NEW ZEALAND

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PROPERTY PROFESSIONAL

MAGAZINE

NEW MAYORS ON HOUSING
WHAT CAN WE EXPECT?

PROPERTY CHALLENGES FACING LOCAL GOVERNMENT

Co-working – a new trend

LANDMARK TENANCY TRIBUNAL DECISION ON TENANT DAMAGE

Special Housing Areas – are they working?

COUNCILS CAN'T DO IT ON THEIR OWN

ASHLEY CHURCH

When I was first elected to the Napier City Council 25 years ago, the supply of housing and land for building certainly wasn't the issue it has become for Councils throughout New Zealand in recent years.

Napier, like other cities, was planning for growth – but the speed and scale at which population growth was taking place was manageable, and meant that local authorities could make affordable and considered decisions over many years. Most Councils no longer have that luxury. With rapid population growth and average occupancy (per home) dropping, we're now facing an explosion in our need for new residential dwellings, particularly in Auckland where the demand for decent housing currently significantly exceeds supply.

So, in this edition of *Property Professional* we asked the mayors of five major New Zealand centres what they plan to do about housing and property – a topic which generated many promises during the local body elections. As you would expect, given the mix of old and new mayors across the country, there are a range of approaches on offer, reflecting the different perspectives and political ideologies of the mayors we spoke to.

And, while no other local authority faces the same sort of pressures as Auckland – it's very clear that there are also mounting pressures on other cities which are feeling the pinch too. The mayors offered up a mix of competing ideas that they believe will help deal with housing and property issues, and you can judge for yourselves what you think after reading their contributions later in this edition. Over time, it will certainly be interesting to see which ideas work and which don't.

One thing is clear however – no matter what they say, Councils cannot do it on their own and should not pretend that they can. Politicians don't build houses, but their policies do have a huge impact on the way all property professionals get buildings and houses planned, built, fixed, valued, insured, tenanted and sold. That's why organisations like PINZ will need to play an increasingly important role in helping to identify issues, propose new solutions and offer an industry viewpoint.

Our intention as an Institute is to continue to expand the role we have been playing for the past couple of years – as a thought leader on commercial and residential property issues, working with like-minded organisations to facilitate discussion, debate, and ultimately improve the infrastructure that this country relies on. That role has never been more relevant or more topical than it is today.

Strategic update

Many of you will be aware that the Property Institute of New Zealand (PINZ) has been conducting an internal 'Rules & Structure Review' to ensure that the organisation is better able to adapt and improve services to members. That review is now complete.

First, I want to thank all those senior members who contributed to the review. Your insight and institutional knowledge has been instrumental in helping us to be better informed about established processes, issues and potential solutions.

We expected at this stage to be proposing a series of rule changes that would allow PINZ to deliver on its five-point strategy to:

1. Improve our operational performance
2. Expand our activities
3. Expand our membership
4. Change our structure
5. Reform our revenue model.

However, our legal team advises that changes to the rules and/or constitution are not actually required. Refreshingly, they've told us that the constitution and rules are written in a way that provides significant flexibility. We can now proceed with the 'future proofing' we need to allow us to move forward with our strategic plan.

So instead of an exercise seeking approval, we now expect to be visiting branch AGMs in the new year to brief them on the impact and benefits of changes to the organisation. If you have any questions please do not hesitate to contact us.

Stay safe, have a very Merry Christmas, and a happy new year

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CONTENTS
SUMMER 2016


21


34


04


14

PROPERTY CHALLENGES FACING LOCAL GOVERNMENT

DIANA CLEMENT

Local government is damned if it does and damned if it doesn't. Balancing the desires and needs of innately conservative voters, staff, elected representatives, lobby groups, professional membership organisations, central government, homeowners, property developers, transport groups, and a host of other stakeholders is a very difficult task. This article looks at many of the issues involved in trying to do this.

Property development is one of the most divisive issues when it comes to running New Zealand's towns, cities and regions. It's a dilemma that Andrew Eagles, Chief Executive of the New Zealand Green Building Council (NZGBC), is well aware of from his corner of the boxing ring. 'Pushing for a regulatory requirement (for sustainability) is just not amendable to many politicians or members of the public. All they hear is "regulation" and rightly or wrongly "cost", especially as there is a too much of a focus in New Zealand on the initial cost, not the ongoing costs of the home,' he says.

Every man and his dog has an opinion when it comes to what local government is getting right and wrong and what could be done better. The New Zealand Property Investors Federation (NZPIF), for example, wants a more coordinated one-size-fits-all for the country's approach to property-related policy.

NZPIF President, Andrew King, points to recent Ministry of Health guidelines for methamphetamine contamination. Every year hundreds of investors are hit with huge bills to decontaminate their rental properties. The new Ministry guidelines lift the tolerance for contamination, which investors approve of, but then require Councils to approve the guidelines locally. 'That is ridiculous,' says King.

The lack of coordinated national approaches, in particular for housing, is an issue that also concerns the Productivity Commission. Chair Murray Sherwin said on releasing the 2013 report *Towards Better Local Regulation* that having central and local government think jointly about what regulation is necessary, to what purpose and how best it can be implemented, enforced and monitored is critical for getting good results. The Commission concluded that New Zealand is well short of that ideal.

Central Apartments set a new Homestar 7 design rating benchmark says the New Zealand Green Building Council

Is local government to blame for the housing bubble?

Currently there are 195 Special Housing Areas (SHAs) in Auckland, says Allan Smee, Research and Education Manager at PINZ (see article later in this issue). Yet only 69 of the completed dwellings are 'affordable' by one criteria and, under another, only 35 would qualify. There has been widespread media coverage of the number of residential projects failing to start and some of these are in the SHAs, states Smee. The reasons for these failures, he says, vary from increased construction costs through to restrictions placed on lending for off-the-plan apartment purchases put in place by the major trading banks. However Lawrence Yule, President of Local Government New Zealand (LGNZ), does not accept that the blame for escalating housing prices lies with local authorities. The organisation complained in July that the government was not taking a sufficiently coordinated approach on matters critical to increasing the supply of land and new houses to address rapidly escalating housing prices. To address this issue Yule is calling for more leadership from national government in six areas:

1. Funding and financing of infrastructure.
2. Addressing land banking.
3. Allowing for urban development authorities controlled by local government to speed up development.
4. Putting in place tax regimes that de-incentivise speculation in residential property.
5. Addressing a skills shortage in the construction industry.
6. Addressing an uncompetitive market for building supplies.

'One of the most important priorities for local government is to address the question of why residential-zoned serviced land is not being released to market at the rate sufficient to meet market demand,' he says.

But not everyone agrees. AUT University's Professor John Tookey,

PROPERTY CHALLENGES FACING LOCAL GOVERNMENT


Simple but sustainable – Christchurch's 10 Homestar-rated home at 11 Church Square, Addington


The changing face of living in New Zealand – Metlifecare Greenwich Gardens in Auckland

for example, argues that even if local government did everything in its powers to release land and get it ready for building, it cannot force land and housing developers to build. 'If you are a land developer you are not going to develop 2,000 sections all in one go,' he says.

Land developers are driven by getting top dollar from the market and it is not in their interest to release large swathes of land because this will depress prices. What's more, if developers and builders anticipate a fall in land and housing prices they are inclined to down tools until a different stage in the property cycle.

Tookey adds, 'If you want to rectify the problems in housing availability and affordability you have to motivate the developers.' However even if you do this it is not going to result in conjuring up another 200,000 new homes overnight. There is a huge lag effect associated with any changes in policy being seen on the ground.

The bigger picture

While local government reacts to stakeholder views, the Productivity Commission has taken a big picture approach in its recommendations in its latest draft report *Better Urban Planning*. The Commission was charged with identifying from first principles the most appropriate system for allocating land use through this system to support desirable social, economic, environmental and cultural outcomes in order to create 'successful cities'.

The report says that vibrant high-performing cities change and evolve in unexpected and unpredictable ways and require an urban planning system that can respond and adapt to these changes. The inquiry found, unsurprisingly, that amongst other things development capacity has failed to keep pace with demand in New Zealand's fastest-growing cities.

The Commission's proposals for a future planning system are designed to provide this greater responsiveness and adaptability in a number of ways including:

- Less prescriptive land use rules
- Creating more space for local innovation and adaptation
- Faster 'event-based' processes for changing land use rules, allowing regulation and the supply of development capacity to keep up
- More use of market-based tools and infrastructure pricing, which signals to individuals and firms the efficient locations to develop, or times to use, infrastructure
- Longer-term infrastructure and land use planning based on real options analysis, which explicitly factors uncertainty into the development and analysis of options, as well as incorporating flexibility in the investment decision-making process.

Local authorities would continue to be the primary actors, the Commission proposes, but within a legislative and policy framework that clearly lays out the national interest in the development of cities. 'Such national interests include openness to change in land use, sufficient development capacity to meet demand, mobility of goods and residents, and development within specified biophysical limits,' the report noted.

Incentivising Councils to enable growth

For its part, LGNZ argues that Councils could be incentivised by government to enable more growth. One way of achieving this, says Yule, would be to allow Councils to retain a share of any value uplift arising from a change in zoning or other economic activity. Currently that gain goes directly to landholders, which encourages them to land bank.

Councils could use that profit to finance new infrastructure instead of raising debt. In some regions, that debt level is already

Laneway housing designed for Universal Homes at Auckland's Hobsonville Point

close to the maximum allowed by the government's financial benchmarks. LGNZ believes those maximum levels are too conservative for fast-growing cities.

Another option for local government, says Yule, would be to target rates as an incentive for land bankers to release their land for development.

For his part, Tookey suggests 'use it or lose it' clauses in Council consents as a way of mobilising developers. 'Let's make reapplying for a consent so expensive that companies and individuals sitting on land with resources are incentivised to sell to someone who will develop rapidly,' he says.

On the subject of sustainable development Eagles argues that Councils could encourage more sustainable property development, with policies such as allowing an extra storey to be built on homes where they meet a certain Homestar rating.

Similarly a Council, realising the advantages in flood risk mitigation or reduced health costs, may reduce the development levy for Homestar delivered homes, says Eagles. He adds that the examples he gives would mean that developers stand to make more money, not less, through sustainable development.

LGNZ would also like to see tax regimes from central government that de-incentivise speculation in residential property, addressing the skills shortage in the construction industry and confronting the uncompetitive market for building supplies.

Pouring poo down the pipes

'Much broader thinking is needed by local government on issues ranging from how we create a home/remote working culture so people don't need to come to city centres to the tolling of roads to pay for infrastructure,' Tookey says. He believes one of the big issues for Councils in the larger cities, in particular Auckland, is the rickety infrastructure.

'How do you physically put the poo down the pipes in an intensified city?,' he asks. 'It's not an issue which, for example, Auckland's Unitary Plan tackles well.'

Overseas examples

New Zealanders are particularly good at experimenting with reinventing the wheel. Yet there are examples of good local government practice from overseas that our Councils ought to be considering. The LGNZ itself points out about the land banking issue that in the United Kingdom, for example, Urban Development Authorities have been given the power to compulsorily purchase land, which could prove useful here for small brownfield commercial sites held by multiple owners.

An example in San Francisco, cited by Tookey, is the zero-waste ambition, which has had unexpected benefits for development. While only paid lip service in some parts of New Zealand, this zero waste aim is actually turning into reality in San Francisco, *The Guardian* newspaper reported.

In 2006, San Francisco introduced the mandatory construction and demolition debris recovery ordinance, which required the building trade to recycle at least two-thirds of its debris such as concrete, steel and timber at a registered facility. Construction firms that fall foul of the rules risk having their registration suspended for six months. Eagles says that this could be done in New Zealand. Councils could start by:

- Establishing sound measurement of the amount and types of waste and where it is going
- Putting up landfill tax
- Making site waste management plans mandatory for construction projects worth over a certain amount
- Improving take back or exchange opportunities for unwanted and waste materials


San Francisco construction waste diverted for recycling


Local governments here can learn from overseas examples such as in San Francisco

- Sharing best practice, for instance, between 2006 and 2009 Wates (a major UK contractor) improved their non-hazardous waste diverted from landfill from 53% to 91%
- Illustrating what is possible and how that pays off for companies. Examples include case studies such as the Olympic Development Authority which set targets very high during the demolition, design and construction phases of the London 2012 Olympic Park.

The NZGBC also advocates master planning of entire precincts/communities rather than taking a building-by-building approach. 'This allows for a more integrated, efficient approach to managing everything from stormwater, district utilities and decontaminating land to housing, public spaces and walkability/transport integration,' says Eagles.

