to France, the rest of the EU and the US.



*Countdown dark supermarket at Grenada North, Wellington*

Countdown has been quick to embrace dark store operations, with its first e-store facility opening in 2020 in Penrose in Auckland as a priority service for more than 200,000 customers who were not able to shop in-store during lockdown. It has since opened similar operations in Christchurch and in Grenada North in Wellington. Countdown said its demand for online shopping had increased 74% between April and June 2020 due to the COVID lockdown and comprised over 11% of overall sales in 2020, a 35% increase on 2019. This is expected to be even higher for 2021.

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The Countdown dark stores are typically around 3,500 to 5,000 m<sup>2</sup>, operate 24/7, and can process and fill around 7,000 online orders a week when at full capacity. Dark stores need to cope with foods of a long-term shelf-life, chilled products (some of which have a short shelf-life such as milk) and fresh fruit and vegetables that need to be turned over in the same day. This variability in product and storage requirements, as well as lifespan while in storage, differentiates the dark store from a regular FC.

## Lack of competition in the supermarket industry

The Commerce Commission has just released a draft report to the Government on the New Zealand supermarket industry and how to improve competition in the current duopoly of Foodstuffs and Progressive. Large supermarket providers from overseas have looked at operating out of New Zealand, but the small market size, large-scale set-up costs of stores, contracts with suppliers and other logistics have put them off.

Aldi, Walmart and others have over the years looked at opening in New Zealand and decided not to proceed. These are large players in the grocery trade, with Walmart having the largest workforce in the US outside of the Government (1.5 million staff). The Warehouse Group even trialled grocery shopping, but chucked it in as too hard. Perhaps the advance of dark supermarkets will allow a third player to compete in the grocery trade, thereby not having to construct and operate retail store fronts and only supplying via online shopping. Time will tell.

## Dark kitchens

In a similar vein there is a growing trend of dark kitchens, sometimes called Cloud or virtual kitchens, which prepare and distribute meals exclusively for food delivery and have no restaurant or store front. They are designed bespoke for food preparation for home delivery and therefore differ significantly from typical commercial kitchens.

They are highly efficient production units located to optimise delivery times directly to the key markets they are selling to and do not offer pick-up by customers. Industry leaders determine that there will be a greater number of these dark kitchens built closer to large populations to cater for increasing numbers of home deliveries, with the future bringing drone deliveries along with 'green' forms of road-based delivery.

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*NZ Post Parcel Centre under construction, Grenada, Wellington*

## NZ Post Group

The NZ Post Group has been reporting for years on reducing numbers of regular mail as more and more correspondence is sent electronically. Reacting to the significant reductions in its primary source of revenue, NZ Post has turned to package processing and delivery via its network of couriers. It has invested \$170 million in three state-of-the-art package distribution centres (Wiri in Auckland to open in 2023, an upgrade to an existing facility in Christchurch and a new 11,000 m<sup>2</sup> site in Grenada in Wellington) using the latest technology from overseas to sort and scan packages much faster than existing centres.

During the COVID lockdown, the number of packages distributed by NZ Post grew significantly and this trend is increasing. The new building in Grenada will include environmentally sustainable features, including the ability for roof-based solar power once battery technology improves.

The pandemic provided a massive increase to e-commerce and internet shopping. Over 85 million parcels were processed and delivered by NZ Post during the New Zealand lockdown, a volume forecast previously by them for all of 2023.

## Big box retail

Big box retail has been in New Zealand for a while, with even small towns like Wanaka enjoying its large-scale retail format such as a Mega Mitre 10. For years now there have been rumours of large-scale retail from overseas making its way to New Zealand in the form of Costco, Ikea and others. COVID no doubt disrupted these plans, but it will be interesting to see if these companies still come to our fair shores eventually. Of course, they need excellent access to major arterial routes, large flat land for massive stores with carparking, truck deliveries, and most likely home deliveries off e-commerce.

In my view, big box retailers will begin in the medium term to install photo-voltaic cells (solar panels) to help offset their electrical power requirements, and also offer free electrical charging for vehicles in the carparks as an incentive to shop there, similar to how wifi is currently offered.

