THE FIRST TEN YEARS OF THE SUPREME COURT: AN ADVOCATE'S VIEW[1]

The Supreme Court has clearly achieved one of its principal goals: accessibility. The much greater accessibility of the Supreme Court has resulted in a substantial increase in the number of second appeals. Many issues that it would never have been viable to take to London have reached our Supreme Court, giving the parties meaningful access to a second appeal, and providing New Zealand authority at the highest level on a wide range of significant issues.

The paper describes the appeal process from an advocate's perspective. It provides figures for the number of appeals heard and determined in recent years, and includes some comparative analysis of the times within which judgments are delivered, which are in line with those for other final courts of appeal.

The paper also examines, briefly, the implications of the accessibility of the Supreme Court for practice before other New Zealand courts. The prospect of a second appeal changes the dynamic in the courts below, in cases that raise novel or important issues. The parties, counsel and judges are all alive to the possibility that the case will ultimately be decided in Lambton Quay: this can have a real influence on whether cases are run, the way they are run, and sometimes on the way they are decided by other courts. The impact of the Supreme Court cannot be measured solely by looking at the cases that that Court has in fact heard and decided.

The accessibility of the Supreme Court

According to Google Maps, it should take me 5 minutes to walk the 400m from my chambers to the Supreme Court. That's about right in my experience, though the time required to get through security means that allowing at least 10 minutes is prudent. The distance from my chambers to Downing Street in London is some 18,802 km. Very sensibly, Google Maps refuses to estimate the time it would take me to walk there.

Pursuing an appeal to the Supreme Court is no more difficult from a practical perspective than pursuing an appeal to the Court of Appeal. The rules are clear

[1] David Goddard QC. I am grateful to Anthony Wicks for the analysis of final court judgment numbers and timeframes which I draw on in this paper.

and accessible, and the registry is very responsive and helpful to counsel with questions or practical problems.

The cost of a second appeal is also very similar to the cost of a first appeal. There is some additional cost involved in the leave stage, and the submissions should of course be developed and refined further for a hearing before the Supreme Court. But the work done for the first appeal should mean that less time is required on core research and analysis of the issues.

The accessibility of the Court, and the ease of pursuing an appeal, have made a dramatic difference to the feasibility of a second appeal in New Zealand proceedings. Gone are the arcane mysteries of Privy Council agents, rules of procedure promulgated in 1910, and a registry that is open only outside New Zealand working hours.

As one would expect, the much greater accessibility of the Supreme Court has resulted in a significant increase in the number of second appeals. In the last six years before the Court was established, the Privy Council delivered judgment and reasons in 65 cases: an average of about 11 a year. In its first six years in operation, the Supreme Court delivered judgment and reasons in 129 cases: an average of over 21 each year.[2] In more recent years, the Court delivered 22 substantive judgments in 2011, 22 in 2012, and 16 in 2013. The Court has already delivered 22 substantive judgments in 2014, and the end of the year usually brings several more. So the number of second appeal decisions each year has, on average, roughly doubled.

In this short paper I address two topics from the perspective of an advocate appearing regularly before the Supreme Court. I begin with some observations about the process of pursuing an appeal before the Court. For those not involved in practice before the Court, this may shed some light on the practicalities of an appeal. I then comment on the implications of the accessibility of the Supreme Court for practice before other New Zealand courts, a factor that is sometimes overlooked.

The appeal process

There are some cases that seem, even before they are filed, likely to end up in the Supreme Court. The mixed ownership model litigation, for example, was always

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[2] Mark Henaghan, "The Changes to Final Appeals in New Zealand Since the Creation of the New Zealand Supreme Court" (2011) 12 Otago Law Rev 579.

going to be decided by the Supreme Court.[3] But in most cases, the starting point for serious consideration of the second appeal process is delivery of judgment by the Court of Appeal. Generally, one party – sometimes, more than one – will be unhappy with the outcome. From the time judgment is delivered by the Court of Appeal, the clock starts ticking: you have 20 working days to apply for leave to appeal to the Supreme Court.[4]

There is no appeal as of right to the Supreme Court. Every appeal begins with an application for leave to appeal. The application for leave is a relatively simple document. The form and content of the application are prescribed in the Supreme Court Rules 2004 ("SC Rules").[5] The essential matters that must be covered in the application for leave are:

(a) the grounds of the appeal – where did the court below go wrong?

