

PRESIDENT'S REPORT

10 March 2009 - 11 March 2010

1.0 Introduction

This is my President's report to members of ADLS Inc for the period of my first term in office commencing 10 March 2009 until today 11 March 2010.

Thank you to all members of ADLS Inc for their support in 2009 and to my Council and staff of ADLS Inc. I hope to have your continued support this year which will be another critical year for ADLS Inc and its future.

ADLS Incorporated

The transition of ADLS from a compulsory member organisation responsible for the regulation of the Auckland profession (pursuant to the Law Practitioners Act) to an incorporated society to which membership is voluntary, has been a significant challenge for the Council. More particularly it has been a time of change and stress for ADLS staff.

My Presidency started with what can only be described as a "baptism of fire". The legislative changes brought about by the Lawyers and Conveyancers Act (LCA) and the decision of ADLS Inc to incorporate had some very significant ramifications for ADLS Inc. Membership as at 1 February 2009 was 0, whereas under the previous regime, ADLS had 4500 members. This was obviously a dramatic change in the landscape for the Society and the Auckland legal profession. There were other significant flow on effects in relation to staff, the Council, the library for example.

The Library

ADLS Inc as a voluntary organisation without regulatory funding was not in a position to continue supporting the ADLS library housed proudly in the High Court building for many years. On 31 January 2009 the library was transferred to NZLS pursuant to the LCA and became part of the NZLS national information network. Assets such as the ADLS rare book collection, regalia for example were not transferred.

It was a very stressful time for everyone especially the library staff which was most unfortunate. I would like to repeat my sincere thanks to those library staff for their dedicated work for ADLS for many years. Helga Arlington, the Head Librarian and whose career in the library spanned more than 22 years decided not to make the transition to NZLS and was made redundant. Helga was a wonderful librarian and someone many of us have known for most of our legal careers.

ADLS Inc still retains a real interest in the operation of the library, and has its own library committee, convened by Peter Twist. The library committee meets regularly in our building and makes sure it is up to speed with any issues affecting the library and the services it provides, for the benefit of the Auckland profession.

ADLS Executive Director

The other significant event at the close of 2008/ early 2009, related to Margaret Malcolm's role as the Executive Director of ADLS. Margaret's role had changed significantly following the legislative changes and the decision to incorporate. Margaret's role was made redundant and she was farewelled from ADLS Inc in a memorable event in early April 2009. A large number of practitioners together with a significant number of High Court and District Court Judges and former Presidents of ADLS attended the event to thank Margaret for her lengthy and loyal service to ADLS.

Review of ADLS Inc's Operational Structure

Given the changes to ADLS and its operation, a review was undertaken of ADLS Inc's operational structure. Council decided upon a new structure reflective of ADLS Inc's voluntary member status, no longer having responsibility for the regulation and discipline of the Auckland legal profession.

We now have a new executive team including Gray Paterson, CEO, Marcus Martin, Director Members' Products and Services and Finance Manager, Wendy Smith. Other new staff include Chanel Layton-Scheepers, Documents and Precedents Manager, Rachel Kreegher, Member Services Administrator, Frances Pearce, Administrative Assistant, Marie Solia, Finance Assistant. Kristyn Rowley was the Member Services Assistant but has taken up the role as CLE and Events Administrator alongside the existing CLE and Events Administrator, Debbie Walker.

I would like to sincerely thank both current and departed staff who have worked tirelessly for the benefit of ADLS Inc and I look forward to a positive year for ADLS Inc, the Council and staff in this new decade, starting in 2010.

ADLS Inc Council Structure

Council was of the view that its own structure also needed to change and following a postal ballot last year, changes to the ADLS Inc's rules brought into effect a number of changes including the reduction of Council from a total of up to 18 members to a Council comprising a total of 10 members including the President and one member who could be co opted by Council if it thought fit. That person would probably be from outside the legal profession with a business focus. The new ADLS Inc Constitution can be found on our website. Elections for Council have just taken place and the new Council for 2010 is as follows;

- Kathryn Beck
- Frank Godinet
- Geoff Hardy
- Jacque Lethbridge
- David Roughan
- Bernard Smith
- William Spring
- Sue Styants

A sincere thanks to all members of the outgoing Council (namely Noel Cox, Terry Darby, Joel Fotu, Gregory Thwaite and Jennie Vickers) for their work in 2009 and in the years before not only on Council but on various Committees. I wish all the outgoing Council members all the very best for the future.