## Business parks

Lastly, there has been a massive growth in business parks, which are medium-to-large developments of one, two and sometimes three-storey commercial premises. Typically, they are of a tilt slab design and share party walls. They vary in size and often have a mezzanine level or a second storey. Some in Auckland historically have had residential on a third level, although this is not as common.

Since COVID there has been an explosion of these types of developments, particularly in Auckland and Wellington, with at least eight developments currently on the go in the Wellington region. They appeal to tradespeople, small business owners, investors and those seeking storage, such as for a boat or classic car. The new generation vary significantly in size, with some as small as 17 m<sup>2</sup> and ranging up to around 190 m<sup>2</sup>. The number of units in these developments also vary from as few as 10 to over 80. They typically come with carparks and high stud heights, and are void of fit-out, leaving it to the new owner to do this as required.

Pricing varies, depending on the finish and the underlying value of the land, but a yardstick is \$6,000 plus GST per m<sup>2</sup> as a minimum, with prices increasing from there. Valuers have assessed returns of around 6% or more on these units and they are selling fast.

Mark Walker of Bayley's has been involved in a number of these new developments, including 'The Works' in Elsdon (a suburb in Porirua) and 'The Quarter' in Lower Hutt. He has seen excellent interest from individuals and companies wanting a premises to own, to investors looking for something more affordable than housing and with the tax advantages now not seen with residential investment.



*Traditional business park*



*'The Works' Elsdon business park*



*New Plumblin warehouse, showroom and office in Grenada, Wellington*

Historically, business parks had a body corporate with unit titles to manage ownership and maintenance items. Many of the new developments currently underway have chosen to sell down freehold titles for each unit, with an owner's association instead and rules drawn up and appended to certificates of title.

### Summary

In summary, the industrial property development market is changing, with a greater emphasis on AI, robotics, smaller package deliveries requiring smaller vehicles, more vehicle movements, and in some cases being located closer to residential locations. There is less

manufacturing, a greater need for bespoke storage and warehousing, along with business parks offering a combination of smaller office, warehouse and showroom space.

Overseas there is a trend to have multi-floor warehousing, creating efficiencies of distance from warehouse racking to packing and distribution, and of course making better utilisation of expensive land offerings in central locations.

Industrial property will continue to morph, changing to meet the needs of technology-driven economies and customers who now seek their products through channels other than the traditional retail high street or mall offering 🏠



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# AVELLA COLLOPY



This profile looks at the life and career of Avella Collopy, the Regional Director of Government and Advisory at Opteon New Zealand.

## Stumbling on a love for property

While Avella currently works as a Registered Valuer for Opteon New Zealand, she never set out to work in the property field. She was studying a double major in PR and journalism at university in Perth, but soon realised it wasn't the career for her. She changed majors a couple of times, including to human resources, trying to work out what she really wanted to do. But it wasn't until a conversation with a university friend that she decided to switch to property and marketing studies.

At the time, Avella knew little about the property industry and says she had 'no idea that property valuation was even a thing.' She was warned the sector was very male-dominated, but says that didn't faze her at all. After making the decision there were no more course switches and she has never looked back.

## A career in property kicks off

In 2013, during her final year of studies, Avella applied for a work experience scholarship with Opteon. She wasn't successful in getting the scholarship, but was invited by Opteon Perth to complete her work experience there. Her career move into the property sector was launched.

After completing three weeks of work experience she went into the director's office to thank him for the opportunity. To her huge surprise she was offered a job as a graduate valuer. By 2015, she was a fully certified practising valuer working in the Perth private residential property market.



It wasn't long before Avella wanted to challenge herself and work towards moving into management. She successfully applied for Opteon's Youth Leadership Team so she could develop her leadership skills.

'The team gave me the foundational understanding of what is involved with people management, particularly managing diverse groups of individuals and the complexities that come with that,' she says.

### **Across the Tasman to New Zealand**

The next phase of Avella's working life began in 2017 with her move to New Zealand, after Opteon acquired Sheldon and Partners Limited in Auckland and Landmass Technologies in Tauranga.

At the time, the property market in Perth was experiencing a downturn as the peak of the mining boom had passed. As a result, she was offered the opportunity to go on secondment for six months, which she assumed would be to Opteon in Sydney or Melbourne. To her surprise her manager was thinking of New Zealand. Three other colleagues from Victoria moved across the Tasman at the same time, which helped her with the move.

