

Community workshops for red zone residents October 2011

Workshop notes – property

1. What is the availability of sections?

Many of the currently available sections do not meet the needs of many red zoned property owners, who want smaller lots, closer to their existing locations, less restrictive covenants e.g.: the rules regarding size and materials you can use to build your new dwelling on a section.

The market place is responding to this need and planned subdivisions such as those in Kaiapoi, Marshlands and Highfield will meet closer what the market is seeking.

The other source of smaller lot sizes, with little or no Covenants, is existing sites within developed areas of Christchurch.

This includes L2 & L3 zoned medium density living zones plus larger L1 sites that have a potential to be sub-divided into 2 lots.

There is more than enough land in Christchurch and surrounds to meet current and future housing needs.

2. What is the timing of supply of sections?

The process from planning through to available sections ready to build on, from a green field's development, is determined by the speed of planning consent and approval, the physical work servicing the lots, roading utilities etc and sewage is challenging on some sites.

Infill housing is more readily available as services are in existence. Speed of subdivision and building consent processes is being monitored.

3. Why doesn't the Government intervene?

The Government has already intervened by speeding up the planning and consent process as demonstrated in the relaxing of flight path requirements at Kaiapoi and the land rezoning. This ability to fast track the development process to create residential sections will have an effect on level of supply which will ultimately determine pricing levels.

Concessionary charging around consents, developments and resource fund contribution is a decision for local authorities and government.

4. Can I relocate my current dwelling?

Most sub-divisions do not allow existing dwellings to be relocated on to lots and local authorities also restrict where the dwellings can be relocated to. There are also insurance and electrical re wiring issues to consider.

There are specialised house relocation companies that would assist if considering this option.

5. Can I be assured that the section is GEO Tech sound?

Sub-divisions will have GEO Tech reports available these may be from when original subdivision consents were issued, and might not be specific to the section you are considering purchasing.

An outlay of a few hundred dollars for peace of mind on what, for most, is the investment of the majority of their assets, a new home, is money well spent especially if there is any question on the soundness of the land.

The green zone has been cleared to rebuild on but is now categorised according to what areas require engineered foundations.

There is robustness around the consenting of new builds.

6. Can lease sections be available?

Leasing land has historically been common in NZ as a vehicle to occupy land. The infiltration from the 1960s & 1990s coupled with long periods between rent reviews with resulting large rent increases saw this form of tenure lose popularity and financing more was difficult.

In the past the lessors have been in The Crown, local authorities and institutions.

For leasing to be attractive to private enterprise, rents would be at a level where purchase may be a preferred option.

7. Can public land be used for sections?

This is a government or local authority decision and there would only be a case for this if suitable land was available and would be more acceptable if damaged land could replace any utilised public land.

8. Purchasing a new home:

Buying an existing home covered a large number of questions and the majority of these are covered in the presentation delivered on behalf of REINZ at "My Housing Options" Expo, Christchurch 30 - 31 July 2011.

Having been offered a red zone compensation package by the Government, you will now need to decide how to proceed. At this time, there are many considerations and decisions for you to make, not least of all due to the usual complexities of buying a new home. We hope the following will be of some help. While we mention a number of consultants below that you will need to gain advice from, ultimately we encourage you to think of yourself as the Project Manager, and to do your best to understand each process and its implications.

Please note, the information contained in this material is intended to be a general guide only and is not intended to form professional legal or investment advice and therefore we encourage you to obtain your own expert advice when purchasing your property. In all cases, we recommend you deal with a licensed REINZ sales agent as you are guaranteed they have signed up to a Code of Ethics and Code of Best Practice.

9. Seek legal advice!

Before considering accepting the Crown's offer to purchase, consult with your Lawyer on when and how much you will receive for your property. If you decide to purchase an existing property, check with your lawyer again on additional conditional clauses that may be required when making an offer for the property. Every sale of a property is unique and your lawyer is in the best position to advise you. Your lawyer will also advise you of any GST implications that may be relevant to the transaction concerned.

