

## What's Happening at Halliwells

- Shannon sustained a bad injury to her knee, playing netball, a few months ago. She has finally had an operation to fix the damage and is looking forward to being fully mobile again. She has a long road to full recovery and lots of physiotherapy ahead of her! Despite that we can't keep her away from the office – she has already started back at work, starting with a couple of hours a day. We wish her a speedy recovery.
- Amanda Garvey is busy juggling being a mum with part time work. She currently works three days a week (Tuesday to Thursday) from 9am to 3pm. Amanda has been with Halliwells for many years and we value her presence whenever we can get it!



Shannon with her crutch being a trooper!



**HALLIWELLS**  
Established 1896

## New Office in New Plymouth...

**Halliwells New Plymouth office – Now in the newly renovated HTL Building at 27 Eliot Street.**

Clients are welcome to call Shannon 0800 425 549 or 06 278 5114 for an appointment to see Preston or Ken who alternate in New Plymouth on Thursday afternoons.

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## TE KARAKA FOUNDATION

Taranaki's Endowment Fund



Ken has been one of the driving forces behind, and is a co-chair of Te Karaka Foundation, one of 14 regional community foundations around New Zealand that receive guidance and support from the Tindall Foundation.

Te Karaka Foundation provides people with a personal and lasting way to support the causes important to them in Taranaki.

### Ways to Give

- Gifts to Te Karaka Foundation are made by individuals, families or organisations by setting up their own Named Endowment Fund, or donating to the Foundation's Community Fund.
- Each fund is managed individually, but its capital is combined with the other funds and managed by Te Karaka Foundation in order to reduce risk and costs.
- Te Karaka Foundation will make grants to the Taranaki community from the income earned on the endowment investments each year, in line with donor wishes.
- Granting from a Named Endowment Fund begins when the fund reaches \$50,000.
- The Community Fund is a general fund that will be used to benefit Taranaki.

### Key Benefits of Te Karaka Foundation

- It has a regional focus – all the trustees are local and gifts go to the local community.
- Endowments are permanent, so your gift keeps on giving.
- A Named Endowment Fund enables you to specify the organisations or initiatives you wish to support.
- Annual updates allow you to keep track of your fund's earnings and distributions.
- You can rest assured that your gift to the local community is in safe hands – Te Karaka Foundation is managed by reputable trustees from the Taranaki community.
- Donations made to Te Karaka Foundation may qualify for a tax credit.

Te Karaka Foundation will be launched publically next year, but already has several Named Endowment Funds: the Puke Ariki Trust Collection Fund, the Winifred Knight Trust and the Dr B.F. Clarke Endowment Fund.

Donors who establish their Named Endowment Fund during 2016 will be recognised as Founding Donors of Te Karaka Foundation. Founding Donors will enjoy special recognition at the Foundation's public launch event and in ongoing communications.

## Snippets

### Halliwells Dux 2015

Congratulations to Germana Lewis, who is the winner of this year's Halliwells Dux award. Germana also received the Appleyard Cup for excellence in level 3 English, the David Greenhough Cup for excellence in Level 3 Chemistry, as well as four scholarships that will aid her in her studies at Otago University. Germana will embark on the first year of her Health Science studies – we wish her all the very best!



### Buyer Beware – Yet again!

We remind clients yet again to let us look at documents before you sign – especially in the case of Sale and Purchase agreements.

While many are simple and straightforward, there may be hidden dangers, omissions or conditions that won't suit you. For example, it is now commonplace that agreements require deposits to be paid to the New Zealand Real Estate Trust. There are risks for purchaser clients who pay their

deposits into this Trust that we should advise about. We can usually review documents quickly and at least have a conversation with you about your plans.

Clients are also advised to obtain a Land Information Memorandum (LIM) from your local council, plus a building inspection of any property you intend to buy.



### Alcohol Control

It is not an offence per se to have alcohol in a public place.

It is however an offence to breach council bylaws. Each council makes their own alcohol control rules that best suit their circumstances. You might therefore find each holiday hotspot applies liquor bans differently.

Using Tauranga as a famous example, parts of Papamoa are liquor-free from 9pm to 7am each night, while other popular public areas are liquor-free permanently, such as Mount Maunganui, Mount town and main beach, and Tauranga CBD. From 26 December to 6 January the ban in these public areas is significantly extended to cover other past problem areas, including Pilot Bay, Marine Parade and its adjacent beach, and Papamoa beach.

Alcohol in an unopened container can typically be transported through a liquor-controlled area to a private residence, although this should be prompt - storing alcohol in a vehicle will not protect you. Recent changes mean a breach of a liquor ban will likely mean an instant \$250 fine and your alcohol confiscated.

**PRINCIPAL**  
Ken Horner LLB

**CONSULTANT**  
Preston Bulfin LL.M F. Fin

**ASSOCIATE**  
Andrew Ritson BCom(Fors), BCom(Hons), LLB

## Commercial Leases

For many businesses, the lease of the business premises is often the most expensive, long term overhead. It follows that the document that underpins that lease is very important.

Lease agreements largely rely on standardised forms, but because the needs of each landlord and tenant vary so widely, no leasing situation will fit squarely into one of these standardised forms.

Remember that the lease document should not only set out the 'legal necessities' of the lease arrangement, but it should also document the long-term expectation of the parties.

Some terms are critical for all leases. For example, the lease term, amount of rent payable rights of renewal, what modifications will be made to the leased premises, and what security might be given under the lease. Those things need careful consideration, but in our experience clients often fail to think adequately about the following aspects:

### Maintenance Obligations:

- A standard lease normally provides that the tenant is responsible for certain items of non-structural maintenance at its cost. The landlord may be responsible for certain items of maintenance, but if those items are included in the list of outgoing, the tenant will be required to pay for that maintenance.
- These standard provisions can easily be changed, but if the tenant overlooks them, the above provisions will usually apply.
- All tenants should take particular note of the state of the property at the commencement of the lease.