Australian qualifications in property valuation are structured differently, with New Zealand qualifications usually taking longer to attain. Avella decided to join industry groups, including the Property Institute of New Zealand (PINZ), in order to gain a broader understanding of the local property sector.

### **Varied roles**

Avella started in the private residential market in South Auckland, but that changed in 2018 when she was approached for a management position in the Government Services team, which provides ratings valuations for regional councils across the North Island. Things stepped up a notch even more the following year after she moved into an Associate Director role, and then again in 2020 when she became Regional Director. These days, she does less hands-on valuing as she is more involved in management tasks such as overseeing projects, submitting tenders and managing contracts.

Over the past few years she has been involved in many projects and initiatives that have strengthened her professional capabilities. Within Opteon she was chosen to be an 'influencer' amongst her peers in cultural initiatives and she is a founding member of the Diversity, Inclusion and Accessibility (DI&A) Council. As a body focused on equal

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opportunity, the DI&A Council advocates for an inclusive workplace while promoting diversity as a business strength. Its mission is to ensure every person, whatever their background, feels valued and empowered at Opteon in order to reach their full potential.

Avella is also a previous member of Opteon's Innovation Working Group and has chaired the Emerging Leader Programme (formerly the Youth Leadership Team). This year, she will be involved in a television programme that will include property valuation topics.

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**Avella joined the Auckland branch committee of PINZ in 2020 and in her role hopes to encourage more women to get involved in the wider industry.**

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### **Involvement with PINZ**

Avella joined the Auckland branch committee of PINZ in 2020 and in her role hopes to encourage more women to get involved in the wider industry. She is in demand as a speaker, talking about the 'power of connection' at the 2021 PINZ Young Property Professionals Day. She has been a speaker at the 2021 PINZ National Conference Women in Property High Tea, which Opteon sponsored. She was also awarded the 2021 PINZ Women in Property Award for her leadership abilities, professionalism and commitment to the industry.

Avella has also recently reached out to PINZ to introduce continuing professional development content for ratings valuation, as she sees a lot of opportunity here to provide better support in learning and development outcomes. As a result, there will now be a three-part series on the topic, which is a great outcome for everyone in the industry.

### **Broader interests and passions**

During 2019, after realising there was a lack of support networks and communities for women in property, she founded the Women in Property (WIP) networking group with Chloe Wollard from Auckland Council. So far, the membership has grown to over 100 women. Partnering with key industry stakeholders like PINZ and Valocity, Avella and Chloe have held many events that have provided opportunities for women to connect.

As Avella points out, the industry tends to be male-dominated, particularly in ratings valuation work for government where, she says, a good proportion of the operators are older men. This is partly

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## Avella points out that the valuation field can offer a lot of flexibility – something women tend to look for in a career.

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because ratings valuation tends to be seen as a less attractive field than the private market. She is concerned that a lot of valuable knowledge could end up becoming lost as operators in the field reach retirement age, especially if there is a lack of new entrants. So she has a strong passion for encouraging young graduates, especially women, to consider ratings valuation work.

She is especially passionate about showing women the career opportunities that the industry can offer them. Avella points out that the valuation field can offer a lot of flexibility – something women tend to look for in a career. Working in the industry means they can often schedule their day around other priorities, such as the needs of their families.

Avella is clearly focused on driving change within the industry. What she particularly hopes to see in the industry in the future is many more women, but not simply for the sake of the numbers. Rather, it is more about allowing women to bring what they have to offer to the table and enabling them to make the most of the great career opportunities that the property industry can offer in return.

### Property a great career choice

Avella says that when she started working in property she enjoyed the variety and how her job would involve a mix of being in the office and out in the field. These days she enjoys working in ratings valuation as it comes with a lot of challenges, variety, efficiencies and technical solutions. She also really enjoys the ‘people side’ of the business and the relationships that build up over time.

‘Being a relatively small industry in Auckland, your reputation tends to hold a lot of weight,’ she says. ‘This creates the challenge to not let people down, which in turn spurs you on to higher levels.’

Avella has certainly achieved a lot in a relatively short time in the industry, but still gets time to enjoy living in New Zealand. When she’s not working, she enjoys visiting Auckland’s beaches and scuba diving with her partner and is also a keen collector of indoor plants.