Sustainability

Eagles doesn't buy the argument that given the choice between a house that is sustainable and actually having a house that many voters would choose the latter. Unsurprisingly, the NZGBC has a shopping list of what it would like local government to do more of. For residential that includes:

- Encouraging the upgrading of damp homes – according to the 2010 BRANZ House Condition Survey that's 40% of Kiwi homes
- Requiring an independent certification of the quality of homes when they are sold
- Providing incentives for developers to build Homestar-rated energy efficient homes
- Running more education programmes to help the public understand that in building new homes they could have better air quality, heating, light and reduced moisture issues and that the Building Code is only the bare minimum standard rather than a comfortable, efficient home.

On the commercial property front the NZGBC wants local authorities to show leadership as well as:

- Set leases for their own buildings, requiring the properties to work towards energy efficiency each year using the NABERSNZ, which rates their energy efficiency
- Measure the performance of their own buildings to demonstrate that it is easier than people think to improve. The NZGBC says that compared to wasteful buildings, energy-efficient commercial buildings gather 8% higher basic rent, while costing 2% less in operating expenses, and tend to have around 15% lower capital expenditure over time
- Specify their own buildings being built to be productive and healthy for staff with good air quality and light.

Tookey also points out that local government could encourage far more in the area of sustainable power generation such as solar arrays on buildings, wind power, distributed processing, composting toilets and much more

Recommended reading:

Drage, Jean & Cheyne, Christine. 2016. *Local Government in New Zealand: Challenges and Choices*. Auckland: Dunmore Publishing.

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CAN COUNCILS FIX HOUSING?

MAYORS OF FIVE MAJOR CENTRES GIVE THEIR VIEW

"For many, the Kiwi dream of owning your own home is lost. The cost of renting is increasing six or seven times faster than overall inflation. For the bottom 20% of households, rent makes up as much as 60% of their income."

PHIL GOFF

"Tauranga's growth has turned out to be much faster than forecast, outdoing all predictions in the past year. New dwelling consents are up 86% above the 10-year average and growth projections keep being revised upwards."

GREG BROWNLESS

"The establishment of a Council-owned urban development agency will help deliver that housing mix, thereby containing house price inflation and providing more affordable and social housing."

JUSTIN LESTER

"Adequate housing – that is affordable, secure, well located, habitable and accessible – underpins good health, economic, environmental and social outcomes. It is a vital part of our community infrastructure."

LIANNE DALZIEL

"Improving housing is a key priority for Dunedin city – we have set an ambitious goal that everyone in the city lives in a warm and cosy home by 2025."

DAVE CULL

PHIL GOFF
AUCKLAND

Auckland faces a critical shortage of housing with a consequential dramatic rise in house prices and unaffordability. Average house prices have soared above $1 million and the mortgages can be 10 times an average household income.

For many, the Kiwi dream of owning your own home is lost. The cost of renting is increasing six or seven times faster than overall inflation. For the bottom 20% of households, rent makes up as much as 60% of their income. That, in time, leads to people doubling up in houses and sleeping in garages or in cars.

For those of us on the property ladder and for investors we benefit from rising prices, but at the expense of another category of Aucklanders who are falling further and further behind.

The solutions aren't easy but we know what they are. We have to bring the supply of housing into line with demand. That means lifting supply and, in the short term, easing demand. The latter could involve an Australian-style policy of requiring overseas investors to invest in building new houses rather than buying up existing homes. Or Vancouver's solution of a property transfer tax on foreign buyers.

Those issues are in the domain of central government to legislate. However my role as Mayor is to advocate to central government for policies that Council believes will assist Aucklanders.

Easing the record levels of migration, especially in the temporary work visa area, would also lessen demand. Despite having rejected my suggestion to do that a couple of months ago, central government has changed its position a little to look at reducing around the edges the rapid migration growth impacting on the Auckland market.

Longer term however we need to look at supply side solutions. While Auckland's population growth of 45,000 in the last year has created problems around the ability of housing and transport infrastructure to keep pace, we still want growth. Auckland is New Zealand's one international city and we need to make it attractive in the opportunities and choice it offers to retain talent at home and attract skills and value add business from abroad.

Auckland Council's first task was to pass a Unitary Plan so the city could go both up and out to provide homes to meet demand. Council fulfilled its role and we now need the Environment Court to process appeals as quickly as possible so that the Unitary Plan can be implemented. That plan enables the construction of up to 427,000 new homes in the next 30 years.

However to turn zoning changes into actual built homes we also need to put infrastructure in place to enable construction to occur. Infrastructure can properly be funded out of borrowing as the cost should be shared over generations.

Auckland's problem is that we have restrictions on our debt-to-revenue ratio which, if exceeded, puts at risk our AA credit rating and raises the possibility of ratepayers paying tens of millions more in interest on debt.

Hobsonville Point, a medium to high-density set of developments, has been facilitated between the Council and the Hobsonville Land Company

Average house prices have soared above $1 million and the mortgages can be 10 times an average household income.

Britomart Station. In a city of Auckland's size, the viability of residential development is completely dependent on the transport system's ability to get people to and from employment at peak times

For New Zealand to succeed, Auckland, which is providing over 50% of the country's growth, must also succeed. Auckland can't do its job for the country if housing unaffordability and worsening transport congestion stands in the way of it contributing to the productivity the country needs.

The Standard and Poors ratio is set at 270% and Auckland is already approaching 250%.

Overall rate increases can't be the answer either, with a 1% rise in rates bringing in only around $15 million. With average rate rises close to 10% last year there is understandable resistance to Council putting the burden of growth on ratepayers.

One solution proposed by government in the form of an Infrastructure Fund has potential. It shows that government recognises that traditional funding of local government in high growth areas is inadequate. The Infrastructure Fund, where government provides capital interest free for 10 years is sound, but the size of the fund at only $1 billlion is not sufficient to adequately tackle the problem.

Government wins from additional income, GST and company tax from Auckland's high growth, which it receives centrally, while local government picks up much of the cost of growth. That justifies a revenue sharing approach where government reinvests more of that tax locally where cost pressures apply.

For New Zealand to succeed, Auckland, which is providing over 50% of the country's growth, must also succeed. Auckland can't do its job for the country if housing unaffordability and worsening transport congestion stands in the way of it contributing to the productivity the country needs.

In the coming months, I will be having discussions with central government about how we can invest in the infrastructure for transport and housing that the rapid growth in Auckland's population demands. We need to discuss concepts including infrastructure bonds, targeted rates and measures to tackle land banking and speculation.

Auckland makes up 35% of the nation's constituency and 37% of its production, so Auckland Council and central government have a shared interest in resolving the region's challenges and getting it right

GREG BROWNLESS
TAURANGA

Tauranga has held a spot at the top of the population growth table for decades and has become New Zealand's fastest-growing regional economy. People are coming to the city from around the country seeking jobs, homes and investment opportunities in this stunning coastal setting.

Our population is set to reach 198,335 by 2063 – 73,181 more than today. Tauranga has a location that is hard to beat, perfectly positioned as it is in the golden triangle of economic prosperity (Auckland/Tauranga/Hamilton).

The golden triangle accounts for over 50% of our national GDP and sees over 40% of New Zealand's freight movements. Driving this is the Port of Tauranga, the country's largest and most efficient port, which handles about five times the export volumes of Auckland. This contributes to the Bay of Plenty's high levels of employment growth, leading the country's employment growth at 13% in the past year.

This bodes well for the future of Tauranga. Our city provides great living opportunities for young and old. I believe however that we need to tackle housing affordability issues if we want to keep getting young people and their families moving here.

My vision for Tauranga is that it remains the most liveable city in New Zealand. During my campaign I advocated for a 20-year affordable action plan to ensure it remains an attractive place for present and future generations. I also want to investigate alternative funding sources for the Council. I intend to bend the ear of the government so that the cost of running the city does not fall on ratepayers all of the time.

Two years ago, Tauranga City Council set a blueprint to manage the growth and success of the city into the future – through the Long Term Plan 2015-2025 (our 10-year budget and activity plan). The previous Council set the following overarching goals:

- To look after what we have – maintain our existing infrastructure and assets so they are fit for purpose now and in the future
- To deliver efficient services to our communities – great libraries, arts and heritage, animal services, monitoring and planning to protect our environment and our people


The commercial and residential development in Papamoa East

> *Tauranga has a location that is hard to beat, perfectly positioned as it is in the golden triangle of economic prosperity (Auckland/Tauranga/Hamilton).*

The Kingsview Apartments completed in 2006 are located on the fringe of Tauranga's CBD

We have to deal with growth to avoid a housing market scenario comparable to Auckland's. House sales have leapt by 38% since 2015 and the median house price has risen from $417,500 to $475,000.

- To manage growth and provide for our growing city, notably through an efficient infrastructure strategy and good management of our land supply
- To invest in Tauranga's future, to bolster our city's economic vibrancy, attract talent, investment and innovation and in general make it a great place to live.

I believe the Council is delivering on these goals. The organisation is improving asset management and focusing on delivering services the community wants and needs. To provide for growth, the Council is opening land in both the east and west of the city, providing existing growth areas with future-proofed core infrastructure, timing investment and delivery of infrastructure with the needs of the market and the city, and thinking ahead about our urban form and how the city should grow and evolve. There is ongoing investment in the CBD, with major projects to reinvigorate the city centre and provide more community amenities.

Our growth management is based on a strategic partnership with the Western Bay of Plenty District Council, the Bay of Plenty Regional Council and tangata whenua, called SmartGrowth. SmartGrowth provides a spatial plan to manage growth in the Western Bay of Plenty sub-region along with a comprehensive approach for 'building the community' across the four well-beings (environmental, economic, social and cultural).

We are working off a strong basis. However Tauranga's growth has turned out to be much faster than forecast, outdoing all predictions in the past year. New dwelling consents are up 86% above the 10-year average and growth projections keep being revised upwards. This sets new requirements to supply land for housing and provide the infrastructure for growth, which all has a cost to the ratepayer.

This means that our plans, as we had them two years back, may not be sustainable into the future. We have to deal with growth to avoid a housing market scenario comparable to Auckland's. House sales have leapt by 38% since 2015 and the median house price has risen from $417,500 to $475,000. We need adequate housing supply to avoid further price creep. We currently have a nine-year supply of zoned land, which is quite comfortable. But looking to the future, we will have an estimated shortfall of 28,000 dwellings to accommodate the projected growth to 2063. This will need to be provided for in greenfield areas and through infill and intensification in existing urban areas.

Not least of the challenges we are facing is the high debt burden to provide the hard infrastructure to serve new growth areas. This will bring Council essentially to its debt ceiling. On top of having to front-end the debt to then recoup via development contributions, the wording of the Local Government Act almost guarantees that a Council will be unable to collect the full amount of development contributions required. At 30 June 2015, this shortfall totalled approximately $30 million in Tauranga.

We need to find solutions to deal with the shortfalls in funding, and develop these in partnership with other organisations. We need more co-investment and partnership with central government and we need to develop our partnerships with local and regional authorities, private sector and social investors, voluntary organisations and tangata whenua.

We also need our community on the journey with us. Building a successful city is a complex business. Measuring benefits is difficult and the community is best placed to assess whether efforts to increase housing availability and affordability are working or not. The projects we deliver to address our housing and infrastructure challenges, like urban intensification, will ultimately define the urban fabric in which we all live. We will need our community not only to be on board with that, but also to lead the way and tell us what they want the future of their communities to look like. Help us ensure social infrastructure and supporting community connectivity aren't put on the back burner in the name of growth management

JUSTIN LESTER
WELLINGTON

New Wellington Mayor Justin Lester has left no room for doubt about how important he thinks the issue of housing will be for Wellington during his three years in office. He campaigned on a platform that everyone deserves decent housing and set out some clear promises on how he wants to deliver on that.

Within two weeks of being elected Mayor Lester had announced the formation of a Housing Task Force to take a holistic look at solutions to the housing squeeze hitting the capital. This will have a multi-faceted approach, he says, looking at increasing the supply of new homes, homelessness, provision of social housing, the future of the Council's housing stock, housing affordability schemes for first home buyers, the rental market and housing density.

The Task Force will also look at how to move forward on Lester's campaign promises:

- A Parliamentary Bill seeking to make a rental warrant of fitness a reality in Wellington
- Increased investment in social housing
- Continuing to improve the quality of 2,500 existing Wellington City Council-owned housing units by making them safer and better to live in
- A $5,000 rates rebate for anyone building their first home in Wellington
- Establishing Build Wellington, an urban development agency.

'I don't want to pre-empt the outcomes of the Task Force. I have a series of initiatives I campaigned on and I want to make sure they are right. I want input from other people and I want to get this implemented by mid next year,' Lester says.

Deputy Mayor Paul Eagle has been charged with leading the Housing Task Force. He will work with Chief of Staff John McGrath who has been with the Council 10 years and had already started work on the housing project earlier this year.

