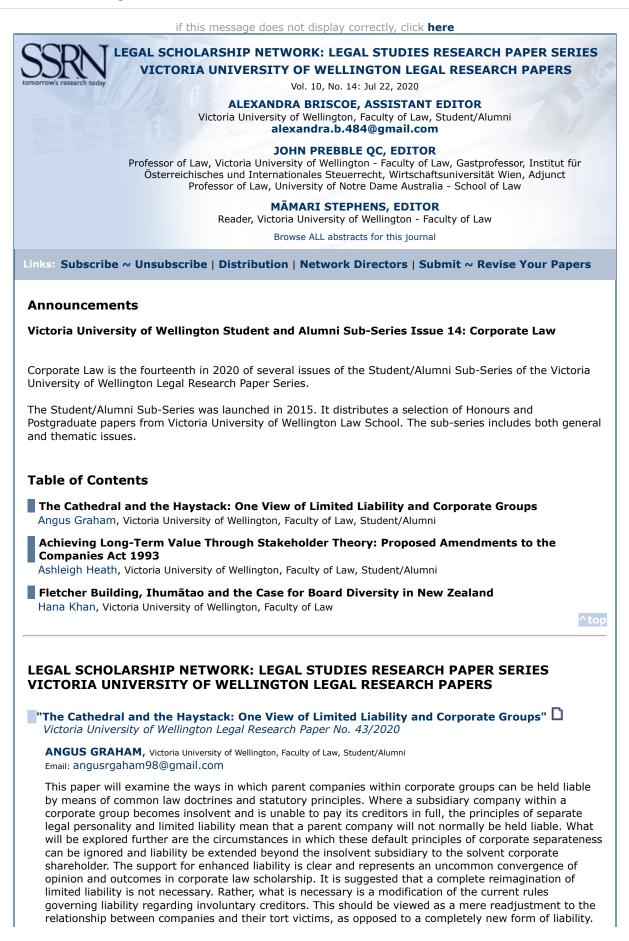
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# "Achieving Long-Term Value Through Stakeholder Theory: Proposed Amendments to the Companies Act 1993"

Victoria University of Wellington Legal Research Paper No. 44/2020

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This paper begins by proposing that the objective of the company should be to maximise its long-term value. The paper then discusses Shareholder Value Theory, which requires directors to prioritise the short-term interests of shareholders over the goal of maximising the company's long-term value. The paper considers how Shareholder Value Theory is supported in New Zealand by the Companies Act 1993 and the structure of the company itself. The paper then discusses the alternate theory known as Stakeholder Theory, which requires directors to consider the interests of all affected stakeholders. It postulates that Stakeholder Theory is consistent with long-term value maximisation and should be implemented into New Zealand's legislation. Finally, the paper recommends two amendments to the Companies Act 1993 which would encourage directors to act in accordance with Stakeholder Theory. Firstly, broadening the definition of 'entitled persons' who may bring a derivative action against directors who breach their duty to further the interests of the company under s 131. Secondly, amending s 131 of the Act to include a list of stakeholders' interests and guidance on how and when directors ought to consider them. These amendments, by encouraging directors to implement Stakeholder Theory, will lead to long-term value maximisation.

**"Fletcher Building, Ihumātao and the Case for Board Diversity in New Zealand"** *Victoria University of Wellington Legal Research Paper No. 45/2020* 

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The lack of diversity on corporate boards is a serious issue in New Zealand. The most compelling argument for board diversity can be found in the recent decision by Fletcher Building to develop on Ihumātao, Māori sacred land. Using Fletcher Building and Ihumātao as an example, this paper takes a multi-faceted approach to building a case for board diversity in New Zealand. It establishes that considering minority stakeholder interests falls within the director's duty to act in the best interests of the company. A diverse board is best able to achieve this function and mitigate the agency issues that arise between the company and stakeholders. Against this background, this paper begins to build a comprehensive case for board diversity through discussing traditional corporate governance theories. It establishes that corporate governance theories that consider the value in enhancing stakeholder relationships such as CSR are more appropriate with regard to board diversity and better reflect what is now understood to fall within the best interests of the company. To contextualise the issue, this paper outlines how board diversity fits into existing New Zealand corporate governance frameworks and current diversity statistics. The existing framework is ineffective and this paper suggests practical possibilities for reform that better address the value of board diversity. Finally, this paper theorises that the core partnership, active protection and mutual benefit principles of the Treaty of Waitangi are relevant in New Zealand corporate governance and can be used as a unique underpinning of board diversity.

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Alumni include Sir Robin Cooke (1926-2006), one of the leading judges of the British Commonwealth. As Baron Cooke of Thorndon, he sat on over 100 appeals to the Appellate Committee of the House of Lords, one of very few Commonwealth judges ever appointed to do so.

Since 1996 the Law School has occupied the Old Government Building in central Wellington. Designed by William Clayton and opened in 1876 to house New Zealand's then civil service, the building is a particularly fine example of Italianate neo-Renaissance style. Unusually among large colonial official buildings of the

time it is constructed of wood, apart from chimneys and vaults.

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