(b) the reasons why leave should be granted – why are the criteria prescribed in the Supreme Court Act 2003 satisfied?

(c) what judgment do you seek from the Supreme Court?

In the rare event that a party seeks to appeal direct from a court other than the Court of Appeal – a so-called "leapfrog" appeal – the exceptional circumstances that justify such an appeal must also be set out in the application.

The criteria for leave play a critical role in appeals to the Court. An intending appellant must persuade the Court – more specifically, the panel deciding the leave application – that the criteria are satisfied. The criteria for grant of leave are set out in s 13 of the Act:

> **13 Criteria for leave to appeal**
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> (1) The Supreme Court must not give leave to appeal to it unless it is satisfied that it is necessary in the interests of justice for the Court to hear and determine the proposed appeal.
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> (2) It is necessary in the interests of justice for the Supreme Court to hear and determine a proposed appeal if—
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> (a) the appeal involves a matter of general or public importance; or

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[3] *New Zealand Maori Council v Attorney-General* [2012] NZHC 3338; [2013] NZSC 6, [2013] 3 NZLR 31.

[4] Supreme Court Rules 2004, r 11.

[5] SC Rules, r 12 and forms 1 and 2.

> (b) a substantial miscarriage of justice may have occurred, or may occur unless the appeal is heard; or
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> (c) the appeal involves a matter of general commercial significance.
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> (3) For the purposes of subsection (2), a significant issue relating to the Treaty of Waitangi is a matter of general or public importance.
>
> (4) The Supreme Court must not give leave to appeal to it against an order made by the Court of Appeal on an interlocutory application unless satisfied that it is necessary in the interests of justice for the Supreme Court to hear and determine the proposed appeal before the proceeding concerned is concluded.
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> (5) Subsection (2) does not limit the generality of subsection (1); and subsection (3) does not limit the generality of subsection (2)(a).

The application must be accompanied by copies of the judgments in the court(s) below.

The application must be served on every person who was a party to the proceeding in the Court appealed from. The appeal is not properly brought unless and until this is done: so this must be completed within the prescribed 20 working day period.[6]

The time for applying for leave to appeal can be extended by the Court, in appropriate circumstances (which seem likely to be rare).

Once an application for leave to appeal has been filed and served, the respondent has another 15 working days in which to seek leave to cross-appeal.[7] It is not necessary to cross-appeal if all that the respondent intends to do is to support the decision below on other grounds: it is sufficient to give notice of that intention in the respondent's submissions on the grant of leave.[8]

The timetable for leave submissions is relatively compressed. The applicant for leave has 20 working days to file submissions in support of the application for leave. The submissions must be brief: no more than 10 pages. The submissions must:[9]

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[6] SC Rules, r 13. If an applicant fails to serve the application on all parties within the 20 working day period, then it is necessary to apply for an extension of time to appeal under r 11(4).

[7] SC Rules, r 11(3).

[8] SC Rules, r 20A.

[9] SC Rules, r 20(2).

set out clearly and succinctly—

(a) a narrative of the facts of the case relevant to the appeal:

(b) the points of law involved:

(c) the decision to be appealed against:

(d) the reason why, in terms of the criteria set out in section 13 of the Supreme Court Act 2003, leave to appeal should be given.

The respondent then has 15 working days to file submissions of no more than 10 pages opposing the grant of leave. Where the terms of the leave sought by the applicant are problematic, it is also wise to address the prospect of leave being granted, and make submissions on the framing of the issues in respect of which leave is sought, against the risk of that outcome. If leave is going to be granted, it is better for a respondent that it be granted on terms that accommodate the respondent's theory of the case.

The SC Rules require the submissions to provide an indication of counsel's preferred dates for the hearing of the appeal, in the event that leave is given. This is often overlooked, and does not appear to be insisted on by the Court. That is sensible, as some time can elapse before leave is granted, and indications of preferred dates are often superseded by that time. The utility of the requirement to address hearing dates in leave submissions is doubtful: the provision in r 34 for making submissions about fixture dates following the grant of leave seems a more practical way to manage this issue.