It has been almost five years now since Avella first arrived in New Zealand and so far she has no plans to go back to her old job in Perth. So we can expect to see her around the property industry in New Zealand for some time to come 🏡

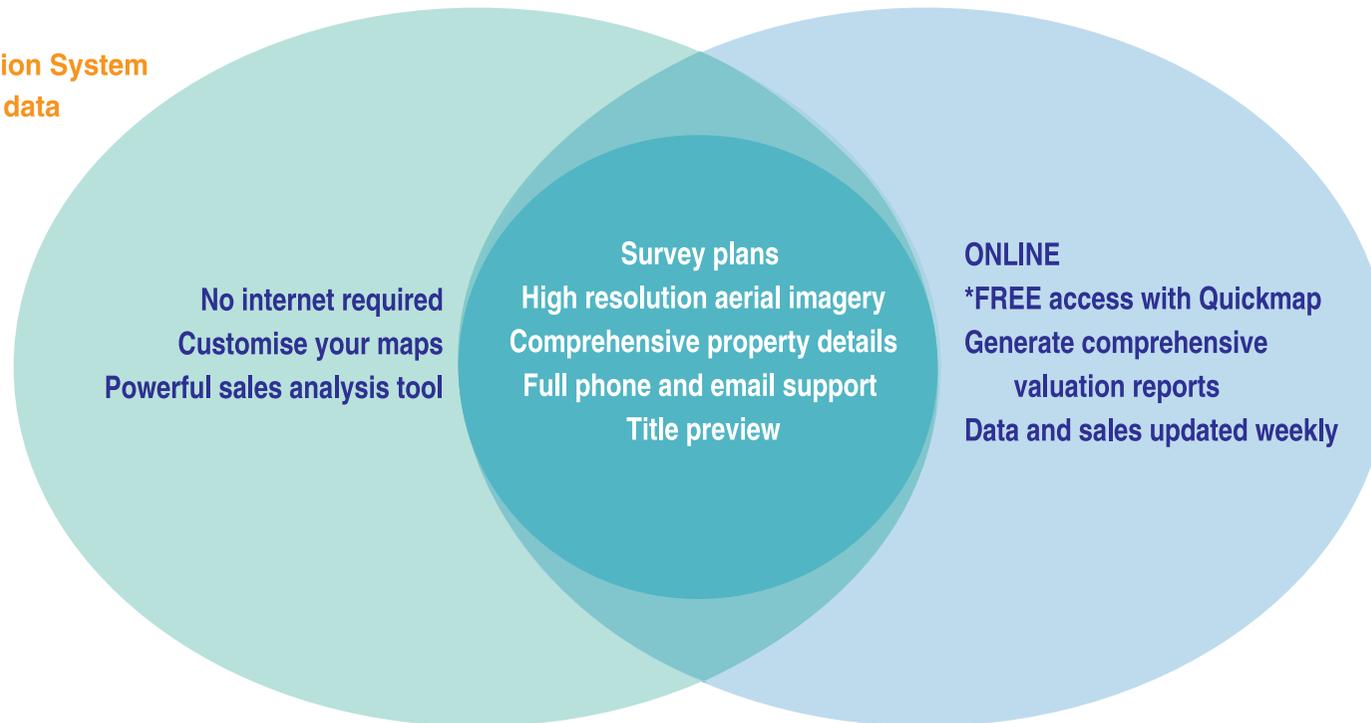
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# UNWANTED LAND COVENANTS

Can they be removed from your title?

**NICK WILSON & EON LAI**

The existence of land covenants has become increasingly important with the shortage of housing supply and pressure on more intensive development. This article looks at the ability to apply to the Court for removal of land covenants under the Property Law Act 2007 and some of the factors that the Courts will take into account.

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## A registered land covenant runs with the land and binds all future owners and occupiers of the property. Some land covenants can be fixed for a period of time or they can be indefinite.

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Removing a land covenant from a title can be easy when all affected owners and their mortgagees are on the same page and have agreed to remove or modify a land covenant. However, there is the ability under the PLA for an owner whose land is subject to a land covenant or easement to apply to the Court to remove that instrument when there is no agreement between the affected parties. This article takes a look at that process and highlights recent cases in which the Courts have had to examine whether the grounds under the Property Law Act (PLA) have been made out.