10. What is your financial capacity?

Consult with your bank or a mortgage broker on your capacity to borrow, if required, and what amount you can borrow. Remember, only borrow to a level that you feel comfortable to service, interest rates are currently at a low level but are unlikely to remain so. You also need to consider whether to fix an interest rate level for a designated term or choose a floating rate, or a mixture of both.

If you receive payment for your existing property and are not purchasing another property immediately, our advice is to deposit your money with your bank until such time as you purchase another property. This amount will be net of any mortgages and previous insurance payouts.

Some banks are offering concessionary rates of interest on Bridging Finance, but take advice before entering into any of these arrangements.

When talking to your bank or your mortgage broker, make detailed enquires on what insurance requirements will apply to the property that you are buying and make sure that the lender's insurance requirement will not jeopardise your ability to settle the purchase in full on your settlement day. Also make sure that you will have sufficient monies to pay the required deposit at the time of signing your Sale and Purchase Agreement.

11. Gaining Market Knowledge

You should gain a good understanding of the market by:

- Visiting internet property sites such as www.realestate.co.nz, and individual agency sites. Most of these have email alerts for properties new to the market.
- Reading print media, newspapers, and specialty property magazines.
- Learning what different pricing messages on advertised properties mean: NPM; OFFERS; POA; NEG OVER; DEADLINE SALE; AUCTION.
- Visit some open homes.
- Develop a relationship with a salesperson you can relate to and trust; they can supply recent sales statistics and information on properties new to the market.

12. Some issues that influence value when comparing similar properties are:

- Location (is it on a busy road?);
- School zones;

- Overhead high tension power lines; and
- Adjoining properties, e.g. commercial use.

A vendor/seller must disclose any defects known about a property when they list with a licensed agent to sell which is especially relevant to dwellings built in the 1990s that are potential leaky homes. Due to the recent earthquakes, most vendors in Christchurch should already have obtained and provided the real estate agents with a builder's report, a structural engineer's report and/or a geotechnical report.

If you are purchasing a unit title property, then the vendors must provide you with a pre-contract disclosure form via the agent concerned before entering into an agreement to purchase.

Remember, decoration can easily be changed; upgrading bathrooms and kitchens can be expensive.

You will be amazed how quickly you will build up knowledge of housing values.

13. The Role of a Licensed Real Estate Salesperson

All Real Estate salespeople are required to be licensed and this license is controlled by the Real Estate Agents Authority (REAA). Consumer protection is the province of the REAA; it also handles complaints from the public and disciplines salespeople and agencies that don't comply with the Real Estate Agents Act 2008 and The Real Estate Agents Act (Professional Conduct and Client Care) Rules 2009.

Before entering into a contract to purchase, your Licensed Real Estate Agent is required to give you a copy of the "New Zealand Residential Property Sale and Purchase Agreements Guide." It is your responsibility to read and understand this guide prior to signing an offer on an Agreement for Sale and Purchase of Real Estate and you acknowledge you have done this when signing an agreement to purchase.

Important messages from the REAA booklet:

- A sale and purchase agreement is a legally binding contract.
- You need to understand the difference between a conditional and an unconditional agreement.
- You can negotiate the conditions you require in a Sale and Purchase Agreement.
- Make sure you read and understand the Sale and Purchase Agreement before signing it.
- It is recommended that you get your lawyer to check the Sale and Purchase Agreement before you sign it.
- The vendor/seller is the salesperson's client, the potential and subsequent Purchaser/Buyer is the customer. However, at all times the salesperson owes a duty of care to the customer.

Sale and Purchase agreements that are available from ADLS and REINZ contain important warnings and acknowledgements for you to read before signing the agreements, so please check that you are using the agreements which contain the

“ADLS/REINZ” watermarks printed on them as there are some unauthorised versions of contracts out there which may not give you the necessary protection. When you are purchasing a property, the salesperson’s role is to inform and guide you through the process. If at any time you believe that the service levels you are receiving are not meeting your expectation, please don’t hesitate to contact the salesperson’s manager.