The Court then determines the leave application. If leave is refused, brief reasons are usually given. If leave is granted, reasons are not given: the leave judgment simply records that leave is granted, and sets out the issues in respect of which leave has been granted. Where leave is granted, the Court often reframes the grounds proposed by the applicant: sometimes more narrowly, refusing leave on particular grounds, and sometimes in more general terms to avoid artificially restricting the scope of argument. The grounds that may be argued are confined to those approved by the Court in the leave decision, unless the Court permits an amendment.[10]

The SC Rules contemplate the possibility of an oral hearing of a leave application, but these are very rare now (there were a few more in the early days of the Court). Leave is almost always determined on the papers.

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[10] SC Rules, r 29.

The Court will of course refuse leave if it considers that the s 13(2) criteria are not met. The Court has also repeatedly held that it is not necessary in the interests of justice for it to hear an appeal if there is no real prospect of the appeal succeeding.[11] Leave will be declined if the decision of the Court below is plainly right. Leave will also be declined where there is a question which on its face meets the s 13(2) criteria, but success on that legal issue would not lead to the appeal succeeding because even on the approach contended for by the applicant, the result reached would not be disturbed. Thus for example if it is arguable that a different test should be adopted, but on the facts the same result would be reached even applying that test, it is very unlikely that leave would be granted.[12]

Once leave has been granted, the timetable to hearing begins to run.

Within 10 working days of the grant of leave the parties may make submissions to the Registrar on the appropriate hearing date, and the Registrar then allocates a fixture. The Registrar will often consult counsel about hearing dates, but on occasion counsel will simply be told that a particular date is allocated with little or no prior consultation. It is rare, but by no mean unheard of, for fixtures to be allocated on a date when one or more counsel have other fixtures. Where this occurs the Supreme Court takes precedence, and all counsel can do is attempt to move the fixture in the other court. The High Court and Court of Appeal have in my experience been very accommodating, in the rare cases where this occurs.

It is usually possible to get a very prompt fixture in the Supreme Court. Indeed on occasion counsel are somewhat taken aback by the imminence of the fixture. The Court is extremely responsive to genuine requests for urgency: in the mixed ownership model litigation, for example, the High Court decision was delivered on 11 December 2012, leave was granted for a leapfrog appeal on 18 December 2012 and the case was heard on 31 January and 1 February 2013. Judgment was delivered on 27 February 2013. The result was that proceedings filed in the High Court in October 2012 were finally decided by the Supreme Court some 4 months later, a period that included the summer vacation.

Where one (or more) of the permanent judges is unable to sit, it can take a bit longer to confirm a fixture as the registry needs to make arrangements with one of the retired Judges who has been appointed as an acting Judge under s 23 of the

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[11] See eg *Westpac Banking Corporation v Commissioner of Inland Revenue* [2009] NZSC 36, (2009) 24 NZTC 23,435, (2009) 19 PRNZ 281; *Prasad v Chief Executive of the Ministry of Social Development* [2006] NZSC 26, (2006) 18 PRNZ 74;

[12] See eg *Prime Commercial Ltd v Wool Board Disestablishment Co Ltd* [2007] NZSC 9, (2007) 18 PRNZ 424;

Act. This also tends to mean that the Court has much less flexibility about dates, and counsel's preferences are (unsurprisingly) very much a secondary concern.

In a civil appeal the applicant must pay the security for costs fixed by the Registrar, and prepare and file the case on appeal.[13]

The appellant's submissions must be filed within 30 working days of the grant of leave. The usual page limit is 30 pages (the same as in the Court of Appeal). The respondent then has 15 working days to respond.[14] The rules contemplate the appellant filing a bundle of authorities with their submissions, and the respondent filing any supplementary bundle that is required with their submissions. In practice it often makes sense to have a single joint bundle, and the registry is always open to such a proposal: the joint bundle is usually prepared by the appellant and is filed shortly after the respondent's submissions, where this approach is adopted.

Where a hearing date has been allocated some time in the future, the Court is often receptive to modifying the timetable for submissions in accordance with an agreement between the parties. But the Registry is always concerned to ensure that submissions are received in good time before a hearing, and is not generally enthusiastic about adopting the Court of Appeal's standard approach of counting backwards from the fixture, with the respondent's submissions not being due until 10 working days before the hearing.

Your written submissions should – obviously – be well thought through, clear and logical. They should be thoroughly researched – it is important to have a comprehensive grasp of the New Zealand caselaw, and of what has been said by appellate courts in major common law jurisdictions. But principle is more important than lengthy citation of authority, in a final court of appeal. This is at once a challenge – you need to be able to explain why your argument is sound as a matter of first principles – and an extraordinary opportunity. Counsel can make a significant contribution to the development of the law by developing, and presenting, a principled and attractive argument that ventures into new territory. Indeed the ability of the Court to develop the law is to a significant extent dependent on counsel doing just this.

