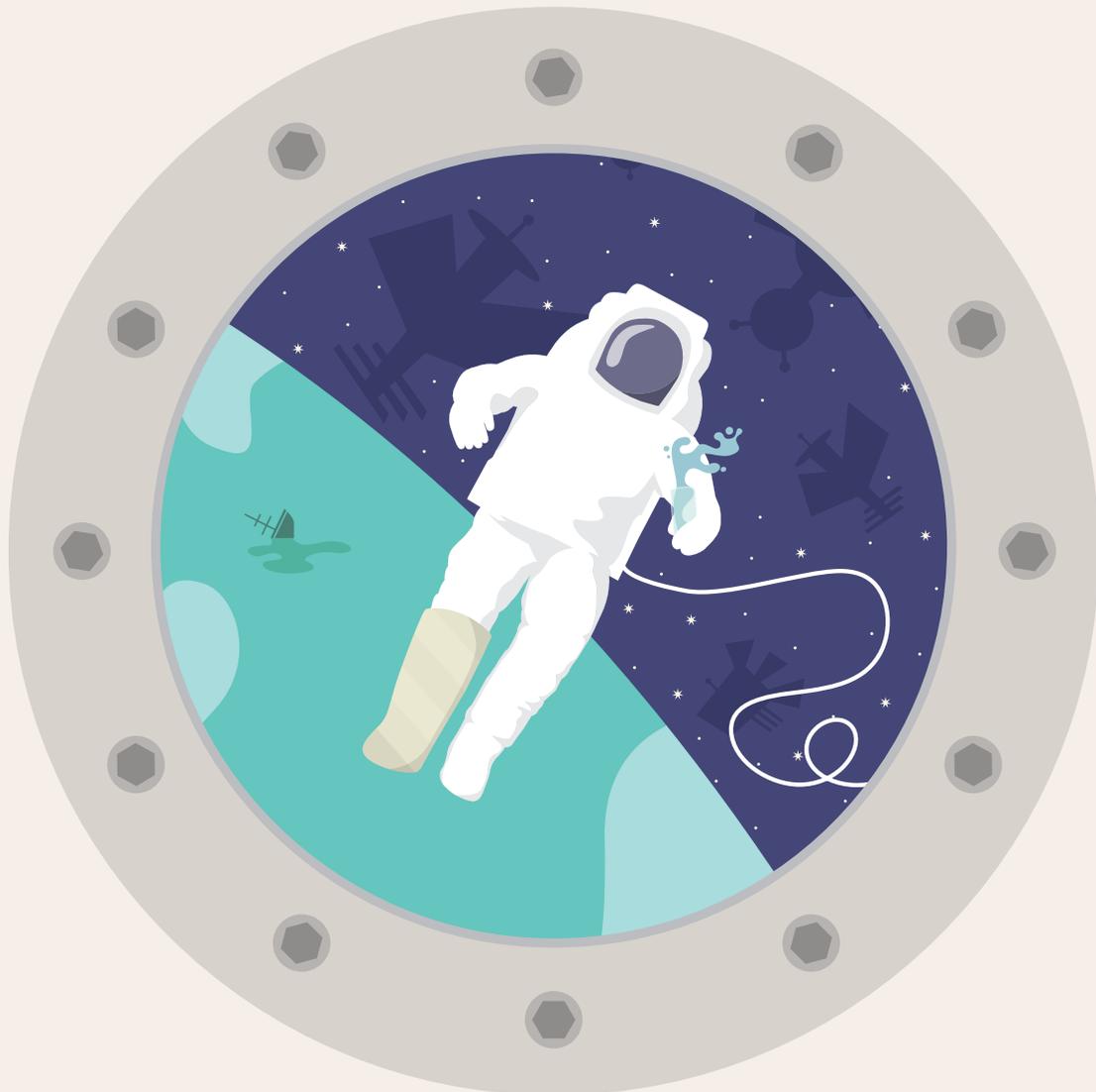


SPACE, WATER, ENVIRONMENT & ACC

SPECIALIST AREAS OF LAW



FOUR AREAS OF SPECIALTY

In this issue of *LawTalk*, we look at four distinct practice specialties.

They range from the developing area of space law to areas of specialty that have been around for some time now, such as environmental law.