The Task Force will hold a forum before Christmas with a wide group of interested parties to get consensus on the issues to be tackled. It will report to the Council by April and funding decisions will become part of the 2017 Annual Plan that will come into effect on 1 July.

'We want to front-end this because there's a time lag in getting the settings right and houses built. We don't want to be another Auckland,' Mayor Lester says.

Unlike Auckland, Wellington has largely escaped the negative impacts of a rapidly rising population and red-hot investor market, which has driven up house prices and rental costs and cut off any chance for most people to own their own home. Wellington saw population growth of 3.2% from 2013 to 2015, adding 6,300 people to the city's total population of around 204,000. Projections for the next 25 years will see a further 43,000 people added to the population of a city which faces space constraints due to geography, particularly in the CBD.

Mayor Lester estimates that the city will need 200 to 300 more dwellings a year on top of what's already being built to keep up with demand. With a background in property development, he worked at

Between 2001 and 2013 residents in Wellington's central city Te Aro Flat area jumped from about 3,000 to over 7,000, and could top 10,000 after the 2018 census.

CB Richard Ellis and Jones Lang LaSalle before co-founding Wellington-based food company Kapai. He is happy to look beyond the ratepayer base to partner with private companies to fund and develop more housing.

Deputy Mayor Paul Eagle believes Wellington also needs to work with central government, social housing providers and others in the sector to get the right number and mix of houses available at an affordable price. 'As a Council we have the ability to look at the housing mix and make sure that people have good quality housing that's appropriate for their needs,' he says.

Mayor Lester believes that the establishment of a Council-owned urban development agency will help deliver that housing mix, thereby containing house price inflation and providing more affordable and social housing. He also highlights that a lot of the growth will happen in the central city where apartment living is becoming increasingly popular and where there is capacity for development to occur through well-planned higher-density housing.

Between 2001 and 2013 residents in Wellington's central city Te Aro Flat area jumped from about 3,000 to over 7,000, and could top 10,000 after the 2018 census. Earlier this month, two more apartment buildings were announced for Victoria Street in downtown Wellington, providing homes for 1,000 new residents. The Council has already earmarked Kent Terrace, Cambridge Terrace, Taranaki Street and Adelaide Road for upgrades and rejuvenation.

The mayor says that it is incumbent on the Council to make sure that there are new opportunities for housing development. 'But we also need to make sure that we provide the necessary infrastructure, community facilities and investment in roading and public transport to support that growth and ensure that Wellington remains one of the world's most livable cities.'

Having campaigned on a platform of economic growth, housing and transport, Mayor Lester says he wants to see Wellington grow and attract more people to the city. 'The benefit to the Council is to see new, managed housing construction, a bigger workforce, a more vibrant city with a strong economy and increased social and ethnic diversity.'

Mayor Lester says he got into local government because he wanted to give other people even more opportunities to succeed than he had. 'I want to live in a city where kids don't have to spend winter cold, getting sick because of where they live or what their parents earn. That's not right, it's not fair, and I don't think it's what Wellington wants. The economy, housing and transport; these are the priority areas for Wellingtonians and we need to get cracking.'

LIANNE DALZIEL
CHRISTCHURCH

The distribution of Greater Christchurch's population has changed substantially since the Canterbury earthquakes. The city has seen a significant shift in where people live, resulting in substantial growth in both the Selwyn and Waimakariri District Council areas.

However this growth was not entirely unexpected; it's just happened sooner than was anticipated when the three Councils and the region sat down and negotiated the Greater Christchurch Urban Development Strategy (UDS). This collaborative planning that has been put in place over the last few years will play a major role in determining how the city's residential areas develop and function for many years to come. The fact that we had a strategy before the earthquakes happened meant the government could hit the fast-forward button when it came time to review land use requirements post-quake.

The fact that we had a strategy before the earthquakes happened meant the government could hit the fast-forward button when it came time to review land use requirements post-quake.

The Land Use Recovery Plan (LURP) set out clear actions to be undertaken by central government, local councils, Te Rūnanga o Ngāi Tahu and the New Zealand Transport Agency in support of development in Greater Christchurch over the next 10 to 15 years. Some of these actions put planning provisions in place now to achieve outcomes such as:

- Greater land supply
- Intensification near services and facilities
- Redevelopment of areas of social housing
- Catalyst 'exemplar' projects for medium-density affordable housing development.

Other actions require changes to planning documents to support and streamline greater residential development, such as the Christchurch City District Plan. The LURP's actions provide for an anticipated 40,000 new households in Greater Christchurch in both greenfield and intensification areas. Opportunities identified for intensification and infill within existing urban areas provide for 20,000 new households by 2028.

In a similar way, the UDS offers a long-term road map to managing urban development and providing for community well-being in Greater Christchurch to 2041. Among its aims and actions it includes:

- Providing for 70% of the anticipated population growth in Christchurch, with 30% split between the Selwyn and Waimakariri districts
- Increasing the proportion of housing growth provided through good quality urban intensification
- Signalling the phasing of development to

Newly opened social housing unit at Innes Courts (Mairehau) complex

Newly opened social housing unit at Osborne Street (Woolston) complex

allow infrastructure to be provided in a timely and efficient way

- Providing for a range of quality, affordable housing.

Achieving all of these planning outcomes is a major undertaking and much of the work will be done by private developers, with the Council providing the required policy, regulatory framework and infrastructure.

Traditionally the Council's focus on housing has largely been on its own social housing portfolio, as well as supporting housing developments through its planning and consenting roles. However given the impact of the earthquakes the Council's focus has broadened to include how best to support other agencies and the private market to meet housing needs, particularly through intensification of social housing and land supply for government-led temporary and affordable housing developments. The Council agreed to this broader focus in 2014 when it ratified the Christchurch Housing Accord with the government.

This commitment was reiterated again recently with the approval of the Council's Housing Policy, which (similar to the Accord) will guide decisions and support collaborative action across the continuum of social, affordable and market housing. Both the Housing Accord and the Housing Policy recognise that a fully functioning housing market is essential to building up healthy communities and a strong economy.

Adequate housing – that is affordable, secure, well located, habitable and accessible – underpins good health, economic, environmental and social outcomes. It is a vital part of our community infrastructure. Each of the public, private and community sectors has a valuable part to play, working together to address the housing challenges facing Christchurch.

The leasing of the Council's social housing units to the Otautahi Community Housing Trust, which is a Community Housing Provider (49% owned by the Council), means that we will avoid the government's prohibition on Councils having access to the Income-Related Rental Subsidy. But more importantly it signals a whole new approach to social housing which sees the Council form a strong partnership with other agencies that can provide wrap-around support for vulnerable tenants. It will also provide us with the opportunity to intensify housing and create mixed-housing developments on what were formerly social housing sites, meaning the co-location of affordable housing and market-priced housing.

Finally we know our ambition of having a vibrant, sustainable 21st century city means we need many more people living inside the four avenues so they can work and play within walking distance of where they live. This is a huge challenge, but it is a goal we are determined to achieve. Watch this space

We know our ambition of having a vibrant, sustainable 21st century city means we need many more people living inside the four avenues so they can work and play within walking distance of where they live.

DAVE CULL
DUNEDIN

Improving the quality of Dunedin's housing stock is one of my key points of focus for this electoral term. The city's modest rates of population growth mean we haven't faced the same housing pressures as other New Zealand cities and we haven't had to pursue much greenfield development or urban intensification.

This has brought many benefits. For example, many of our heritage buildings, 19th century warehouses and office blocks – the sort that have been knocked down and replaced with boring modern boxes in every other city in New Zealand – are being refurbished and repurposed for contemporary use. This enhances Dunedin's reputation as an innovative and creative city, proud of its rich heritage.

However challenges do remain when it comes to the quality of housing, particularly rental housing, across the city. Dunedin is estimated to have over 18,000 homes that are not warm or dry enough to keep people healthy and comfortable at a reasonable cost. We have cheap housing by New Zealand standards, but around half of it is estimated to be of relatively poor quality – mainly due to age. Around 86% of Dunedin's housing was constructed before insulation requirements came into law in 1978.

As we well know, when we live in poor quality housing we spend a high proportion of our money on energy. Or, for those unable to heat their home sufficiently, they suffer poor health as a result. The issue also leads to poor outcomes in education and more sick days taken by residents who live in these homes, which has an economic impact on our local businesses.

Traditionally the student or 'scarfie' flats are the properties which had the worst reputation for being sub-standard in Dunedin. The accommodation in the area around the University of Otago campus was once working class housing that was turned into student flats. It has been customary for many of these not to be well maintained. Historically some students saw it as a rite of passage to live in a cold, run-down flat while others were forced to live in these conditions due to a lack of suitable alternatives.

Over the past few years there has been considerable building and development resulting in the provision of many higher quality student rentals. So students who want to live close to campus now have far more choice, and poor flats and poor landlords can be avoided. That doesn't mean however that any landlords are justified in letting sub-standard, cold and shoddy flats. That's not acceptable.

The Ministry of Business, Innovation and Employment (MBIE) recently expressed its disappointment with what it found after inspecting some Dunedin student flats as part of a crackdown on poor landlord behaviour across New Zealand. MBIE inspected properties in Castle Street, in the heart of the campus area, to determine whether landlords had been complying with the new law requiring them to state on tenancy agreements how much insulation a rental house had.

They were disappointed to find there were still landlords not complying with the new rules, and also that maintenance


Housing in Castle Street in Dunedin in the heart of the campus area

Over the past few years there has been considerable building and development resulting in the provision of many higher quality student rentals. So students who want to live close to campus now have far more choice, and poor flats and poor landlords can be avoided.

issues affecting the warmth and dryness of homes were going unrepaired for long periods of time despite being reported to the landlord. South Dunedin is another area where poor quality housing is a concern.

We know that better housing means healthier people, but better housing is also a must for economic development. Dunedin has many advantages over other New Zealand cities – a proud and colourful heritage, a vibrant arts and culture scene, unique wildlife, a stunning natural environment, and an abundance of educational and recreational opportunities. However if we want to attract people to Dunedin to live, work and study, then we must improve the quality of our housing stock.

The other economic impact of poor quality housing is that each winter our city generates a huge amount of 'wasted energy'. More money is spent than required in heating cold, damp and draughty houses. I believe the argument that it costs too much to properly insulate a house is specious – the lifetime savings on power far outweigh the upfront capital costs of insulating.

Improving housing is a key priority for Dunedin city – we have set an ambitious goal that everyone in the city lives in a warm and cosy home by 2025. Much work is happening in this area, with a wide range of initiatives in place to help this goal become a reality:

- We provide funding grants for home insulation
- We support initiatives such as the Student Tenancy Accommodation Rating Scheme to help students make informed decisions about the sort of flat they want to rent
- We recently completed a major upgrade programme of all the Council's community housing stock and have long supported minimum standards for rental housing.

It seems ironic to me that we have strict food hygiene standards that won't allow the sale of food that makes people sick, yet it is legal to rent out homes that can make people sick. We need the support of private landlords to achieve that vision for warm and cosy homes.

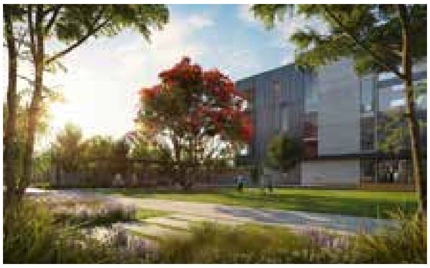
I believe that the vast majority of landlords are responsible and want to provide decent homes, and they should expect them to be well cared for by tenants in return. In other words, it is in both parties' best interests to have a good quality and well-cared for property.

However the minority of landlords who ignore their obligations are not only letting their tenants down, they're actually letting all of Dunedin down because they put us at risk of gaining a reputation as a slum city. That would be in no-one's best interests

AT A GLANCE

- The precinct is set up over 1.29 hectares of land at only 45% density
- There are five buildings of four-storey stacked homes separated by lush gardens and shared park areas
- It is landscaped by award-winning urban designers, Boffa Miskell
- Unlike most apartment buildings, Fabric of Onehunga has been designed to be pet friendly

NEW LEASE OF LIFE IN ONEHUNGA



With space for new housing developments at a premium in Auckland, one new residential development in Onehunga is breathing new life into 1.29 hectares of old industrial land. Called 'Fabric of Onehunga', it is described as a unique pocket neighbourhood that is an example of higher-density living done right.

It will include 7,000 sqm of shared landscaped park-like gardens, and the development will see five buildings with 239 apartments spread out across the site in a campus-like setting. The new residential development is set to provide homes for up to 500 people and the first stage of one and two bedroom apartments went on sale in November.

The site is being developed by Andrew and Tim Lamont, Directors of Lamont & Co. Collaborating on the development are Ashton Mitchell architects and landscape architects, Boffa Miskell. Leading interior design magazine, *Homestyle*, has also been consulting on the interior aesthetic. All apartments will flow out to balconies or large terrace gardens and share access to the pocket park at the heart of the development. Internal areas range from 57 sqm to 89 sqm in size.