It is impossible to over-prepare for a hearing in the Supreme Court. The advocates need to be very familiar with the case on appeal and the authorities, and

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[13] SC Rules rr 31, 34-35. In criminal appeals, the Supreme Court Registrar prepares the case on appeal: r 35A.

[14] SC Rules, r 36.

with their arguments. The one thing you can be sure of is that you will not be permitted to simply work through your submissions following your preferred structure and sequence of issues: you need to be able to deal with any topic at any time and in any order.

In preparing for a Supreme Court hearing you need to attempt to put yourself in the shoes of the judges, and ask what features of your case are likely to trouble them, and where your weaknesses lie. It is human nature to want to dwell on the strengths of your argument: it is most unlikely that you will be allowed to do so. It is not always easy to see your case from a distance, and work out where questions are likely to be focused, and where more work may as a result be needed. A session with another experienced advocate who has read the submissions, and who can tell you what leaps out at them as likely angles, is always useful. Another more time-consuming and expensive option is to moot an appeal in advance, as is increasingly common in the context of US Supreme Court appeals.[15] I have experienced this, and it is a genuinely helpful process. But it isn't easy to organise on an ad hoc basis, or cheap.

And then comes the hearing itself. After the brief walk to court, you head into the courtroom and sort out your books and papers. The courtroom is, I think, exceptionally beautiful – it strikes me every time I appear there. The acoustics are excellent. Standing at the lectern, the judges are very close. And very interactive. The questions tend to come thick and fast: always probing, almost always constructive.

It is important to pay close attention to the Judges, and respond to indications of unease or concern about an argument – proactively if possible, but when the questions are coming at you swiftly, just keeping up is challenging enough. The bench in the courtroom is too spread out to be able to keep an eye on all the judges all of the time, which can make it hard to anticipate where the next question is coming from.

Most of the Judges are well prepared – often, disconcertingly well prepared. Some Judges have clearly read and marked up the entire case on appeal and bundle of authorities, with their spiral bound volumes sprouting so many tags they looks like a family of origami hedgehogs. But different judges have different

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[15] For a brief description of the Georgetown Law School Supreme Court Institute's moot court programme see http://www.law.georgetown.edu/academics/centers-institutes/supreme-court-institute/moot-court-program/ (last accessed 3 November 2014), and a recent New York Times article on the programme at http://www.nytimes.com/2013/06/24/us/a-test-track-for-tuning-up-supreme-court-arguments.html?nl=todaysheadlines&emc=edit_th_20130624&_r=1& (last accessed 3 November 2014).

views about the amount of pre-hearing reading that is helpful, and different views about the relative importance of written and oral argument. Those differences of approach can on occasion be problematic. I have experienced a few appeals which have taken longer to argue than I expected, because one or two of the judges had not read as widely and as deeply as the others, and wanted to be taken through the facts and the cases in some detail. And in a handful of appeals one or two judges have wanted to go through the background in detail, while others were impatient to cut to the chase: this can be a challenging divide for counsel to bridge.

Many cases turn on the interpretation of one or more key statutes. Regardless of the amount of preparation the Judges have done I think it is enormously helpful to step through the relevant legislation in some detail in the course of oral argument, reading the text with the court and making key points as you work your way through it. So far from complaining, I welcome the court's usual willingness to accommodate this sort of detailed, but inevitably time-consuming, approach. However if that is how hearings are going to run, time estimates for fixtures need to allow for that, and should not be overly optimistic. Fortunately the Court is now much more open to requests for 2 or 3 day fixtures than it was in its early years, perhaps in response to the experience of a number of cases running over their allotted time.

Once the hearing is over, the Court embarks on the process of writing a decision. Experience suggests that the exchanges with the Court during a hearing provide a very imperfect guide to the eventual outcome: while it is often possible to predict how a case will be decided, I have on a number of occasions been surprised by the result when a judgment is delivered (both favourably and unfavourably). And perhaps even more surprised, on occasion, by which Judges are in the majority, and which in the minority. I like to think that this is a reflection of the open-minded approach the Judges bring to their work, and the fact that they can and do change their minds in the course of a hearing and in the course of their post-hearing discussions and judgment writing, rather than simply reflecting a lack of perceptiveness on my part.