2.0 Financials

As Keith Berman set out in his report as President for the period 1 October 2007 to 31 January 2009, for a whole host of reasons as at 31 January 2009 there was a deficit for the month of January 2009 of \$695,772. The audited accounts for Auckland District Law Society Inc for the period to 30 September 2009 show a surplus of \$487,421 and the balance sheet continues to be very strong. The audited accounts are available on our website for viewing.

3.0 ADLS Inc Committees and Subcommittees

Committees are the “life blood” of ADLS Inc. Committee members generously contribute a lot of their time, expertise and experience in specialist areas of law voluntarily for the benefit of all lawyers. Submissions to select committees, reports on issues of importance, media activity are all part of what committees do. ADLS Inc has 19 Committees each headed up by an experienced Convenor. I would like to sincerely thank all those convening and participating on any of our committees, your work is truly appreciated.

ADLS Inc Committees include:

- **CLE** (David Smith)
- **Commercial Law** (Frank Chan)
- **Courts** (Iain Hutcheson)
- **Criminal Law** (Todd Simmonds)
- **Documents and Precedents** (Niamh McMahon)
- **Employment Law** (Marg Robins)
- **Environment and Resource Management** (Matt Casey QC)
- **Family Law** (Kirsty Swadling)
- **Immigration and Refugee Law** (Peter Moses)
- **Law and Technology** (Waldo Kulpers)
- **Library** (Peter Twist)
- **Members Special Fund** (Norman Elliott)
- **Mental Health and Disability** (Paul Gruar)
- **Property Law** (Bryce Town)
- **Property Disputes** (Ian Lowish)
- **Public Issues** (Linda Fox)
- **Recently Admitted Members** (Cynthia Garton/Sam Learmonth)
- **Small Practice Representation Interest Group** (John Holmes)
- **Court House Liaison** (Iain Hutcheson)

Some of the Committees in 2009/2010 were busier than others but it tends to be “swings and roundabouts” depending on the Government’s legislative agenda. Some of the issues that Committees were involved in 2009 were;

- **Commercial Law**
Submissions were made on “Regulating and Supervising Financial Advisers’ staff, Financial Service Providers (Registration and Dispute Resolution) Act and draft guidelines to assist schemes applying to be an Approved Dispute Resolution Scheme.
- **Courthouse Liaison**
The Committee was involved in discussions with the Ministry of Justice regarding Court houses in Whangarei, Auckland High Court and Auckland District Court, Environment and Employment Court relocation in Auckland. The flexible court hours pilot.
- **Employment Law Committee**
Met with the Minister of Labour in relation to employment and health and safety issues, regular input by Members of the Employment Relations Service, Authority and Court.
- **Immigration and Refugee**
This committee was involved in submissions in relation to the Immigration Advisers Licensing Act – Non-Lawyer Employees’ Exemption. Formal confirmation exempting non lawyer employees from IAA as a result of the committees work.
- **Law and Technology**
Search and Surveillance Bill, Data Encryption for portable data storage.
- **Members Special Fund**
Unfortunately this Committee has had to meet on a number of occasions to discuss and assist Auckland lawyers who have found themselves in need of financial and other support. It is a member benefit which is very important to ADLS Inc.
- **Property Law Committee**
Following work done by this Committee, Manukau City Council ceased to charge the \$25 fee payable by a solicitor seeking information on rates when acting for a vendor.
Consideration of Select Committee report on the Unit Titles Bill
- **Public Issues**
Best Practice Standards of Client Care, Parliamentary Privilege, Search and Surveillance Bill all issues considered by this committee.

These are just some of the issues being worked on by our Committees. A number of Committees were involved in assisting with CLE events, conferences and dinners.

A number of ADLS Inc staff have been and are involved in the smooth running of the Committees including Melissa Perkin - who has now left and has been replaced by Lisa Willis, Marcus Martin, John Wallace - who has left and been replaced by Chanel Layton-Scheepers and Dan Suci. Thank you to all staff for their hard work in ensuring the committees are productive and operate smoothly.

The **CLE** and **Documents and Precedents** Committees are very important to ADLS Inc as they are responsible for the CLE programme and the many ADLS Inc forms and precedents. These activities are important for our members in terms of their legal practices but are also very important in respect of collegiality and revenue generation for ADLS Inc. Thank you to those committees and staff involved in ensuring they operate effectively.

4.0 NZLS

The relationship between NZLS and ADLS following the decision by ADLS to incorporate in August 2008, unfortunately reached an all time low. Feelings were very strong on both sides of the debate and the result caused a severe blow to the working relationship between the two organisations. Many ADLS staff were put through a very testing time.

My priority in 2009 was to try and repair the rift. I feel on a personal level that much has been achieved but that there is still a long way to go.