Fabric of Onehunga's architecture reflects the site's light industrial heritage with buildings wrapped in steel cladding, black joinery and timber detailing. The apartment buildings will feature secure basement car parking and naturally ventilated glass atriums, with pedestrian bridge structures providing access to the apartments.

'We see these apartments appealing to a wide range of people from empty nesters to young couples and families,' explains Tim Lamont. 'Onehunga has become a very desirable place to live – with vibrant cafes and shops popping up all over the place, but also the creation of a new foreshore beach with parks and walkways making it ideal for kids'

ECONOMIC DEVELOPMENT STRATEGIES & THE PROPERTY MARKET

Auckland, Wellington & Christchurch

JEDRZEJ BIALKOWSKI AND AYNAZ NAHAVANDI

One of the key factors affecting the real estate market is the health of the regional economy. This article looks at whether the economic development strategies of three cities in New Zealand are effective enough to stimulate the country's real estate market.

The positive relationship between economic development and the real estate market is well known. However the factors influencing regional economic growth and the existing economic development strategies of New Zealand cities are still open to debate.

There is a need to discuss the factors stimulating economic development with special attention to those that play a role at the metropolitan level. This article looks at the existing economic development policies in New Zealand's three leading cities: Auckland, Wellington and Christchurch. The extent to which these policies reflect knowledge of the factors stimulating the economic development of cities is also examined, as the implementation of appropriate policies could enhance the New Zealand real estate market.

Factors stimulating economic growth

Classical and neo-classical growth theory identifies the key factors determining economic growth: labour, physical capital

A better transportation system might enhance accessibility to a more diverse and specialised labour force.

and technology. Economists believe that growth relies on a dynamic process of continuous increase in these three areas.

Contemporary and more empirical-oriented studies show the importance of secondary factors such as transportation infrastructure, amenities (schools, housing, weather, and historical, cultural and recreational centres), and disamenities (pollution, road congestion and crime rate). For example, by enhancing mobility and improving the transportation system, production and distribution could become more efficient and the size of the market for local producers would therefore increase. Increases in market size could increase demand for the real estate market.

Generally, transportation system improvements could lead to a reduction in firms' input costs, and thereby increase their productivity and competitiveness. A better transportation system might enhance accessibility to a more diverse and specialised labour force. A successful transportation system could also agglomerate people and a concentration of creative people creates chains of innovation. By increasing the size of the market and improving the productivity of the local producers, demand for real estate (especially for manufacturing, construction industries and housing) could therefore increase.

Workers and firms also take local living conditions and labour markets into account in their locational decision-making. Urban amenities could affect the quality of space and eventually influence regional economic growth through three channels:

- Firms prefer to invest in high-amenity regions
- Talented and mobile professionals prefer high-amenity areas, and the agglomeration of these professionals in various occupations attracts firms demanding this type of skilled labour
- High-amenity regions attract tourism and income from the outside.

Economic growth is therefore conditional on regional amenity factors such as climate, land, water, developed recreational infrastructure, historical, cultural and recreational centres, and universities. Generally, amenities play an important role in increasing migration, and with the rise in employment the demand for amenities will increase. By improving amenities, the demand for real estate (in particular for office and service-providing businesses, and housing) is expected to increase.

Residential amenities can also affect economic growth and eventually the real estate market. Housing is the largest part of the wealth of households and housing costs are a fundamental part of household consumption. Residential amenities can therefore attract workers and this workforce, in turn, can attract business firms. Residential amenities such as neighborhood safety and access to good schools become factors that could affect economic growth and the real estate market.

However disamenities such as noise, pollutants and densely-populated neighborhoods could have negative effects on economic growth and the real estate market. So although recreational and consumption amenities could increase the growth in population, employment, income, and even housing prices, disamenities could have inverse effects.

Other emerging factors

In recent studies by urban planners, other factors stimulating economic growth were identified. These factors (known as normative factors) include equity, diversity and affordability.

To understand the importance of these normative factors it is worth noting their impact on regional economic growth. As mentioned, attracting talented workers and investing in innovation industries leads to the economic growth of a region and an increasing demand for office, retail and housing properties. However if this economic growth is associated with polarisation in occupational and income structure and creates two clusters of income – high-paid professionals and low-paid service workers – this could undercut a stable or sustainable growth path. This can easily lead to more segregation, gentrification and higher crime rates and create more disamenities in a community.

Also growth without a fair distribution may not make the majority better off, and high growth may be associated with high resource use and environmental impact. By combining economic growth with policies stimulating equity, affordable housing, cultural diversity and green growth, the negative consequences of economic growth can be mitigated.

These normative policies not only reduce the disamenities in a community but also attract more investors and firms. A survey of more than 300 companies conducted by the Urban Land Institute in the United States shows that affordable housing plays an important role in attracting labour to a region. Two-thirds of survey respondents believed that a lack of affordable housing negatively affects a firm's ability to hold onto qualified employees. The findings of other research by the Center for Housing Policy in the United States show that affordable housing increases purchasing power and lets families have more income to spend on local goods and services or investing in education. Housing affordability can therefore result in more consumption or higher education, both of which can boost a community's economy and increase demand for the real estate market.

Table 1 summarises the main determinants of economic growth together with normative factors.

Table 1: Factors stimulating economic growth in NZ cities

Index	Debate about economic growth	Level
Labour force, capital and technology	■ Agglomeration of a highly educated labour force (human capital) ■ Agglomeration of production occupations and firms ■ Information and communication technology (ICT) capital accumulation ■ Government expenditure and private investment in R&D, science and technology	National/ regional
Transportation	■ Enhancing accessibility between different types of employment, production sectors and distribution to stimulate more efficient economic growth	National/ regional
Amenities and disamenities	■ Natural and built amenities can attract more workers and firms, as well as stimulate the tourism industry ■ Decreasing crime rate and pollutants can increase the growth in population, employment and real estate investment	Regional
Emerging norms	■ Equity, affordability, diversity and green growth lead to sustainable growth and attract more investors and workers	Regional

NZ's approach to economic growth strategies

To better understand the existing debates on economic growth at the city level in New Zealand, the existing economic development strategies of the three most populous cities are reviewed. The goals and priorities of these economic development strategies are stated and we contrast these various strategies with key factors affecting economic growth to find any existing gaps. The results may help New Zealand policy-makers improve economic growth prospects and indirectly influence the residential and commercial property market in this country.

Auckland's Economic Development Strategy (EDS)

The EDS is based on five priorities: 1) grow a business-friendly and well-functioning city; 2) develop an innovation hub of the Asia-Pacific rim; 3) become internationally connected and export-driven; 4) enhance investment in people to grow skills and a local workforce; and 5) develop a creative, vibrant international city. The strategy focuses on innovation and technology, improved transportation and infrastructure, job and business creation, a skilled workforce, and increasing city amenities and social services. All the key economic development factors are addressed in the strategy, but it refers to diversity, affordability and green growth in its action plans rather in its main set of priorities.

Wellington Economic Development Strategy (EDS)

The aim of Wellington's strategy is to attract, retain and grow investment, business and talent, to create jobs and to support economic growth in New Zealand's capital city. The main goals of the strategy

are: 1) generating income and productivity growth at a faster rate than the economy as a whole; 2) creating significant numbers of jobs in smart, innovative companies and helping these businesses to achieve worldwide recognition; 3) generating higher exports of knowledge-intensive goods and services; 4) creating an environment where innovation can flourish, with increasing economic contributions from R&D; and 5) developing 'smart' infrastructure to support Wellington's creative, knowledge-intensive industries and firms.

The strategy also proposes increasing efforts in four main areas: 1) destination Wellington; 2) the smart capital; 3) the connected capital; and 4) open for business. Labour force, transportation, technology, innovation and amenities are the key pillars of the strategy. However the plan only addresses affordability for commercial spaces and equity, and diversity and disamenities are not addressed in the strategy.

Christchurch Economic Development Strategy (CEDS)

The Christchurch strategy mainly emphasises GDP growth. Its main goals focus on population, GDP, exports to China and skilled employment growth. The CEDS also identifies five large-scale opportunities that have the potential to step-change the economy: 1) maximising earthquake recovery opportunities; 2) effective water resource management; 3) improving productivity through innovation; 4) successful central city design; and 5) increasing the import and export distribution network. This strategy has a more conservative approach to economic development and mostly concentrates on the labour force, innovation and technology. However the CEDS ignores the importance of city amenities and the impact of normative factors on economic growth.

Conclusion

The economic development strategies of the most populous cities in New Zealand have been evaluated. This analysis revealed that these cities' economic development strategies pay special attention to attracting and retaining both human capital and physical capital, such as attracting new businesses and firms to a metropolitan area. The idea of promoting technological improvement is also present in these strategies, which indicates that the so-called primary factors affecting economic growth are well recognised by New Zealand's key cities.

However more normative factors such as equity and housing affordability are less noticeable. Among these examined strategies, Auckland's EDS is performing best in terms of recognition of them. In our view, Wellington's EDS takes second place and Christchurch's CEDS is not performing as well.

This article has highlighted the lack of attention to amenities, disamenities, affordability, diversity and equity in Christchurch and relatively less attention to these factors in Wellington. In our view, if Christchurch were to shift from the traditional approach (concentrating only on GDP and labour force growth) towards the more contemporary approach (concentrating also on city amenities, transportation, equity, affordability and diversity) its sustainable economic growth would be enhanced.

Economic growth is one of the key indicators taken into account by property investors. If New Zealand policy-makers were to focus not only on primary factors, but also pay attention to normative factors, this could help stimulate a sustainable and flourishing real estate market

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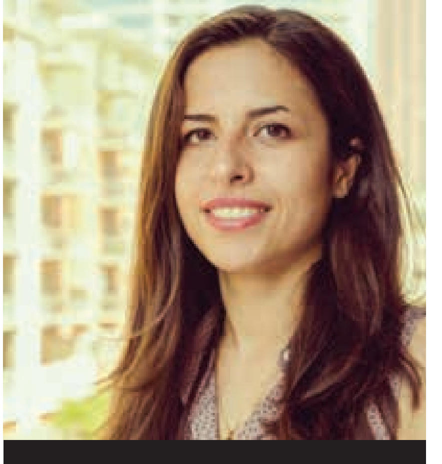


Aynaz Nahavandi is an architect and urban planner who is involved in developing plans, reports, policies and research on the future development of NZ and US cities.

CO-WORKING

The centre of Generator is the lounge and bar buzzing with energy and collaboration

CHALLENGING CBD LANDLORDS TO EVOLVE

PAUL BLOMFIELD

Co-working is rapidly becoming a global trend that is now impacting on CBDs throughout the country.

What is co-working?

Co-working spaces are an updated form of the member's club, bringing a group of like-minded people together in a place that meets their needs. These spaces are suited to small businesses and entrepreneurs. The environments vary from quiet, professional offices to noisy open-plan spaces, and hands-off sharing to intensive collaboration. Hundreds of heritage buildings and disused offices are now being transformed into vibrant shared workspaces.

Rising international trend

In the 11 years since the concept came into the mainstream, 11,000 co-working spaces have been created internationally. There are predictions that the sector could grow to over 26,000 international locations by 2020, with over 3.8 million co-working members sharing these spaces. A Forbes article recently stated the co-working industry has become 'one of the largest start-up segments, hiding in plain sight' and compared it to popular start-up booms like Fintech, virtual reality and drones.

US company WeWork, the global leader in this trend, has more than 50,000 members in over 100 locations in 29 cities. It has grown from a single New York office in 2010 to a global company, with offices in Europe and China and raising US$430 million from investors in the process.