### **A brief overview of land covenants**

Land covenants are documents that record certain rules as to how property owners can use their land and they can be positive or restrictive. A positive land covenant may require an owner to do something, whereas a restrictive land covenant will restrict the way that the land can be used.

A registered land covenant runs with the land and binds all future owners and occupiers of the property. Some land covenants can be fixed for a period of time or they can be indefinite. The existence of land covenants becomes increasingly important in the current landscape due to the shortage of housing supply and pressure on more intensive development.

### **Property Law Act 2007**

Under section 317 of the PLA, an application can be made to the Court to modify or extinguish an easement or covenant. The application can be made to modify or extinguish the land covenant wholly or in part. Any application to the Court will need to be made by a person who is bound by the easement or covenant and who would, in most cases, be the owner of the burdened land. The applicant will need to satisfy the Court that there are valid reasons for the orders sought.

## What needs to be proven under section 317?

A Court can make an order to modify or extinguish an encumbrance or covenant if it is satisfied that one or more of the following grounds have been met:

- a. The covenant should be modified or extinguished because since the creation of the covenant there has been a change in –
  - i. The nature or extent of the use of the land;
  - ii. The character of the neighbourhood;
  - iii. Any other circumstance that the Court thinks is relevant; or
- b. If the covenant remains in force in its current form, then it would impede the reasonable use of the land in a different way from that which could have been reasonably foreseen at the time that the covenant was created; or
- c. Every entitled person who is of age and capacity –
  - i. Agrees that the covenant should be extinguished or modified; or
  - ii. Due to their actions or omissions, it is reasonable to believe that they have abandoned or waived their right to the covenant; or
- d. The proposed modification or extinguishment will not substantially injure any entitled person; or
- e. If the application relates to a covenant, that the covenant is contrary to public policy, enactment or rule of law; or

- f. If the application relates to a covenant, then for any other reason where it is just and equitable to modify or extinguish the covenant.

Under section 317 of the PLA, if an order is made to modify or extinguish the covenant then the Court may order the applicant to pay reasonable compensation to any person specified and as assessed by the Court.

In a recent Supreme Court case of *Synlait Milk Ltd v New Zealand Industrial Park Ltd* [2020] (Synlait case), the Court considered whether covenants that restricted the use of land to farming, grazing and forestry operations should be modified to allow Synlait Milk Ltd (Synlait), the owner of the burdened land, to operate an infant formula factory land on its land. The factory was built on the burdened land.

The Supreme Court stated that a two-stage approach should be used in the assessment to exercise its discretion to modify or extinguish a covenant. The first questions are therefore:

1. Have one or more of the grounds in section 317(1) been made out?
2. If the grounds are made out, then should the Courts exercise their discretion to modify or extinguish a covenant or easement?

## Three key grounds for modification or extinguishment

### First ground:

Section 317(1)(a) – Change in circumstances since the easement or covenant was created

These three grounds are separate but related aspects that the Court will consider. The assessment is based on the impact that the change would have on the original benefit or burden created by the easement.

### Nature or extent of use of the land

An assessment under this ground looks at whether there has been a change in the user of either the benefited or burdened land. As noted in *Jansen v Mansor* (1995) the focus is not on the fact that there has been a change, but instead whether the impact of the change would warrant the covenant to be modified.

Another relevant consideration is if the advantages and disadvantages obtained from the covenant have become disproportionate because of a change in the use of the land. The Courts are not concerned with the effect of the order, but rather the effect of the covenant if it were not modified or extinguished.

Where the original covenantor has brought an application to modify or extinguish a covenant or easement, the Courts will be more reluctant to order the modification or extinguishment. If the

covenantor (either existing or subsequent) has breached the covenant which has brought about the change in use of the land, then this change in use of the land cannot be used as a ground for modification or extinguishment of the covenant.

### Change in the character of the neighbourhood

The definition of a neighbourhood depends on the facts of the case. If there has been an increase in density of development, the Courts may consider this to be a sufficient change in the character of the neighbourhood to enable the modification or extinguishment of a covenant. Zoning changes can also be taken into account as an indication that there has been a change to the character of the neighbourhood.