The wait for a judgment can seem long, especially to clients, and especially where the outcome will affect significant commercial or governmental decisions. But a comparison of the figures for the last 3 calendar years suggests that the New Zealand Supreme Court is in line with other final courts of appeal so far as the time for delivering substantive decisions is concerned.

The median delivery times for the New Zealand Supreme Court, the United Kingdom Supreme Court and the Supreme Court of Canada in the period 2011 to 2013 (inclusive) were approximately:

- NZSC: 4 months;
- UKSC: 2.5 months;
- SCC: 7 months.

Over the same three year period, the approximate time within which 75 per cent of judgments were delivered for each of these courts was:

- NZSC: 6 months;
- UKSC: 3.5 months;
- SCC: 9 months.

There are some difficulties in providing directly comparable figures for the High Court of Australia. That Court's annual reports show that over the three years 2010–2011, 2011–2012 and 2012–2013 the High Court of Australia delivered 74 per cent of its judgments within six months of hearing argument. The New Zealand Supreme Court delivered 75% of its judgments in just over six months (188 days) in a roughly corresponding period – a very similar result.

Overall, looking at various measures, the New Zealand Supreme Court appears to deliver judgments quite a bit more slowly than the United Kingdom Supreme Court, but quite a bit faster than the Supreme Court of Canada, and in roughly the same timeframes as the High Court of Australia. It would be fascinating to attempt to explore in a systematic manner the reasons for these differences, which are not obviously correlated with workload.

The process for delivery of judgment is also worth mentioning. One or two days in advance counsel receive an email from the registry to advise that judgment will be delivered by the Court, and requesting confirmation that an appearance will be arranged. The Court delivers its judgment in open court – a panel of at least 2 judges, and on occasion the full court, delivers an oral summary of the Court's reasoning and the result. The written judgment is then available from the registry, and sent to counsel by email. Counsel do nothing while this happens – they do not even enter appearances. In most cases, this judgment delivery process seems an unproductive use of the scarce time of the Judges and counsel: its days must surely be numbered. The Court of Appeal no longer delivers its judgments in this manner – they are simply emailed out, with prior warning one day (or sometimes a couple of days) in advance.

One striking feature of the Court's output is the number of separate judgments delivered, even where there is no difference as to the result. I have not carried out a quantitative analysis of the frequency of separate judgments, concurring and dissenting, but my impression is that this is more common than in the United Kingdom Supreme Court. It is probably more similar to the practice in Australia

and Canada. Other speakers will no doubt comment on the challenges this can pose for advisers, and for lower courts – for example where the court speaks with multiple voices on issues which arise frequently at all levels of the court system, such as what material is admissible for the purpose of interpreting contracts. It would certainly be helpful for those called on to provide advice, and to argue and decide cases in other New Zealand courts, if the Supreme Court spoke more often with a single voice. At the risk of courting controversy I wonder if a commitment to the coherent development of the law of New Zealand might not point to a more tempered approach to the delivery of multiple, subtly different, decisions on matters of widespread and frequent practical application.

The impact of the Supreme Court on practice before other courts

The other important consequence of the accessibility of the Supreme Court is the impact it has had on the role of other courts, and the way in which they go about their work.

One obvious but important consequence is that the increased number of second appeals has added appreciably to the body of New Zealand-specific decisions on matters that arise in other New Zealand courts. It is rare to argue a High Court or Court of Appeal case today without referring to at least one Supreme Court authority – if only *Commerce Commission v Fonterra* on statutory interpretation,[16] or *Austin, Nichols* on the role of an appellate court.[17] In many cases there are several relevant Supreme Court decisions. This is a welcome change, subject only to the quibble touched on above that sometimes we are perhaps over-blessed with difficult-to-reconcile guidance.

Turning to the impact on working practices, the Court of Appeal is now very conscious of the prospect that significant matters can, and probably will, go further. This has a range of consequences. One is that it is now very difficult to obtain a full court in the Court of Appeal – on a couple of occasions I have raised the possibility, only to be told that the matter can be heard before five judges at the next stage, if necessary. It is hard to imagine a court of seven judges being convened in the Court of Appeal today, as happened on some major cases before the establishment of the Supreme Court.[18]

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[16] *Commerce Commission v Fonterra Co-operative Group Ltd* [2007] NZSC 36, [2007] 3 NZLR 767.