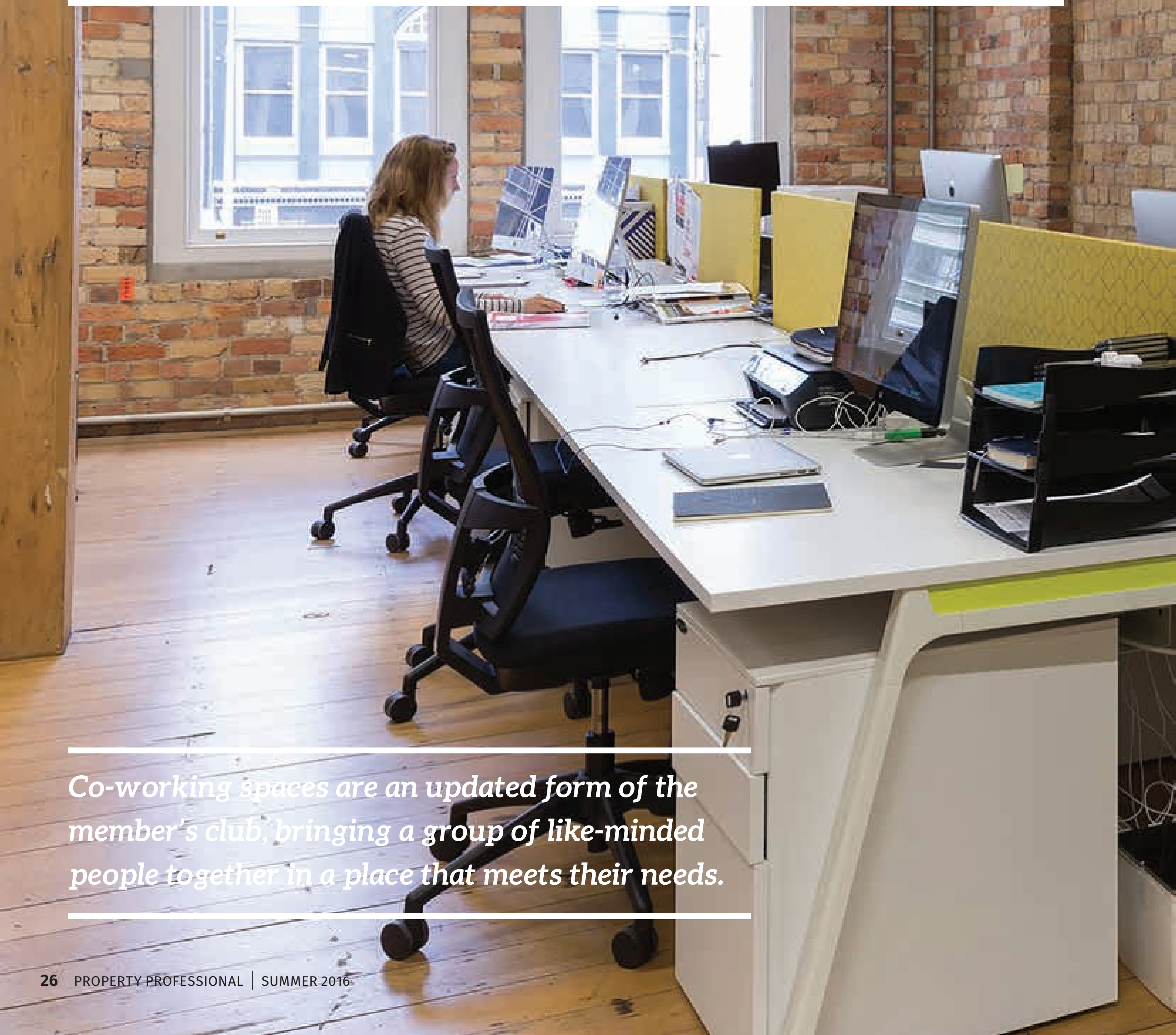
Co-working in New Zealand

In this country, co-working has shown strong growth, from three operators back in 2011 occupying around 1,400 sqm to 13 operators now occupying 13,800 sqm and all planning growth.

With statistics like this, co-working is beginning to change the way that businesses view their workplaces, landlords position their properties and developers fund their developments.

The global financial crisis was reshaping the workplace, with mass redundancies driving the creation of small businesses or forcing people to become contractors. These ‘digital nomads’ sought convenient, flexible locations to work from in the CBD districts.

Now the influence of millennials coming into the workforce is moving the trend on. There are 70,000 millennials who will join the Auckland workforce by



Co-working spaces are an updated form of the member's club, bringing a group of like-minded people together in a place that meets their needs.

Co-working options range from hot desking to permanent residency

2018, bringing different working methods and new technologies with them.

Co-working operators

The local boom in co-working has seen several operators emerge into this industry including Generator, BizDojo and CoLab. They offer very different experiences throughout Auckland and Wellington, and more recently in Christchurch and other main centres. Some businesses really want a high level of engagement 24/7, whereas others want to be able to move in and out of the experience.

Many of the Auckland hubs are gravitating towards the waterfront. Generator is the most prominent and was the first to embrace the modern co-working format in Britomart. Now other major players are establishing big footprints near the sea, such as GridAKL's 1,500 sqm of co-working space in the recently refurbished Lysaght Building. Nearby, a new 8,500 sqm co-working hub is being developed by Precinct Properties. Co-working in Christchurch is also growing rapidly, with a shortage of good office space making the model highly desirable.

Where co-working was originally full of creative and tech companies and entrepreneurs, now big businesses are seeing the opportunity to co-mingle with the talent in these young, high-energy environments. Generator, for example, is also home to regional offices of global giants such as Facebook, Pandora and Getty, alongside local disruptors, Rice Consulting, SimplHealth and Credit Simple. Start-ups want the networking opportunities with these kinds of operators and that is why having big companies in the environment is so important.

The co-working movement also means a change in the mindset of landlords. It is estimated that by 2025, 10% of workplaces could be co-shared and from a landlord's perspective this opens up some huge possibilities.

Co-working as a model is therefore very diverse – there are solutions that fit start-ups and tech companies and those that suit larger companies. The flexibility and culture of each space is what creates the community – and therefore the success.

Costs

Co-working operators act as curators of these spaces so members can choose the environment that allows them to be most effective. Costs vary:

- $565 is the current average monthly desk rate for a dedicated co-working space, depending on the services
- up to $1,000 a month for a premium Britomart space
- around $200 a month for a budget option.

Changing the mindset of landlords

The co-working movement also means a change in the mindset of landlords. It is estimated that by 2025, 10% of workplaces could be co-shared and from a landlord's perspective this opens up some huge possibilities. Attracting a co-working hub, or even running one of their own, is a now a possibility for all types of landlords. For instance, the Johnsonville shopping mall has entered into the action, creating a hub and meeting spaces for local entrepreneurs.

There is a mind-shift involved for landlords moving away from conventional leasing. Landlords usually prefer a simple solution – a nice long lease, with as much space taken as possible. But with an estimated 140,000 to 150,000 sqm of new office space forecast to hit the Auckland CBD by the end of 2019, and the subsequent slowdown in absorption of that space, landlords are being forced to think carefully about how they position their assets to remain attractive to prospective tenants.

Co-working spaces are looking like an increasingly viable option as they offer a whole new palette of offerings for landlords. Because of the growing demand for these types of spaces, tenants are now regularly comparing a traditional office space to a co-working space as a better real estate solution for their business. But landlords still need to have an understanding of the business model required for success, particularly upfront capital and start-up occupancy. Essentially this model requires a partnership model with some shared risk in the initial months.

Corporates embracing co-working

So with the big companies downsizing their workforce due to disruption and a move to these intensive co-working spaces, will the tower blocks of Auckland stand empty in future? Or will they be built at all?

Andrew Stringer, National Director Capital Markets for CBRE, says, 'The main challenge for the major landlords will be getting used to having to think about the "c word" of property – community. Fundamentally the CBD is going to prevail as it is, and we are still going to have high-rises and they will continue to be occupied by people who want profile and signage and a great view out of the boardroom. But the other 50% of the business market needs something a bit different and that is where co-working comes in.

'Corporates now recognise they need to offer more than just a desk and a phone for it to be a great place to work. I think law firms, accounting firms and banks are being challenged about how they can attract talent – and the talent's not just looking for a nice shiny building any more. Either the big landlords will need to learn to build this kind of community, or they will need to allow the co-working businesses to do it for them.'

This has implications for not just the utilisation of the new CBD tower blocks, but the kind of buildings planned and how they stack up in terms of sustainability and flexibility. 'If you sit there and rely on large-scale occupiers to fill up your space you simply won't succeed in this changing world,' Stringer says.

Some corporates are trying to take a leaf out of the co-working book, using hot-desking to improve space utilisation. However Stringer believes there is an important difference between a big company trying to build a flexible working environment and a purpose-built co-working environment: 'That's not co-working per se. It's just one organisation with a whole lot of people working in different styles.' The difference with a co-working environment is that there is a range of individual organisations that can share a space and cross-pollinate ideas.

Different ways of working

Generator founder, Ryan Wilson, believes that the success of co-working operators has been an evolution. There wasn't a roadmap to begin with and there still isn't one now. He says, 'The real emphasis is to recognise that we serve a diverse community. We all like to work differently. I like to work in silence sometimes; I like to work with a bit of buzz sometimes. I like to be able to have confidential meetings. I like to be able to do a bunch of things. That psychological element drives the way we work, so we created spaces around Generator that are all different for a reason because everyone works in different ways.

'We have common areas that we refer to as "buzz space" where all these different personality types can come down and enjoy the company of others. Whether it's business stimulation, or social interaction, or whatever it might be, they all get to interact in a way that they are comfortable with. It's a safe environment and when it gets too much, or they can't be bothered, they can go back to their space and still have everything that they need.'

Competition coming

Indications are that co-working has yet to hit its straps, with US co-working operator WeWork opening its first Australian location in October. How will New Zealand operators maintain their position in the face of such powerful competition?

In Wilson's view, 'The benefit we have is that our amenities will probably be better, the environment we offer won't be a cookie cutter environment and our people will understand our customers better. If we get those fundamentals right, and we understand the New Zealand psyche right and continue to deliver the product that we've got, we will continue to be competitive.'

Innovation and community

Talk to anyone in a co-working space and you'll quickly learn that it's so much more than just sharing an office to save on costs. Or even having access to WiFi or great coffee. For co-working members – and they do call themselves members – it's about creating the best environment for getting the work done and about innovation and community. Co-workers aren't just workers; they are members of a social movement

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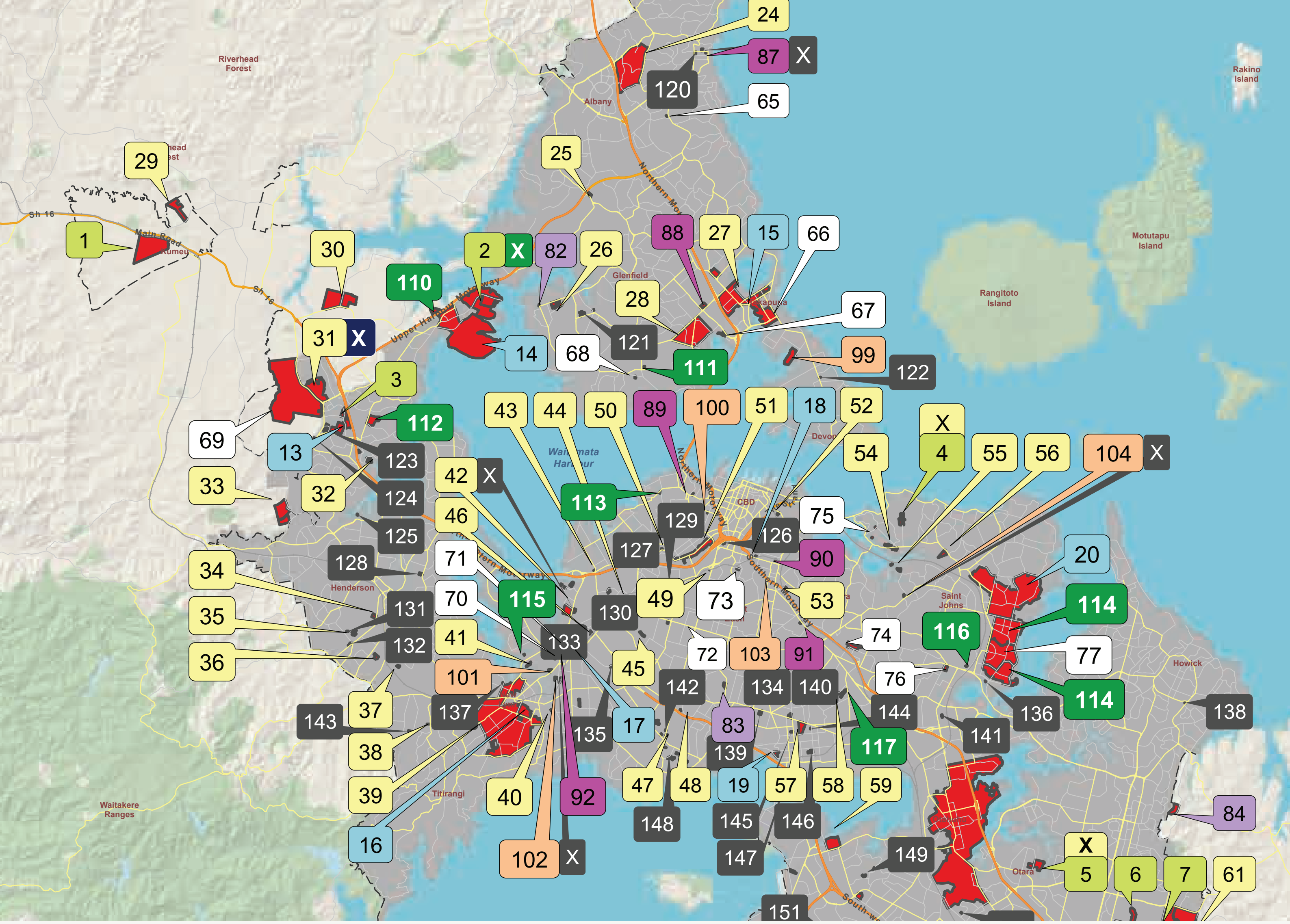

HOUSING ACCORDS
AND SPECIAL HOUSING AREAS

ALLAN SMEE

One the major issues facing New Zealand has been home affordability. The Housing Accord and Special Housing Areas Act 2013 was introduced as part of that year's Budget to help address this. This article gives a snapshot of how various Accords around New Zealand are performing.