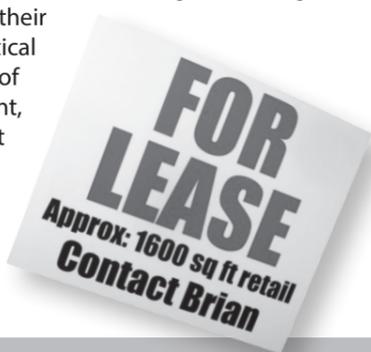
### Insurance:

- Usually, a landlord cannot require a tenant to meet any costs that result from damage caused by natural disasters or any event that the landlord is insured for. So, any tenant needs to familiarise themselves with the nature and scope of the landlord's insurance.
- Typically, the landlord arranges the insurance and the tenant pays the premiums as an outgoing. The landlord's excess up to \$2,000 per claim is also payable by the tenant, so before signing the lease, the tenant should consider if that level is appropriate.

### Reinstating the Premises

When the lease ends, most lease agreements require the tenant to reinstate the premises to how it was at the start of the lease, at its cost. In many cases, this can be very time-consuming and expensive. Failure on the tenant's part to do this usually means that the landlord can 'make good' the premises and recover the cost from the tenant.

It is important that clients who are thinking of entering into lease arrangements turn their minds not only to the critical terms on the first couple of pages of a lease document, but also to the small print at the back of the lease document – clients of Halliwells can expect us to ask about those.



## New Tax Requirements

- Some of you involved in buying or selling land will already have had to provide certain tax information to us. This in a new requirement and will affect many people who buy or sell land from 1 October 2015.
- Buyers and sellers who sign contracts for the sale of land after 1 October 2015 are required to provide certain tax information before the transaction can be registered. That information is provided to us in the first instance. We then pass it on to Land Information New Zealand and IRD collects it from them.
- It is important that we resolve any tax information issues with you as soon as possible, especially where a trust is buyer or seller.
- This will mean that each party to the contract must have an IRD number. In the case of trusts, the trust itself is required to have its own IRD number. IRD currently needs about 10 working days to issue new IRD numbers.
- Companies involved in the transfer of land must also have IRD numbers.
- It is not possible for transfers of land to occur without the required tax information in most cases, which could cause settlement to be delayed.
- We will discuss this with you early on in the transaction, but please contact us if you have any concerns or queries in the meantime.

## Selling a Business – Things to Consider



You've worked hard to make your business what it is, but you're now ready to move on. So you list it for sale, accept an offer, receive the funds and hand over possession. Sounds simple, right? Not always.

There are many things you should consider if you want to achieve the best price, minimise your ongoing risk, and ensure your business will have the best opportunity to thrive once sold. As each business is different there is no 'one size fits all' approach. **Things to consider include:**

- Why are you selling? Probably the most important question, this can affect how the transaction is structured and timing.
- Are you replaceable? Many business owners have unique and integral knowledge and skills that may be difficult for a purchaser to learn or replicate. Remove that key person, and the business suffers. It can be important therefore to devise an exit strategy, perhaps by employing and training a potential new owner for some time (often years) before the business is eventually offered to them. Depending on your business structure, a shareholders' agreement could record that the shares of the business are transferred to your successor in parts over time.
- Are you selling the shares in your company, or just the assets of the business? Selling shares can be simpler, but can include more risk.
- Your business accounts and turnover figures should be up-to-date and accurate. You will usually be asked to provide a warranty that the turnover figures for the last 12 months are accurate.
- Landlords and tenants on good terms sometimes overlook completing the proper paperwork to renew a lease. It is important to ensure you have signed copies of the lease

together with any deeds of assignment, renewal and rent review. A purchaser will typically want to ensure there are several rights of renewal available so they can be confident they won't be forced to relocate shortly after purchasing (especially if there is goodwill tied to the business location).

- Your landlord can usually stop a sale transaction if they are not reasonably satisfied that the new purchaser will be a good tenant. Also, your liability under the lease often extends beyond settlement if the new purchaser turns out to be a bad tenant.
- Do you own everything your business needs to operate? Is any plant or equipment leased or owned by the landlord? If so, these need to be disclosed and you need to ensure that they can be assigned to the purchaser (if they so require).
- What is happening with your employees? Do you have employment agreements in place? Do you expect the new purchaser to take over all existing employees? If not, will you need to make redundancy payments?
- Do you have all the consents, licences, permits, certificates or authorisations required to carry out your business?
- What is your business actually worth? Have you valued the assets? What is the goodwill in the business worth, and how much of that is tied to the business itself, to you as the owner, or to the physical location? With that knowledge, what can you do to ensure you can sell as much goodwill as you can to the new owner?

Finally, when do you need to sell? A common theme here is that there are many things you can do to make your business more attractive (and therefore more valuable and easier to sell), but they can take time. Seek advice early to ensure you are on the right track.

## South Taranaki District Museum Trust – *Halliwells in the Community*

Andrew Ritson is a trustee of the South Taranaki District Museum Trust, which owns and maintains the South Taranaki Museum buildings in Patea, as well as the museum's collection.

The trust ensures that South Taranaki is provided with the facility to house, care for and present the district's history.

The museum's displays change regularly, so it is always well worth a visit.

The current exhibition is entitled 'Voyage into the Heartland' and showcases a unique photographic collection of landscapes and portraits from the 1930s, from the Batten family, prominent South Taranaki farmers.