You are also entitled to a copy of the in-house complaint procedure from the agency concerned which you can request directly from the agency. For further consumer information, contact:

The Real Estate Agents Authority
Level 2, 10 Brandon Street, PO Box 25371, Wellington 6146
Phone: 0800 for REAA (0800 367 7322) or +64 4 471 8930
Email: info@reaa.govt.nz
Website: www.reaa.govt.nz

14. Making an Offer

Once you have identified a property that meets your living needs and is within your price range, you will be ready to make an offer. Don’t rush in, but don’t procrastinate for too long either. There is strong buyer activity around good homes in least-affected areas.

You will have well-meaning relatives, friends and colleagues with opinions and advice but don’t let this hinder the process of making an offer. Your decision may be based on emotion, but is backed up by the logic that the property meets your living needs. The general terms of a Sale and Purchase Agreement along with specific further terms gives the protection that what you believe you are buying is what you are getting.

The chattels that are included in the sale will be listed on the agreement, check these carefully and make sure they are all working properly at the time of entering into the agreement.

15. Do your homework on the property

When you sign up to an Agreement to Purchase, you may like to include some conditions. This means that you have a period of time in which to check out the property before making the final decision to commit to the purchase. Some common conditions to include are:

- Title - New Zealand operates a "WYSIWYG" system with respect to what is registered against the title to the property. This means "What you see is what you get." Your lawyer will complete an investigation of the Title to the property and advise you of any issues, for example, if the driveway is shared with other people.
- LIM - A LIM or Land Information Memorandum is produced by the Council and provides a record of the information the Council holds about the property. This will include things such as any building consents issued for the property (so you can be satisfied that all additions/alterations are legal), details of charges on the property (for example for clean heating grants) and

any Resource Consents for that or adjoining properties. This may be relevant as, for example, you may not want to purchase a property if you find that a commercial building will be constructed next door. Due to the recent earthquake, all local authorities in Christchurch are very slow in producing these reports and some of the reports may not be complete as some data has been lost, so that is something that you should bear in mind and discuss with your lawyer.

- Finance - You should confirm that you can afford to purchase the property at the price you have agreed. It is best to do this before making an offer but sometimes you may have offered a bit more or had to sign up to purchase very quickly and need some extra time to confirm you can afford the property. You can earn this extra time by having an appropriately worded finance condition in the agreement.
- Valuation - Your bank may want to ensure that the property is worth what you are paying for it, i.e. they may make their offer to provide you with finance conditional upon a valuation of the property.
- Building Inspection - Although you may have walked around the property and thought it looks solid, you may want to have a qualified tradesperson conduct a thorough inspection. This will involve that person looking under the floor, in the roof space, potentially doing moisture tests and providing you with an overall assessment of the "soundness" of the property and very importantly, its weather tightness. At the very least, you can use this report in years to come as a guide to when and what maintenance you should be completing.
- Leaky Homes - The new Leaky Homes Financial Assistance Package announced 29 July 2011, enables home and apartment owners to have up to 50% of their repair costs covered by the government and local council for homes less than 10 years old. The new Leaky Homes Financial Assistance Package is voluntary and conditional on homeowners foregoing their right to sue local authorities or the Crown in relation to their claim. You can find out more information on this subject by visiting the Department of Housing and Building website at www.dbh.govt.nz.
- Structural integrity - Because of the recent earthquakes, you may want to have a structural engineer carry out some tests on the property. This will look at load bearing capacities and whether the property is up to the current building codes/requirements.
- Geo Tech - This involves geo-technical engineers completing an assessment of the ground on which the property is built. They will consider issues such as the solidity of the ground and the risk of liquefaction. Your financier and insurer may require you to obtain both a structural engineer and geo-technical engineers report. Ground issues will not be revealed on the title and only feature on the LIM if the Council is aware of them. The Council has not generally updated their records since the September 2010 earthquake.