[17] *Austin, Nichols & Co Inc v Stichting Lodestar* [2007] NZSC 103, [2008] 2 NZLR 141.

[18] For example *R v Pora* [2001] 2 NZLR 37; *New Zealand Maori Council v Attorney-General* [1996] 3 NZLR 140 (the commercial radio assets case).

There is also a perception among many advocates that the Court of Appeal is more focused on its error-correction role, and less inclined to make decisions which involve a material development in the law of New Zealand than it was when it was the only New Zealand appellate court with the ability to perform that function. It would be surprising if it were otherwise, given the workload of the Court of Appeal and the availability (and capacity) of the Supreme Court to take primary responsibility for significant developments in New Zealand caselaw.

The greater likelihood of a further appeal in significant cases also puts more pressure on the Court of Appeal to deliver a judgment promptly, so that the overall time required to finally resolve a dispute is not unacceptably lengthened. The Court of Appeal has been very successful on this front – it is rare to have a long wait for a Court of Appeal judgment, even in complex matters.

And of course the membership of the Court of Appeal is different from what it would have been in the absence of a Supreme Court. The appointment of five of our most senior judges to the Supreme Court means that the Court of Appeal has a younger and more frequently changing membership than was the case before 2004, when appointment of a Judge to the Court of Appeal generally meant that that Judge would be on the Court until retirement.

The High Court also is not immune from the changes brought about by the establishment of the Supreme Court. In significant cases there is a consciousness of the real prospect of two appeals. This pulls in two directions, it seems to me. A Judge who knows that the Supreme Court may end up reviewing their judgment may be more anxious to ensure it is as good as it possibly can be, even if that takes a little longer to write. But a consciousness of the time that will be needed to complete two stages of appeal also puts pressure on first instance judges to get their decisions out promptly, so the appeals process can get under way. I doubt there is any systematic trend one way or the other, overall.

And in the High Court also, the additional layer of appeal means that judges are appointed from a broader pool (on age and other dimensions), and those who are appointed to the Court of Appeal move on earlier, other things being equal.

The new role of Chief High Court Judge, which was introduced with the establishment of the Supreme Court and the consequential changes to the role of the Chief Justice, has also (from an advocate's perspective, looking in from outside) had a significant (and positive) impact on the day-to-day operation of the Court, improving its responsiveness and efficiency and increasing its engagement with the profession on a number of fronts.

The accessibility of the Supreme Court can even influence whether a dispute is brought before the courts in the first place. I was in a meeting several years ago with a senior silk, discussing High Court proceedings that had recently been filed by his client. He said that his client didn't expect to win in the High Court or the Court of Appeal, but he thought they had a real chance in the Supreme Court. Hence the proceedings.

Conversely, I have been in a number of settlement discussions where the parties recognised that if they did not reach agreement, the case was probably destined for the Supreme Court. There would have been some risk of a Privy Council appeal before 2003: but this risk was seen as more remote, and rarely featured in settlement discussions. When you step commercial parties through the timeframes involved in a High Court trial and two levels of appeal, the weight they put on early certainty tends to tip the scales further in favour of settlement.

Some final remarks

It would be exciting to finish with a sweeping conclusion of some kind about the impact of the Supreme Court on the law of New Zealand. But it would be both premature, and presumptuous, to attempt one. What can I think be said with confidence is that the Court has achieved one of the principal goals of its creation: accessibility. The much greater accessibility of the Supreme Court has resulted in a significant increase in the number of second appeals. Many important issues that it would never have been viable to take to London have reached our Supreme Court, giving the parties meaningful access to a second appeal, and providing New Zealand authority at the highest level on a wide range of significant issues.

And that in turn means that another goal has been achieved: decisions on significant New Zealand cases delivered by a Court that understands the New Zealand context in which the issues arise, and in which the decisions will need to be implemented.

Seen from those perspectives – accessibility and relevance – the Supreme Court is an essential element in our legal landscape. It is already hard to imagine how we could have managed without it. It is certainly possible to imagine ways in which the Court could be even more effective. The responsibility for achieving this is, it seems to me, a shared one. Not only the Judges, but all of us – advocates, commentators and Judges in other courts – can assist in building a strong, enduring and effective Supreme Court of New Zealand to serve New Zealanders now, and in generations to come.