In *LawTalk* 798, we began the series with four disciplines we described as “developing areas of the law”. All areas of the law are, of course, continuing to develop and there are aspects of all specialties that are not new.

In this feature, the emphasis is changing to reflect the increase in specialisation that is happening within the law. The four specialties we feature are: space law, water law, environmental law and ACC.

A 'hot' area of practice

BY FRANK NEILL

ENVIRONMENTAL LAW is one of the more widely practised fields. While some areas of practice have suffered in the wake of the global economic crisis, environmental law has moved in the opposite direction. It is thriving.

American scribe Stewart Wrighter specialises, among other things, in writing about legal matters.

In an article entitled *Top 5 Law Practice Areas*, he names environmental law as number two. Civil litigation tops the list and the other three are labour and employment law, intellectual property law and e-discovery practice.

Mr Wrighter is not alone in naming environmental law among the top specialties. Sally Kane, writing for *New York Times* website About.com, has also named environmental law in her top picks. An attorney, editor and writer specialising in legal, career and business topics, Ms Kane listed environmental law as number two in her "seven hot law practice areas".

Environmental law "is one of the big practice areas in terms of specialisation," says New Zealand Law Society Environmental Law Committee member Robert Makgill.

"It is quite a pervasive area of law." It is also a very exciting practice to be in, because it covers so many areas, he says.

Environmental law is the complex and interlocking body of treaties, conventions, statutes, regulations and common law (and, in New Zealand, regional council objectives and policies) involving people's interaction with the natural environment.

"It touches just about everything we do.

"It is the law of the physical, social and economic world," Mr Makgill says.

One of the things that makes the discipline so exciting is that it is about working with the physical environment, so you see in a physical sense the law in practice.

"When we are talking environmental law, most people think 'RMA' [Resource Management Act] but it is a

lot broader than that." Some of the key practice areas are:

- natural resources;
- property and infrastructure development;
- coastal and marine resources;
- water use;
- minerals and petroleum and mining development;
- prosecutions and enforcement;
- emissions trading; and
- education."

And these are only a few of the main practice areas.

A lawyer advising a client on due diligence in a merger or acquisition may need specialist environmental legal advice in respect to environmental liability, Mr Makgill explains.

Similarly, a lawyer advising a client on property that may have been deforested would need to establish the status of the land in terms of the Emissions Trading Scheme as part of any due diligence process applied before any sale and purchase agreement is entered into.

Among the big trends at the moment are minerals and petroleum exploration in our deep sea environment, emissions trading, water rights and spatial planning, which is describing in a spatial sense what one can and cannot do.

Then there are a series of acts of parliament, each with their particular focus.

Under the Resource Management Act 1991, for example, it is sustainable management of the use, development and protection of natural and physical resources, the use of resources and managing their effects on the environment.

Under the Crown Minerals Act 1991, it is the allocation of minerals and petroleum.

Under the Conservation Act 1987, it is about protecting areas of high importance from a natural and historic viewpoint.

Under Exclusive Economic Zone (EEZ) legislation, it is about controlling environmental impacts and the effects of activities in New Zealand's EEZ (from 12 to 200 nautical miles).

Under the Fisheries Act 1996, it is about the sustainable utilisation and management of New Zealand's fish resources.

The list could go on. Just a couple of pieces of legislation that also come under environmental law are the Marine Mammals Protection Act 1978 and the Wildlife Act 1953.

More and more, it is not just our domestic legislation that needs to be considered. "International environmental law is playing much more of a role in decisions about domestic legislation now," Mr Makgill says.

"Environmental law is a very broad area," he says. "It is huge."

He speaks of the increasingly sophisticated laws that seek to manage our environment. "Given the state of our environment and the demand on its resources, those laws will only become more pervasive."

Given that it is the law of the physical, social and economic world, what attributes are needed to become effective as an environment law practitioner.

One key aspect that emerges is the need to have a well-rounded education and interests. It is an area that involves science. It is an area that involves economics. It is an area that involves planning and architecture. And this lists just some of the areas involved in the practice.

Time after time, it will be important to gain a high level understanding of an area of science, or economics, or planning or architecture.

Often, the science or the economics or some other key area will be quite complicated, and the environment lawyer will need to get a high-level understanding of that material, perhaps a higher level than, say, the PhD scientists also involved in the matter. [LT](#)