The SHA can only be established in regions or districts that have entered into Accords with the government. None of these Accords have improving home affordability as one of their targets.

Background

The stated purpose of the legislation is to:

> *… enhance housing affordability by facilitating an increase in land and housing supply in certain regions or districts, listed in Schedule 1, identified as having housing supply and affordability issues.*

Although it is not specifically defined in the Act exactly what housing affordability is, it does state how a region can be included (section 9(3)(a)):

> *… must have regard to whether, according to publicly available data, 1 or both of the following apply to the region or district:*
>
> *(i) the weekly mortgage payment on a median-priced house as a percentage of the median weekly take-home pay for an individual exceeds 50%, based on a 20% deposit:*
>
> *(ii) the median multiple (that is, the median house price divided by the gross annual median household income) is 5.1 or over; and*
>
> *(b) must have regard to whether the land available for residential development in the region or district is likely to meet housing demand, based on predicted population growth; and*
>
> *(c) may have regard to whether any other information indicates that there are significant housing supply and affordability issues in the region or district.*

In effect, the Act allows for specific geographic areas called Special Housing Areas (SHAs) to be created where the current planning laws are changed to allow easier residential development within the geographical area. In theory, this should increase the housing supply and therefore have an effect on price, which should lead to an increase in home affordability based on the criteria above.

The Act allows for SHAs to be created by an Order in Council, which outlines the geographic location and any criteria associated with them. Currently all the SHAs have the following main criteria (section 14(1)):

> *(a) that will be predominantly residential; and*
>
> *(b) in which the dwellings and other buildings will not be higher than—*
>
> *(i) 6 storeys (or any lesser number prescribed); and*
>
> *(ii) a maximum calculated height of 27 metres (or any lower maximum calculated height prescribed); and*
>
> *(c) that will contain not fewer than the prescribed minimum number of dwellings to be built; and*
>
> *(d) that will contain not less than the prescribed percentage (if any) of affordable dwellings.*

It important to note that Part (d) includes the small phrase 'if any', which effectively negates this criteria. For example, most Auckland SHAs have two affordable dwelling criteria, for which (depending on the criteria used) 10% or 5% of the dwelling must be affordable (section 5).

Criteria A states:

> *(a) in relation to 10% of the proposed dwellings, the price at which a dwelling may be sold does not exceed 75% of the Auckland region median house price for the most recent full month of September (in relation to the relevant date) published by the Real Estate Institute of New Zealand Incorporated;*

Criteria B states:

> *(a) in relation to 5% of the proposed dwellings, the price at which a dwelling may be sold would mean that the monthly mortgage payments for a household receiving the Auckland median household income (as published by Statistics New Zealand for the most recent June quarter before the relevant date) would not exceed 30% of the household's gross monthly income, based on the assumptions that—*
>
> *(i) the dwelling is purchased with a 10% deposit; and*
>
> *(ii) the balance of the purchase price is financed by a 30-year reducing loan, secured by a single mortgage over the property, at a mortgage interest rate equal to the most recent average 2-year fixed rate (in relation to the relevant date) published by the Reserve Bank of New Zealand as part of the data for its key graph on mortgage rates offered to new customers for residential home loans.*

The SHA can only be established in regions or districts that have entered into Accords with the government. Currently

Table 1: Number of SHAs in NZ by region

	Date of Accord	Number of SHAs	Accord consent targets	Number of SHAs with affordability criteria
Auckland	Oct 2013	154	39,000	150
Christchurch	Sep 2014	0	No consent targets	0
Nelson	Jun 2015	9	320	0
Queenstown Lakes District	Oct 2015	7	1,300	0
Selwyn	Dec 2015	2	900 *	2
Tasman	May 2015	0	841	0
Tauranga	Aug 2014	10	1,000	0
Wellington	Jun 2014	12	7,000	0
Western Bay of Plenty	Aug 2014	1	175	1

* For SHA only

the Auckland, Christchurch, Nelson, Queenstown Lakes District, Selwyn, Tasman, Tauranga, Wellington and Western Bay of Plenty Councils have Accords with the government.

It is interesting to note that none of these Accords have improving home affordability as one of their targets. In fact, all the Accords state the following even though 'enhancing housing affordability' was the stated purpose of the Act:

> *The parties acknowledge that improving housing affordability is a complex issue and requires consideration of wider issues, not all of which will be able to be addressed under the Accord.*

By the numbers

Currently the number of SHAs is around about 195 and, as indicated in Table 1, most are in the Auckland area.

With well over 50,000 consents as a target this should have an impact on home affordability in their respective areas. As previously indicated, housing affordability was not a mandatory criterion under the Act and currently only SHAs in the Auckland, Selwyn and Western Bay of Plenty have this as one of their criteria.

What are the results?

Each of the Accords contains a monitoring and review process, but unfortunately there is large variation around what, when and how progress is reported or to whom.

Currently most Accords require a report on the first 12 months of operations and at this stage only some of those reports are publicly available via the MBIE website. We lodged an Official Information Act request for the information, but at the time of writing we have not received any information. However looking at the Accords that have submitted reports there are some interesting figures.

Auckland Accord

Currently Auckland has been the most active in submitting reports and they do so on a six-monthly basis. It was reported in June 2016 that the net number of new sections created and dwellings issued with building consents in the first year of the Accord exceeded the target of 9,000, with 11,074 issued. The second year of the Accord saw only 97.8% of the target achieved, with 12,710 issued against a target of 13,000.

With Year 3 of the Accord ending in September 2016, the June 2016 report indicated that 10,087 consents were issued, which is 59.3% of the year's target of 17,000. MBIE have yet to release information on the final year, but it is due shortly.

It interesting to note that the Auckland Accord reports have started reporting the number of dwellings completed, which tells an interesting story. In the period since the start of the Accord (October 2013 to June 2016) there were 1,300 completed dwellings, of which MBIE estimate that 695 were 'completed as a result of consenting processes under the Housing Accords and Special Housing Areas Act 2013 (HASHAA)' (*Auckland Housing Accord Third Quarterly Report for Third Accord Year October 2015 to September 2016*).

Based on the affordability criteria discussed above we can estimate the number of affordable dwellings completed. Under Criteria A it would be approximately 69 dwellings and under Criteria B 35 dwellings. Although completed dwellings are not an official target within the Accords, they are important to note as there has been widespread media coverage of the number of residential projects failing to start and some of these are in the SHAs.

The Flo apartment project which is being developed in an SHA was pulled in October of this year even though 89% of the apartments were pre-sold. The developer, Jon Sandler, is blaming Australian banks' funding restrictions for not being able to meet costs.

The reasons for these failures vary from increased construction costs through to restrictions placed on lending for off-the-plan apartment purchases put in place by the major trading banks. For example, the Flo apartment project which is being developed in an SHA was pulled in October of this year even though 89% of the apartments were pre-sold. This development required that 10% of the 91 apartments had to be affordable. The developer, Jon Sandler, is blaming Australian banks' funding restrictions for not being able to meet costs.

Nelson Accord

Currently MBIE only display one monitoring report for the Nelson Accord dated for the June 2015 to December 2015 period. Based on that report, 89 new dwellings and 48 sections were consented during that period. As there is no other report it is difficult to determine the Accord's performance, but it is possible to determine the number of consents issued for residential dwellings and compare them against the Accord targets.

Statistics NZ building consent data indicated in the Year 1 period that 192 dwellings were granted consents, below the Accord target of 240. This was an average of 16 consents a month. In the first three months of the second period, Year 2, 50 consents have been granted an average of 10 a month, below the 20 dwellings consent a month required to meet the Accords target. It is not possible with the available data to determine if the number of section consents are on target.

Western Bay of Plenty

Currently the Western Bay of Plenty Accord has produced a report for the first 12 months of the Accord ending August 2015. The partners in the Accord indicated that they have met two of the Accord targets for the first year – the establishment of an SHA and that the number of dwelling consents (excluding the SHA) was 250 or more. Again, based on Statistics NZ building consent data, they have exceeded the second year target of 250 consents with over 560 consents issued.

Queenstown Lakes District

The report from the Queenstown Lakes District Accord indicated that they are exceeding their targets for Year 1 and are on track to meet their Year 2 targets.

Table 2: Nelson Accord targets

	Year 1 June 2015 – June 2016	Year 2 June 2016 – June 2076	Year 3 June 2017 – June 2018
Yield of serviced residential lots (titled) from residential zoned land	100	100	100
Total dwellings	240	240	240

Table 3: Queenstown Lakes District targets

	Year 1 Oct 2014 – Sept 2015	Year 2 Oct 2015 – Sept 2016	Year 3 Oct 2016 –Sept 2017
Targets	350	450	500
Actual	557	399 (at 30 April 2016)	

Tauranga

The first year report from Tauranga Council was published in August 2015 and indicated that the city was well underway to meet its targets. It should be noted that Tauranga targets are quite different from the other Accords. The targets are:

- *Target One:* To declare SHAs with a capacity of 1,000 dwellings across Year 1 and Year 2 of the Accord, with at least 400 dwellings in the first year
- *Target Two:* To promote the development of smaller dwellings (averaging less than 189 sqm) within SHAs
- *Target Three:* To promote the development of smaller sections (averaging less than 500 sqm) within SHAs
- *Target Four:* To maintain supply of undeveloped zoned and serviced residential capacity for 8,000 dwellings.

Based on the report, Tauranga Council has indicated that they have achieved the Target One as they met the estimated capacity of 1,910 dwellings in the first year, well over the target. Target Two is a little difficult to quantify and they do not provide any data in their report, but based on Statistics NZ consent data the average dwelling size was 181 sqm for all residential dwelling consents in Tauranga, which would indicate they are on target. The report indicated that they are also meeting the requirements of Targets Three and Four, which indicates good progress for this Accord.

Christchurch Accord

The Christchurch Accord targets were different again to the other Accords:

- *Target One:* A 10% reduction in the number of households at the 40th percentile of household income paying more than 30% of household income on housing
- *Target Two:* An increase in the proportion of new build consents with a consent value of less than $250,000
- *Target Three:* 700 (net) additional social housing units are added to the total social housing stock in Christchurch from the date of signing of this Accord to the end of 2016.

Unfortunately the Accord has not been able to meet Target One. The report indicates a baseline of 18,000 households at the 40th percentile of household income were paying 30% of that income on housing. A 10% reduction would reduce this to 16,000. As at June 2015, there were 20,000 households with a household income of $70,993 or less (the 40th percentile) that were paying more than 30% of their income on housing costs.

As for Target Two, in June 2016, 229 of 759 consents (30%) were under $250,000 compared to the September 2014 baseline of 35%. Overall this target appears to be met. Target Three regarding Social Housing Units has also been met with the report indicating that, 'As at 30 June, 772 units had been completed. In the period ending June 2016: HNZC completed 187 units (579 total to date), Community providers completed 24 units (121 total to date), Council completed 18 units (72 total to date).' This exceeds the target of 700 needed by June 2016.

Summary

Although it good to see a number of Accords meeting and exceeding targets it is very concerning that there appears to be a lack of monitoring of them. A number of Accords have not completed reports, or at least published them on the MBIE website, and with such an important issue there should be more public information on the performance of these Accords.

It also important to note though that if the Act's stated purpose is to 'enhance home affordability', the Accords should at least attempt to address this issue

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PINZ PROFILE

Patrick O'Reilly is General Manager Property at Trust Management, New Zealand's largest specialist provider of services to the registered charity sector. After graduating with a property degree from Lincoln in the early 1990s he decided he wanted to have a career in property. He was lucky enough to secure a valuation role in Christchurch initially and then moved into property advisory and property and funds management roles after this.

Patrick O'Reilly

Varied career in property

Patrick has worked for a variety of property organisations around New Zealand, including Knight Frank, TransTasman Properties, AMP Capital and DNZ Property Fund (Stride Property). He also took a contract role with Brookfield Properties to assist with its New Zealand portfolio sell down.

