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### By Email

The New Zealand Law Society  
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Tēnā koutou katoa

### Submissions opposing the Issuance of a Practicing Certificate to James Gardner-Hopkins

- 1 The Auckland Women Lawyers' Association (**AWLA**) writes to formally oppose the issuance of a practicing certificate to James Gardner-Hopkins.
- 2 In its role as a regulator, The New Zealand Law Society | Te Kāhui Ture o Aotearoa (**Law Society**) has a responsibility to ensure that only fit and proper persons hold a practicing certificate. This is a fundamental aspect of maintaining public trust and confidence in the legal profession.
- 3 AWLA submits that granting Mr Gardner-Hopkins a practicing certificate would undermine the integrity of the profession and send a deeply troubling message to the public and the legal community about the standard of what it is to be a fit and proper person. The requirement to be a 'fit and proper person' does not rest on legal competence. It encompasses a high standard of character, integrity and adherence to ethical standards.
- 4 The onus is on Mr Gardner-Hopkins to satisfy the Law Society that he is a fit and proper person.
- 5 AWLA notes the comments made by the High Court in *National Standards Committee (No 1) of the New Zealand Law Society v Gardner-Hopkins*:<sup>1</sup>

"Taken overall, we regard Mr Gardner-Hopkins' misconduct as serious. We agree with the Tribunal's characterisation of it as exploitative sexual contact with vulnerable young women. It is conduct that is wholly unacceptable in the legal profession."
- 6 Put plainly, Mr Gardner-Hopkins sexually assaulted multiple junior women staff members in his capacity as a partner on two separate occasions.

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<sup>1</sup> [2022] NZHC 1709, [2022] 3 NZLR 452.

7 In her report, Dame Margaret Bazley said the women survivors told her:<sup>2</sup>

“They felt intimidated, confused, and uncomfortable.

They were distressed this happened at a work function where they thought they should have been safe.

They knew what had happened was wrong but were initially unsure about whether to report it as no-one around them had reacted at the time.”

8 These experiences are concerningly common and familiar for women in the profession.

9 In their deliberations, the Tribunal and the High Court identified areas of risk including problematic alcohol consumption, a poor understanding of professional boundaries, a loss of mentorship and a failure to prioritise therapeutic needs and personal support. The Tribunal proposed a number of additional steps that Mr Gardner-Hopkins should take.

10 The Tribunal went on to add:<sup>3</sup>

In our view, without such evidence, it is extremely doubtful that a practicing certificate would be reissued.

11 No information has been given as to whether these areas have been addressed by Mr Gardner-Hopkins. However it is apparent that, while suspended, Mr Gardner-Hopkins engaged in conduct inconsistent with the spirit of the Tribunal’s orders, including:

- (a) allowing himself to be put forward as a representative in Environment Court proceedings; and
- (b) seeking nomination to a fast-track consenting panel.

12 These actions raise significant concerns about Mr Gardner-Hopkins’ ongoing conduct. They suggest a lack of insight and/or an attitude of entitlement, inconsistent with fitness.

13 The Court of Appeal has found that assessments of a candidate who wished to be admitted as barristers and solicitors must focus on protecting the public and the profession, and that where a candidate has been involved in some past indiscretion the Court must be satisfied that the “frailty or defect of character” indicated by the earlier behaviour can be safely regarded as “spent”.<sup>4</sup>

14 It is also unclear what measures, protections, or supervision Mr Gardner-Hopkins will have in place, should he be issued a practicing certificate, to mitigate any risk that he may pose to the women that he may work with.

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<sup>2</sup> Independent Review of Russell McVeagh (March – June 2018) at page 19.

<sup>3</sup> *National Standards Committee No. 1 v Gardner-Hopkins* [2022] NZLCDT 2 at [68].

<sup>4</sup> *Lincoln v New Zealand Law Society* [2019] NZCA 422 AT [35], also citing *Re Owen* [2005] 2 NZLR 536 (HC) at [35]; and *Brown v New Zealand Law Society* [2018] NZHC 1263, [2018] NZAR 1192 at [39].

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- 15 There is obvious public concern regarding Mr Gardner-Hopkins' fitness, which as a profession we must address properly. A practising certificate is a privilege, not a right, and its issuance must be aligned with the legal profession's core values.
  - 16 AWLA's position is that Mr Gardner-Hopkins is not a fit and proper person to the standard required to obtain a practicing certificate.
  - 17 AWLA acknowledges that this situation will be particularly distressing for those directly impacted by Mr Gardner-Hopkins and those affected by sexual assault and harassment in the profession. Our thoughts are with those survivors.

Nāku noa, nā



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