- Insurance - It is now not a simple matter of calling up an insurance company and asking for insurance. Your agreement should be conditional upon you being able to obtain insurance on the property. A mortgage is contingent on obtaining insurance. It is common at the moment to try to take over the Vendor's insurance (known as an assignment of insurance) as the insurance companies will not take on any more insurance until at least 21 days have passed since a magnitude four after shock. Even then, there is no guarantee you will be able to get new insurance.
- EQC Claim Assignment - You should ensure that you can take an assignment of the Vendor's Earthquake Commission (EQC) insurance claim (if applicable). This means you can then deal with EQC when you own the house. This condition is now effectively a standard condition in agreements for sale and purchase in Canterbury.
- Roll over clause - There may be several people interested in a property. If you are the first to get an agreement on paper there may be a clause which says that if the vendor receives another offer they wish to accept, they must first give you a period of time (usually around three working days) to confirm the agreement as unconditional otherwise the vendor can cancel your agreement and accept the other agreement. You should ask your lawyer what conditions should be included and what time frames should be put into the above conditions.
- Negotiating - When determining the price you are prepared to pay for a property, this will be based on the market research on values from comparative properties that have sold or are still on the market. Two approaches with an offer:
 - You offer a price at your hope-to-get price and negotiate to the top price you're prepared to pay; or
 - You offer the top price you are prepared to pay and that's it.
 - Some potential purchasers offer a price well below the market value of the property; this can sometimes be counterproductive as emotions with seller and buyer may result in a stalemate, with a lost opportunity.
 - Negotiation is not all about price - conditions, settlement date and chattels may be part of this process also.
- Multi offers - When two or more offers are received for a property for sale, each potential purchaser is advised that this is the situation and given an opportunity to review their offer and sign a form in acknowledgement of the multi offer. The process is designed for transparency - to give all potential buyers an equal opportunity knowing there will be disappointed people who miss out on the property.
- Deposit - When the seller and buyer have agreed on all aspects of the Sale and Purchase Agreement, a deposit is usually paid to the real estate agent by the buyer. This money is initially held in the agent's trust account. The amount is usually 5-10 % of the sale price. Before the Sale and Purchase Agreement becomes unconditional and if the sale doesn't go ahead because some of the conditions haven't been met, the buyer may be entitled to have the deposit refunded in full. However, once the offer becomes

- Auctions - This method of sale has become a more common way of selling property for all types and price ranges. If you intend to bid on a property at auction, this is usually an unconditional purchase, although immediately after major aftershocks, some auctions include a period to confirm insurance coverage.

You must do all your due diligence on the property prior to auction day, some of the reports will be provided, e.g. Title, Lim, and perhaps a Structural Integrity report. Consult your Lawyer on the terms and conditions set out in the Auction contract and your capacity to bid at an auction.

If you are seriously considering buying a property which is going to auction, register this interest with the salesperson as sometimes the seller receives an offer prior to the auction and may consider accepting. In such cases, the salesperson will contact all people who have registered interest to give them an opportunity to submit an offer.

The settlement date is nominated by the seller and is stated in the Particulars and Conditions of Sale of Real Estate by Auction more commonly referred to as "The Auction Contract." Again, make sure that you are using the standard auction agreements with ADLS/REINZ watermarks on them. If you wish to have a different date or any other change to the contract, you will require a signed variation by the seller and yourself for this to happen.

Auctions run by licensed Real Estate Agents are under a Code of Practice - most use the REINZ Code of Practice if they are members of REINZ. If you have any queries on auction day, the salesperson will be available to assist you.

The Auctioneer will outline the conduct of the auction announcing any registered telephone bidders for that auction; this may be a person out of town unable to attend the auction who has completed the appropriate authority to bid by telephone. The Auctioneer will also state that if required he or she and no-one else has the authority to bid on behalf of the owner. This will be below the reserve price and clearly indicated as a bid on behalf of the seller with the words, "The bid is with me or here." The Auctioneer will call for an opening bid and then elect the amount of bids going forward, but you can nominate the increment of the next bid you wish to increase yourself.

Once the bidding is above the reserve price, which is usually not disclosed, the auctioneer will announce, "the home is on the market." If you are the successful highest bidder above the reserve, you will be required to sign the Auction Contract and pay a deposit usually 10% of the purchase price. If you are the highest bidder but below the reserve price, you have the first right to negotiate with the seller at the reserve price.

In summary, if you find an auction property you wish to buy, do your full due diligence, consult your lawyer, come to the auction with the 10% deposit

ready to pay in the event that you are successful, establish a price you are prepared to go to and bid boldly to that point.