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In the *Synlait* case, the Supreme Court found that this ground was made out due to the significant changes to the Pōkeno area. The Court took into account the significant increase in the population of Pōkeno and the number of commercial and residential developments occurring in the area and the corresponding zoning changes.

### Any other changes the Court considers relevant

Under this ground the Court is able to consider any other circumstance that it considers relevant. In the case of *Luxon v Hockey* (2003), the Court held that any future changes in the character of the neighbourhood that will likely come about can be a relevant factor for the Court's consideration. Any changes that are personal to the applicant will not be relevant.



### Second ground:

Section 317(1)(b) – Covenant would impede the reasonable use of the land if it continued to exist

The Court can grant an application to modify or extinguish a covenant if the Court is satisfied that the covenant in its current form would impede the reasonable use of the burdened land in a different way or to a different extent from what the parties could have reasonably foreseen at the time the covenant was created.

In *Woodcocks Property Ltd v Auckland Council* [2021], the Court found that the continuation of a covenant (which restricted the placing of houses of over a certain age onto the property) would impede the subdivision of the land (which was considered reasonable) and was to a different extent than what could have been reasonably foreseen at time the covenant was entered into. In this case, the Court ordered the land covenant to be extinguished off land that was to be vested as road.

In the *Synlait* case, the Court also found that if the covenant had remained in force, then it would have impeded the reasonable use of the burdened land to a different extent than what could have been reasonably foreseen when the covenants were created. The Court noted that the changes in Pōkeno and the area that surrounded the quarry would not have been reasonably foreseeable when the covenants were created.

The manner or extent of the impediment must have changed in ways that were not reasonably foreseeable. In *Ceda Drycleaners Ltd v Doonan* [1998], it was held that where the impeding of the user of the

land remains the same as was originally foreseen then this ground will not be met. In that case, the covenant prohibited the use of the land for commercial or professional purposes unless levies were paid to the business association.

The purpose of the covenant was to enable the continued existence of the association to provide collective services to the shopkeepers operating in town. The Court found that the purpose of the covenant remained the same and the continued existence of the covenant would not restrict Doonan in a different manner or extent from that which could have been reasonable foreseen by the original covenantor.

### **Third ground:**

Section 317(1)(d) – No substantial injury to the owner of the benefiting land

This ground requires looking at whether the effect of the modification or extinguishment would substantially injure the benefited owner. One of the issues considered by the Courts will be whether the proposed modification would cause injury to the benefited owner. Even if the modification in itself might not cause injury, the benefited owner may suffer injury if certain things became generally allowable under the covenant.

In *Pollard v Williams* [2019], the Court adopted the approach taken in *McMorris v Brown* [1999], which involved a covenant that prevented further subdivision in suburban Jamaica. The Privy Council in *McMorris*

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**One of the issues considered by the Courts will be whether the proposed modification would cause injury to the benefited owner.**

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*v Brown* stated that an application to modify the covenant would in effect grant a breach of the development scheme and would lead to an ongoing lack of assurance of the integrity of the building scheme.

The outcome would likely be different if all the benefited owners joined together in an application for the modification of the covenant. The injury must also be ‘substantial’. Although this depends on the facts of each circumstance, the meaning of ‘substantially’, as discussed in *Plato v Ashton* (1984) and adopted by *Jansen v Mansor*, is that it must be ‘real, considerable, significant, as against insignificant, unreal or trifling.’

The injury could be of an economic kind, physical kind, or an intangible kind. The Court of Appeal in *Chand v Auckland Council* [2021] found that a restriction on views and the impact on privacy was an injury that would be substantial if two proposed two-storey structures were built in breach of a covenant.

In the *Synlait* case, the Court found that there would be no substantial injury to NZIPL as the presence of their factory would not make it more difficult for NZIPL to apply for resource consent for the quarry. The Court's reasoning was that there was uncertainty as to whether NZIPL would develop a quarry, residential developments were increasing in the area, there were other dairy factories in the area and it was likely that other property owners would object to an application for the quarry.