Current role

Trust Management undertake a number of roles for their clients from governance services through to investment advice and funds management. The company has c. $1.3 billion of funds under management, with 50% of the investments in direct investment grade property. The commercial properties are all located within New Zealand, with most being in Auckland. The company employs 30 staff, with eight in the property team.

During his career Patrick has seen the maturing of the New Zealand institutional property market. This is reflected in the number of sovereign and other large international institutional investors who now have investments in the New Zealand commercial property market. Patrick believes that activity by international institutional type investors will continue to increase over time.

What he enjoys most about the current role is that his company is working directly for charities, organisations that are focused on doing good in their communities. The charities view the investments as enduring

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endowment investments, which means that capital appreciation is important over the long term while they use the dividends/income to undertake their core charitable purpose.

Some of the organisations they work for were established not long after the Treaty of Waitangi was signed so there is a rich history behind them. He also enjoys a wide variety of work as reflected by the diversity of the portfolio – from commercial ground leases located on Queen Street in Auckland through to a $50 million industrial distribution centre.

Investment performance – charity sector

Patrick believes that over the last 10 years commercial property has performed strongly as an investment. In a low Official Cash Rate environment he says the likes of bonds have provided historically low levels of return, which has increased the interest in the higher income returns that commercial property provides while being a relatively low-risk investment class.

Charity investors do not use debt for leverage so only use equity for investments. This means that a number of Trust Management's clients have jointly purchased larger-sized properties because they have a similar long-term investment horizon and similar characteristics. All are non-tax paying as they are charities.

Patrick also notes that in comparison to the listed property sector, where its performance is benchmarked daily with its share price and the focus is continually on performance, many charities have long-term investment horizons and do not have such a focus on daily, monthly and annual returns. This means that the investment philosophy is targeted to a total return over a longer period than most investors and positions their funds to better out-perform the market in the long term.

Awards

In recognition of the work that the Trust Management Property Team contribute to the property sector they received the PINZ Property Business of the Year Award in 2016.

Trust Management also received the RICS Funds Management – Property Team of the Year Award in 2015 and 2016. This reflects some of the positive work they are undertaking for their charity clients and the quality of the people within the firm.

PINZ involvement

After he completed his property degree Patrick became involved in the Canterbury branch of the Property Management/ Property & Land Economy Institute. He found it a great way to meet people and an easy way to connect and contribute to the industry. He held a number of roles within the branch, including branch chair and national councillor. He was also on the Valuation & Property Management Standards Board for a number of years.

In the late 1990s he was transferred to Wellington and later moved again to Auckland and became involved with the Property Council of New Zealand (PCNZ), acting on a number of committees within that organisation. Patrick reconnected with the Property Institute of New Zealand (PINZ) in 2012 when he was asked to join its Property Management Council. Patrick feels that PINZ has an important role within New Zealand in representing property professionals. In his view PCNZ is about advocacy and its membership is company-based, but PINZ is the leading organisation that represents property professionals as individual members.

As members he feels we should be aspiring to have an organisation such as the Law Society; there are many areas of the law but they are all represented under an umbrella organisation. To elevate the importance and recognition of property professionals he says we need a strong organisation that we support and get support from.

Patrick believes that we need the market to have confidence in our members' ability and to recognise the skill and independence that we provide. The challenge he sees for specialist valuation and property advisory firms in the future is to obtain the top-level property advisory briefs. More of these briefs are being directed to multi-discipline accounting firms and he feels that PINZ has a role in ensuring the market is aware of the abilities of all its members.

Inspiring Stories Trust

Since 2012 Patrick have been a trustee on the Inspiring Stories Trust (IST), a youth-focused charitable trust that operates nationally (see www.inspiringstories.org.nz). The founding vision is to 'see every young New Zealander unleash their potential to change the world'. Since the Trust's establishment in 2011 over 5,000 young people have been through one of the programmes run by it. The CEO is Guy Ryan, who was named Young New Zealander of the Year 2015.

The Trust runs a number of number programmes including 'Live the Dream', which is New Zealand's largest social enterprise accelerator programme, and their nine week programme runs in Auckland, Wellington and Christchurch. The Trust is also behind 'Festival for the Future', which was held in Auckland in September and attended by over 900 people.

Patrick feels the Trust really makes a difference by acting as a catalyst to stimulate action. For him, it is great to be giving back through the involvement with the Trust and it also good to be involved in the wider community

THE CHANGING TIDE

WINNING A TENANCY TRIBUNAL DAMAGE CASE

KEITH POWELL

Property manager Keith Powell discusses a recent case that his company took to the Tenancy Tribunal in the light of two other cases that have implications for tenant damage, liability and landlord insurance.

Breach of tenancy agreement

Wayward tenants are a reality for most property managers in New Zealand because either they are behind on rent or they have breached a tenancy agreement in some way or another. With the case we recently took to the Tenancy Tribunal we were dealing with the latter. The tenant co-signed the agreement when she moved into the property with two others who were already living there.

Only one cat was allowed on the premises, and since one tenant already had a feline friend you can imagine my surprise to find not just one more cat, but five, all living in just one small room with the door closed. We followed the usual 14 day process to request the excess feline inhabitants be removed from the property, but to no avail. After some time we achieved a lease termination via rent arrears, a simpler and more established route in the Tribunal.

The tenant was eventually evicted from the property, but did not leave it in the 'reasonably clean' condition one would expect. This particular tenants' room was extremely filthy – the curtains had been torn and pulled and multiple cat urine stains were found across the carpet. The worst aspect was that with old cat urine in the carpet it smelt unbearable.

The new precedent – 'damage and liability' approach

There have been recent media reports concerning two Tenancy Tribunal cases (Osaki and Stewart) surrounding damage and liability. In the Osaki case the tenant left a pot of oil on the stove, which incidentally burned the entire interior of

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the house. The Court of Appeal ruled that the damage was 'unintentional', that the tenants did not have to pay for the damage, and that it should be covered by the landlord's insurance.

This case was used to develop a practice note from the Tenancy Tribunal to help clarify the rules around unintentional damage and liability. Put simply, it states that if the landlord is insured and the damage caused was unintentional then the tenant is not liable. Subsequently, this practice note has created significant turbulence between property managers/ landlords and the Tenancy Tribunal. Across the country property managers/landlords are finding it difficult to win cases and reclaim costs associated with damage caused by tenants.

In the Stewart case, dogs had been left inside a rental property in Foxton and soiled the carpets to an uncleanable state. The Tribunal ruling again concluded that the damage to the carpet was 'unintentional', leaving the landlord to claim the insurance, including the cost of excess.

'Reasonably clean' condition approach

The situation we had with our tenant was similar, albeit on a smaller scale, to Osaki and Stewart. Due to the outcome of these publicised cases, as well as others that were not widely reported on by the media, we were initially apprehensive about taking our case to the Tribunal. However we decided to go ahead as the insurance claim would have almost not been worth it for the landlord. Instead of claiming 'damages' we took the tenant to the Tribunal for not leaving the room in a 'reasonably clean' condition on vacating the property, and in my view this is what made the difference.

The result

The adjudicator quite quickly established that it was undeniable that the tenant had not left the room in a 'reasonably clean' condition. Despite the fact that we had not directly claimed for damages, the adjudicator concluded that the tenant had 'made decisions about the use of the room where her actions would clearly lead to damage', making her fully liable as her 'actions' were intentional.

The tenant, not present at the Tribunal hearing, was ordered to pay for the cleaning of the carpets, curtain replacement (50% of the cost due to depreciation), the cost of installing the curtains, lock and key replacement, and reimbursement of the Tribunal filing fee, which together amounted to just under $1,000.

Insurance implications

Because the liability falls onto the landlord if first they can prove the damage was intentional and second they are insured, there are insurance implications for claiming for damages versus seeking payment for a tenant not leaving a property in a 'reasonably clean' condition. With the damages approach, we could find that tenants are less likely to take good care of the property they rent as they are protected if their landlord is insured. This potentially drives up the cost of insurance premiums, which will ultimately be passed onto the tenant.

More changes to come

Is a more balanced approach to landlord/ tenant responsibility on the horizon as a result of the strong objections from the property management industry over these cases? Recently Housing Minister Nick Smith confirmed he was looking at further changes to the Residential Tenancies Act 1986, which would shift liability to the tenant for damage caused by carelessness or negligence up to the value of four weeks' rent. If these changes come into effect, it would return the responsibility to the tenant to take care of the property.

Myself and many other property managers felt like we were fighting an uphill battle following the rulings on the Osaki and Stewart cases. The consequences of the practice note left a bad taste, but now with this small win perhaps other property managers will not lose hope in taking damage cases through the Tenancy Tribunal process. We had a positive outcome in what can be a very long process. The first step is now complete and the next one is to actually have the damage costs that were awarded by the Tribunal paid by the tenant … and so we wait

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Industrial tanks


Contaminated water

Lessons from Supreme Court determination of AUCKLAND WATERFRONT CONTAMINATION DISPUTE

MARK ALLEN AND LUCY WESTENRA

The long-running battle of the contamination clean up between Mobil and Development Auckland has finally drawn to a close in the Supreme Court. This dispute has been through three layers of courts, and the final position brings with it important learnings for both landlords and tenants around contamination and make good issues.

The dispute related to whether Mobil New Zealand Limited (Mobil) as tenant was responsible for the estimated $50 million clean up of surface and sub-surface contamination under the make good clause of its lease. The claim was only for $10 million as this represented the incremental cost to Development Auckland Limited (Development Auckland) of undertaking the clean up as part of the Wynyard Quarter development.

The Supreme Court found, after critical examination of the specific facts of this case and the wording of the make good clause, that the tenant's obligations to make good could not be extended to an obligation to effect transformative change of the premises. While the tenant's make good obligations could potentially extend to mean something more than just maintaining or restoring the premises to the condition at the time the lease was entered into, the obligation does not extend as far as requiring the premises to be improved to a completely new condition.

In making its decision, the Supreme Court made a number of interesting points that are discussed below. We recommend these issues be front-of-mind for any lease negotiations involving make good, particularly where there is a risk of contamination.

Background

The case concerns Auckland's harbour-side Tank Farm, which now forms part of Auckland's Wynyard Quarter. It is a modern central city living space catering for a mix of residential, retail and commercial hubs in downtown Auckland, and a far cry from the original use of bulk oil storage that the 67 acres of reclaimed

The first lesson from the Supreme Court is that companies within a corporate group structure that are related, but are ultimately separate companies, cannot in general be held liable for each other's actions.

land from the Waitemata Harbour was originally used for.

The original Tank Farm landfill was derived from a toxic combination of demolition debris, gas works and sewage discharge waste. Two Australian oil companies initially took on 50-year leases of the harbour-side Tank Farm in the mid-1920s. These companies later became part of the Mobil Australia Group. The leases were eventually taken over in the 1950s and 1960s, with Mobil being the final succeeding oil company at the Tank Farm.

In 1985, at the end of these leases, short-term tenancy agreements were entered into between Mobil and Development Auckland. Mobil continued to hold over on these arrangements until occupation was eventually relinquished in 2011. The short-term tenancy agreements were not replaced by longer-term tenancies because of disagreement around responsibility for prior contamination. For ease of understanding, all of these 1985 short-term lease arrangements are referred to as the 'lease'.

Liability of related but different companies

The first lesson from the Supreme Court is that companies within a corporate group structure that are related, but are ultimately separate companies, cannot in general be held liable for each other's actions.

Here the original leases were entered into by different legal entities to Mobil. While they were predecessors in terms of the history of the entity, which is now known as Mobil, the companies were all separately incorporated bodies corporate who, unless otherwise agreed (and there was no agreement in this case), cannot be held responsible for the liabilities of the other companies in that structure.

It is also a timely reminder that just because a parent company shares a similar name with its subsidiaries, such companies are often completely different legal entities. If parties wish to provide for continuity of liability, as between different entities within a corporate structure, then this should be specifically addressed.

Interpretation of clauses

The second lesson from the Supreme Court is that a court will look to the wider context behind a clause when trying to interpret its meaning. This means the words used in a contractual clause are often flavoured by the context in which the parties chose to use those words.

In this case, the lease did not include any express provision relating to contamination (be it surface or sub-surface) or remediating it. Development Auckland relied on various clauses under the lease to allege that Mobil had assumed the obligation to remediate all contamination, one of which is known as the make good or 'clean and tidy' clause (we look closer at the meaning of these words below).