- Pre-settlement Inspection - It is only a few days until settlement. Obviously you are very excited about moving to your new property. However, before doing so you should take up the option in the Agreement for Sale and Purchase to undertake a pre-settlement inspection. This allows you to go to the property (usually with the agent present) a day or so prior to settlement and check that what you have contracted to purchase is what you will purchase. For example, you may want to check that all the chattels that were included in the agreement have been left in the house, that all of the vendor's furniture has been removed and that the property has been left in a clean and tidy state. You may also wish to check that there has been no further damage (if there was any in the first place) to the property and that the vendor has completed any works they agreed to do before possession. If you are not satisfied with any aspects of that inspection, you need to speak to your lawyer straight away.
- Settlement - This is the moment when you hand over the money and get the keys. Your lawyer will complete this for you. You need to make sure that you have all your finances organised in plenty of time for settlement and that you have arranged a time to see your lawyer to sign all the forms necessary. You should not leave this to the last minute - to do so will mean that your settlement will be delayed and you could find yourself liable to pay compensation to the vendor. Your lawyer will be able to tell you all you need to know about the settlement process. Agents are normally not allowed to release the keys to you until they have received confirmation of settlement from the vendor's lawyer.

Again, we trust the above has been of some benefit to you at this difficult time. Please don't hesitate to get in touch with any queries.

https://www.reinz.co.nz/reinz/public/christchurch-new-home/christchurch-red-zone-help_home.cfm

- Elderly Housing - Commonly referred to as over 60's or E.P.H (Elderly Persons Housing) this allows for smaller section size's than normally would be permitted with a maximum floor area restriction. The local authorities can advise on what, if any concessions are available around the rules of E.P.H, i.e. Age, limits, dwelling size.

16. My house is a rebuild can I go ahead and sell it?

Most existing houses that are selling have only minor or cosmetic damage with an assignment of the EQC claim. Once damage is above the EQC/Fletchers \$100,000 threshold, sales are very limited, availability of finance is difficult, therefore so would be selling the property.

17. What availability of land and its price outside Canterbury?

The National Real Estate web sites will contain that information e.g. realestate.co.nz, Trademe and individual real estate company websites.

18. Can unit owners join forces and buy/develop a block of units and would this make you a developer for tax purposes?

Any group considering this option needs to consult a lawyer and accountant to clearly outline the structure, process and commitment by each party, which would require documentation.

In relation to taxation implications this would require professional advice, but building for your own occupation should not be an issue.

19. What's the Real Estate market doing?

The third quarter of 2011 has seen a recovery in sales volumes in the Canterbury region, more particularly in the least quake affected areas of Christchurch City, with a 35% increase in sales numbers for August and September 2011 over July 2011.

The strong buyer enquiry from owners of Red Zone Residential properties was the main factor in this increased activity along with first home buyers and people transferring to Christchurch.

Lack of properties on the market was an inhibiting factor for some buyers but September saw an increase in properties available for sale.

Sales volumes within the City are still clearly divided between the least affected areas and the Central City, Eastern and Hill suburbs.

20. Number of House Sales

| | June 2010 | June 2011 | Sept 2011 |
|---------------------------------|------------------|------------------|------------------|
| Hill, Central & Eastern Suburbs | 231 | 87 | 148 |
| North & Western Suburbs | 242 | 175 | 291 |

These figures also show a gradual increase in sales volumes in the most affected areas.

The September 2011 median price of \$348,000 has eased back in Christchurch City from \$356,250 in August 2011, but is up over 5% for the year.

Certainly there is a firming of prices for property in the North and West of Christchurch plus Selwyn and Waimakariri Districts.

21. Comparison of Sales Numbers in Canterbury

| | June 2010 | June 2011 | Sept 2011 |
|-----------------|------------------|------------------|------------------|
| Christchurch | 473 | 262 | 439 |
| Selwyn District | 40 | 36 | 41 |
| Waimakariri | 59 | 79 | 125 |

Statistics for September 2010 were not used for comparison for obvious reasons.

If you require further explanation, or there is any area of property/real estate you have questions about, please do not hesitate to send your enquiries to: tmcpherson@reinz.co.nz