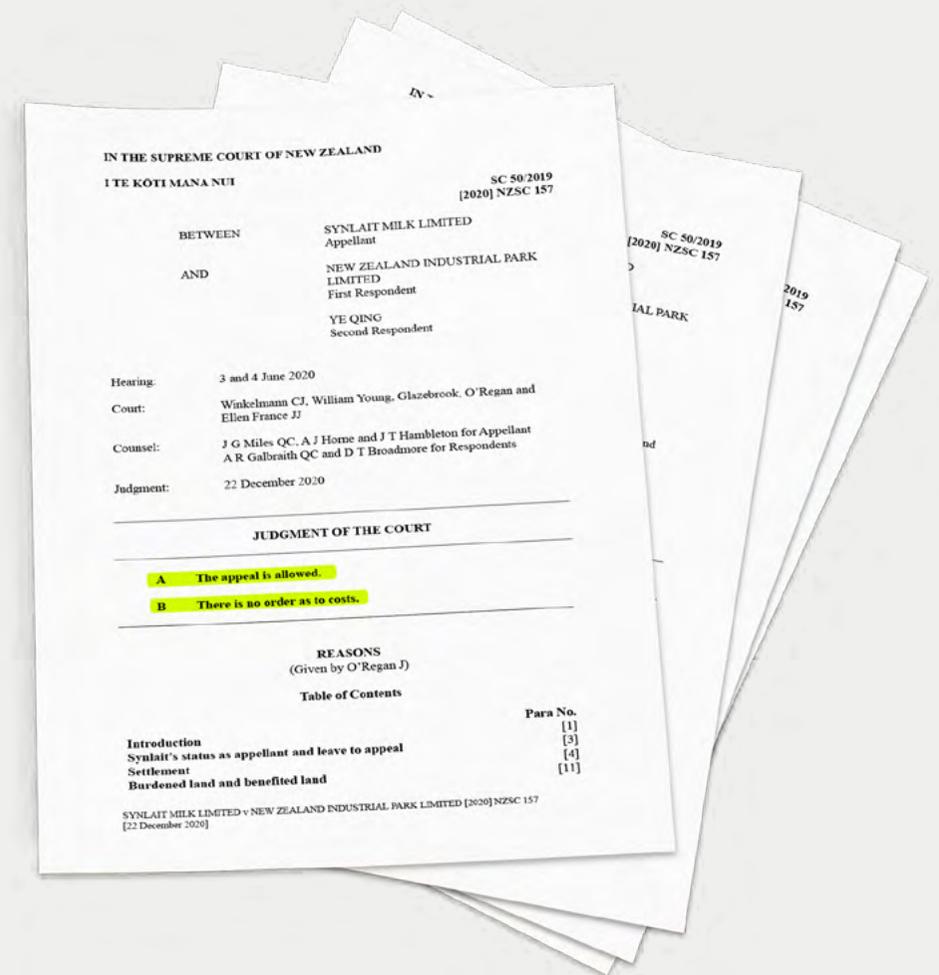
### Covenant in gross

Under section 318D of the PLA, the Courts can also make an order to modify or extinguish a covenant in gross. The grounds to be met under the section are nearly identical to the grounds under section 317.

In addition to the grounds discussed above, under section 318D(1) (b) the Court can grant an application to modify or extinguish the covenant if it is satisfied that reasonable enquiries have been made to find the covenantee but they cannot be found.

### The Court's discretion

It is important to note that even if the Court finds that the grounds under section 317 or section 318D of the PLA have been met, this only gives it the option to grant the order to extinguish or modify the covenant or easement. The granting of such an order is entirely at the Court's discretion.



In the *Synlait* case, the Supreme Court showed their willingness to exercise their discretion under section 317 of the PLA to modify existing covenants. The Court concluded that where the grounds had been met and there was no reason for it to not exercise its discretion to modify the covenants, then the covenants would have been modified. Even though the sanctity of contracts is important, there is clear parliamentary intention for the Courts to be able to grant an application to modify or extinguish a covenant in appropriate cases.

## The key takeaway

It goes without saying that before purchasing property, legal advice should be sought about any land covenants and encumbrances registered on the title of the property. A discussion with your legal adviser about your intentions concerning the land is important as the removal of land covenants can be time consuming, costly and the chances of success are uncertain.

If an application to the Court is required to modify or extinguish a land covenant, the Courts have shown that they will grant an order to modify or extinguish in an appropriate case, but it will depend on the facts of the case and is discretionary 🏠

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## 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. Specialist advice should be sought on particular matters.*



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