In my meetings with practitioners in Auckland and around the country there has been a real desire expressed that the 2 organisations must make more of an effort to work out their differences and find a way to work together. Whether this means an agreement that we should stay separate and each do our own thing, an agreement to exist and work together in a complementary way or work back towards a model such as the One Society Model is a critical issue which I believe needs to be the number one priority for ADLS Inc's Council and ultimately our members this year.

5.0 Forms- REINZ

This was a major issue in 2009 for ADLS Inc. The REINZ released its new "plain English" Agreement for the Sale and Purchase of Real Estate on 1 July 2008. This was a significant departure from the "tried and tested" joint ADLS/REINZ 8th Edition Agreement of the Sale and Purchase of Real Estate. The issuing of the form was a real concern for property and commercial practitioners as it had not been tested and it meant that lawyers involved in such transactions would have to spend a great deal of time familiarising themselves with the new form. There was a concern about the costs of this to clients and about the confusion which would occur in the market place.

ADLS Inc took the issue of the REINZ form very seriously. A communication was sent by me as President of ADLS Inc, to the entire profession on 30 July 2009. This letter set out the major pitfalls and issues with the form so that practitioners felt satisfactorily informed.

ADLS Inc subsequently commissioned an independent legal opinion from Rod Thomas, an experienced commercial barrister, (now senior lecturer of law at the Auckland University of Technology) and one of the authors of Brookers Land Law. Rod Thomas thoroughly analysed the REINZ form and concluded, in an opinion, that there were serious issues with the form. He also spelt out the dangers inherent in using it. Given the seriousness of the issue to practitioners,

ADLS Inc circulated Rod Thomas' opinion to the entire profession. I am extremely grateful to Rod Thomas for his work in producing the opinion.

As many of you will remember there was a great deal of speculation in the media about the form and the relationship between REINZ and ADLS Inc was sorely tested.

Towards the end of last year, representatives from ADLS Inc and REINZ met on a number of occasions to talk about their joint future. At this stage, ADLS Inc and REINZ are working on updating the ADLS/REINZ joint Agreement for the Sale and Purchase of Real Estate together with the auction and tender forms. The Documents and Precedents Committee have been provided with a revised version of the 8th Edition and representatives of REINZ have been invited to provide input in to the revised form. I would expect the revised 8th Edition Agreement together with the auction and tender documents to be available within the next couple of months.

The ongoing relationship between ADLS and REINZ in the future is another item which is high on the agenda this year.

6.0 Membership Initiatives

Membership numbers of ADLS Inc sit at just over 3000, approximately 600 of whom are outside the traditional Auckland region. I am very pleased with the membership renewal so far this year.

ADLS Inc continues to provide a large number of benefits to its members, including:

- CLE programme- with opportunities to learn or present,
- Forms and Precedents- there are more than 200 available as webforms
- Committees providing members the opportunity to be involved in their specialist areas of law and for purposes of collegiality,
- Friends Panel- a free service to members who feel the need to seek counsel from an experienced member of the profession,
- Bar Dinners to celebrate the achievements of our colleagues in the profession,
- Trust Accounting Bureau
- The Annual Church Service
- Social events and dinners
- Supplier arrangements- benefits from Glengarry, Amex, Vodafone and so forth.

ADLS Inc intends providing an extended programme of benefits to members in 2010.

Many of these benefits to members rely on the good will of practitioners, for example the Friends Panel and mentoring schemes. My sincere thanks to all those practitioners who freely provide guidance and support to their colleagues as part of these schemes.

7.0 Distinguished Members

The Society has a proud tradition of awarding a certificate of appointment as a Distinguished Member of Auckland District Law Society to those members of the profession in the Auckland region who have made significant contributions to the legal profession. Last year this award was presented to His Excellency, The Honourable Sir Anand Satyanand at a dinner in August. It was a real highlight in the Society's calendar.

8.0 Other Professional bodies

The legal profession is well served by various special interest groups such as the Bar Association of New Zealand, the Criminal Bar Association, The Auckland Women Lawyers Association, the Manukau Professional Bar Association, the Korean Lawyers Association, the North Harbour Lawyers, the Indian Lawyers Contact was made by ADLS Inc with each of those groups in 2009 in order to establish links with and provide support if necessary. We hope to continue to build up these relationships in 2010.

9.0 The Future

On a number of levels 2009 was a very difficult year. The progress made despite the challenges has been very encouraging. However, ADLS Inc cannot afford to be complacent and must be proactive about its future- what does the future look like? This question requires ADLS Inc to consider its relationship with NZLS. As always I look forward to your feedback. Thank you again for your support.

Anna Fitzgibbon
President 2009-2010