In examining the meaning of the clean and tidy clause, the court looked at the previous history of the sites and the circumstances that led to the parties to include the clean and tidy obligation in the lease. Here the court thought it appropriate to consider the following points:

- **The existing use and the likely future use of the premises**
  The court thought this assessment required a review of the parties' intentions at the time the lease was being entered into. At that time, the court considered there was no indication that Development Auckland contemplated a change of use away from a petroleum products tank farm, let alone a change in use from its industrial zoning.
- **The short-term nature of the lease**
  The lease was short term in nature and was entered into on the assumption that the parties would subsequently enter into a long-term lease. The Supreme Court considered that commercial parties to a short-term lease are unlikely to install and impose new and substantial remediation obligations on each other (even in 1985 this would have cost Mobil millions of dollars).
- **The parties' cognisance of the risk in question**
  The facts show that Mobil had in fact surrendered parts of the original leased land in 1985, including land that was contaminated, and at that time Development Auckland did not require Mobil to undertake any clean up or remediation works for that surrendered land. The court suggested that contamination was not considered a contingency by either party at the time the 1985 lease was entered into.

The Supreme Court held that this factual background shed light on the parties' intentions and therefore the interpretation of the clean and tidy clause. In this context, the court found it unlikely the parties had intended the clean and tidy clause to extend to remediation of contamination.

Clean and tidy

The third lesson from the Supreme Court is that the word 'keep' in the context of 'clean and tidy' can extend to something more than just maintaining, or restoring to, the condition at the time the lease was entered into. Crucially, however, it cannot be used to signify an obligation to effect transformative change. That is, 'keep' can mean something more than 'maintain it in its current condition', but less than 'improve it to a completely new condition'.

The Supreme Court referred to case law on the meaning of obligations to 'keep' in repair, citing that it gives rise to two principles as to the condition that a tenant must keep the premises in:

- The condition required by reasonably-minded tenants of the kind envisaged at the commencement of the lease; and
- The condition that was within the reasonable contemplation of the parties at the date of the demise (so it must not be construed to require transformative change to the leased premises).

Applied to the case, the Supreme Court thought the words 'keep' and 'clean and tidy' did not impose a contamination remediation obligation on Mobil. A key factor was the wider clause requiring that Mobil 'keep' the premises in a 'clean and tidy' condition during the term of the lease, but also leave the premises in the same condition at the expiry of the lease. The clean and tidy state could not be a different requirement during the lease (where no issue of contamination was ever raised) and upon lease expiry (when the contamination issue was first raised).

No implied term for a tenant to remediate contamination

The fourth lesson from the Supreme Court is that there is no implied term in New Zealand law that imposes an obligation for tenants to remediate any contamination that they may cause to leased premises.

The court then examined whether a new clause should be implied into this lease in this factual scenario. The court reiterated the general test for the requirements for when a clause will be implied into a contract as follows:

1. The clause must be reasonable and equitable;
2. The clause must be necessary to give business efficacy to the lease (the lease cannot be effective without it);
3. The clause must be so obvious that it 'goes without saying';
4. The clause must be capable of clear expression; and
5. The clause must not contradict any express terms of the lease.

On the facts, the court considered an obligation to remediate contamination should not be implied into the lease because: it was not necessary to give business efficacy to the lease (the lease was held to be perfectly effective without it); the absence of complaint about contamination during the lease suggests it was not so obvious to go without saying; and the obligation would contradict the clean and tidy condition.

Conclusion

This is a modern real-world example of the significant cost and impact that the drafting and interpretation of (often standard form) make good clauses can have on the parties.

While this case is heavily fact-specific, the Supreme Court lessons are an important reminder for all parties to specifically turn their minds to what will be specifically required under any such make good obligation on lease expiry. Practitioners should particularly consider whether environmental contamination, including sub-surface soil or water, is to be addressed and to what extent remediation is required. Where appropriate, include within the lease commencement date environmental benchmarking agreed on by both parties.

We recommend specialist advice should be obtained during lease negotiations to ultimately ensure the parties' intentions are agreed and documented clearly

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MĀORI LAND
VALUATION IMPLICATIONS

MARTYN CRAVEN

For many years, there has been debate as to whether Māori freehold land has the same value as general title land. This is an area which has proven difficult for all affected parties (landowners, purchasers, banks, lawyers, valuers and others). This article focuses on some of the issues to look at when valuing Māori land.

Māori land vs general title land

For a valuation practice based in Rotorua, this is an area which regularly faces our valuers. The area has a significant Māori population ranking sixth in size of 73 districts in New Zealand (Statistics NZ). The area was initially settled by Māori of the Te Arawa iwi and 37.5% of the population are Māori, compared to 14.9% in New Zealand as a whole. It is not surprising therefore that the Bay of Plenty has been prominent in the number of cases brought before the courts and/or Valuation Tribunals regarding the sale of Māori land.

Ultimately, it is recognised that Māori land tenure is distinct from general 'European' title and this creates a two tier land market. Māori freehold land is governed by its own legislation, the Te Ture Whenua Māori Act 1993. Principles outlined by the Act include:

(i) Promote the retention and development of Māori land;

(ii) Facilitate the occupation, development and utilisation of land for the benefit of its owners.

The sale of Māori land can only occur through an Order issued by the Māori Land Court. The rates by which the Māori Land Court make any Order are set out in detail within the Act and section 150 includes the:

(a) Consent of three-quarters of owners, or

(b) Consent of 75% of beneficial interest.

Section 147A states a person who seeks to alienate Māori freehold land by sale or gift must give the right of first refusal to prospective purchasers who belong to one or more of the preferred class of alienees, ahead of those who do not belong to any of those classes. This is one of the major constraints to value.

The history of Māori land tenure, together with the intent of retaining ownership of Maori land within whanau, is such that there is limited evidence of sales of Māori land within the public arena.

Supply-demand factors

Value by definition is a function of supply-demand factors. Where demand is restricted, this will generally create a supply-demand imbalance and have a negative value effect (i.e. the lesser number of competing potential purchasers can often lower the price paid). Where any prospective purchaser of land is aware that the market (number of prospective purchasers) is limited, they will necessarily have regard to whether this smaller market will pay the same as a wider market. Fundamentally, a lower number of potential purchasers will exclude some buyers who have greater financial resources than those within a restricted 'prescribed' market. The history of Māori land tenure, together with the intent of retaining ownership of Māori land within whanau, is such that there is limited evidence of sales of Māori land within the public arena.

Discount recommendations

Valuers and others have therefore tended to rely on guidelines produced by the Valuer General when assessing any reduction in value associated with Māori freehold status. The Valuer General has issued guidance notes to assist local authorities to value Māori freehold land. The values are adjusted by up to a maximum of 10% for the number of owners and up to a maximum of a further 5% for sites of significance. The guidance notes identify that a valuer still needs to consider each valuation individually and other influences not listed in the tables should also be considered.

In practice, few if any valuers have been prepared to apply a discount outside of a 0% to 15% range. The Te Ture Whenua Act 1993 is currently undergoing a process of reform in efforts to improve its effectiveness. Nevertheless it is apparent from recent judgments that the Māori Land Court continues to vigorously apply the fundamental tenement of Māori tenure being namely 'the retention of ownership by Māori'.

One of the best pieces of literature covering the issue of Māori freehold land has been written by Leigh Halstead and publicised in a two piece article (*Property Quarterly*, March 2015; *Property Professional*, Winter 2015). The article refers to two land Valuation Tribunal judgments:

- *Taheke Paengaroa Trust v Western Bay of Plenty District Council and Landmass Technology Limited* (NZ LVT2 26/2/2008)
- *Ongare Trust Māori Land Block v Western Bay of Plenty District Council and Landmass Technology Limited* (NZ LVT10 12/12/2008).

Judgments within both of these cases identified that a maximum discount of 15% was not necessarily sufficient. The *Taheke* case promoted a review of the Valuer General's guidelines. The *Ongare* case resulted in a 20% discount and 50% reduction for a land area which was a pa site.

In recent years, TelferYoung (Rotorua) Limited has had involvement, or has reviewed, various Māori land issues where landowners have sought to sell their interests. It is evident from these experiences that Māori land tenure is a deterrent to purchasers.

Issues raised by Māori freehold tenure

There are a number of issues to consider:

- Who are the preferred class of alienees who must be offered first right of refusal? How can this information be located?
- How many are there? What is their financial position?
- As a party outside of the preferred class, how long are you going to have to wait for the first right of refusal process to be completed?
- What costs and time scales are associated with obtaining Māori Land Court approval for sale?
- Does the Māori Land Court process reduce the appetite of non-Māori to ever enter into negotiations to buy Māori land?
- Is bank funding as easily obtained and on the same terms as general title?
- If a party is to purchase Māori freehold land, does this create issues in any future sale? Can the party obtain the same degree of capital gain as general title, and when the party wants to sell, can the property be sold quickly to the widest possible market?
- What is the chance to convert the tenure to general land status?

Case study

An example as to the complexity of a sales process involving Māori land was provided by the marketing of a farm property on the outskirts of Rotorua. The Burnhill property comprised two blocks totalling 201 hectares. This land was initially marketed for sale by local real estate company, First National, who invited expressions of interest by 15 April 2011. The advertising brochure identified that within each land block one title was Māori freehold land and any sale would be subject to approval by the Māori Land Court. It is understood that expressions of interest were received from a number of parties. It is further understood that terms of sale were negotiated with a party outside of the preferred class of alienee.

During the alienation process, a preferred class of alienee identified themselves and entered negotiations, as provided for by the first right of refusal requirement as per section 147A. Transfer of the land finally occurred nearly four years (25 March 2015) following the initial expressions of interest date. While any value impact assessment is subjective, TelferYoung (Rotorua) Limited's analysis includes a 15% tenure discount and 10.6% fractional interest discount. The fractional interest discount reflected the fact that one of the titles within each block was Māori freehold and the vendors held shares equating to ~94.7% in these two titles. It is considered that the additional management costs associated with distribution of income and expenditure between the shareholders, and the time involved in communication and/or decision-making where other owners have to be consulted, are factors that reduced the value of the vendor's share.

The contention that, in some instances, even higher discounts are appropriate, appears to be supported by recent Māori Land Court Orders whereby the court has reaffirmed the commitment to retain land in Māori ownership when declining applications to change tenure status. The Māori Land Court has refused to approve a change of status to general land on several occasions, even where the land is owned by one or two Māori landowners.

Case law of relevance

It is recommended that valuers and other parties involved in understanding Māori land values review the decisions below.

Skudder – Tahorakuri
A1 Sec 8B, Lot 1 DPS 63822
MLC-A20140002110
December 2014

Swanson – Waotu South C6B
MLC-A20140009526
December 2014

Maxwel Lot 1 Paeroa East X Blk
MLC-A20160002228
May 2016

Yeoward – Ngapuna A25
NZMLC 68-A20160002694
August 2016

The Māori Land Court has refused to approve a change of status to general land on several occasions, even where the land is owned by one or two Māori landowners.

Conclusion

This article cannot provide a definitive answer to the age old question as to whether Māori land is worth something less than comparable general title land and, if so, how much? It is clear that from a productive sense there should be no differentiation, but from a land transfer value perspective Māori land is generally worth something less. It is evident that every property must be considered on its individual characteristics. There is rationale for discounts to move outside of guidelines. Any such assessment should detail those reasons for the quantum of any discount

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2017 CONFERENCE LOCKED IN

JENNY HOUDALAKIS, PINZ OPERATIONS MANAGER

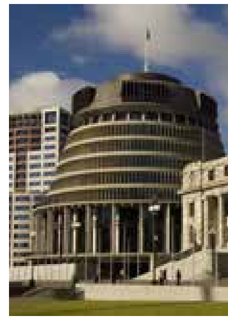
It hardly feels like any time has passed at all since we stacked away the chairs following the Property Institute's (PINZ's) successful Riding the Wave conference in Auckland, and here I am already urging members to save the date for the 2017 conference.

In line with the feedback from our 2016 Needs Assessment survey (thanks to those who completed it), next year's conference will be held at the Rydges Hotel in Queenstown from 28-30 June 2017. Queenstown was the most popular venue as voted by members and we look forward to seeing you there. The Rydges is undergoing a significant facelift, but I have been assured it will be ready in time.

More than 350 delegates attended this year's event at the Langham, which included top-class speakers and showcased property professionals with a well-attended and supported awards night. We're working on nailing down the agenda and theme for 2017, but you should expect another top-notch event in Queenstown.

If you have any questions or thoughts please don't hesitate to email me: **jenny@property.org.nz**



PINZ *branch events*

Northland

Branch Chair: Melody Richards

melody.richards@telferyoung.com

Auckland

Branch Chair: Patrick Foote

patrick@gctvaluers.co.nz

Upcoming events:

- 6 December 2016 – Half-day seminar hosted by the branch and covering a range of topics and speakers
- 15 December 2016 – Branch Christmas event – come along to celebrate the winding down of another year with your fellow Auckland Branch members. Northern Steamship, Quay Street, Auckland, 5.30–8.30pm, drinks and light nibbles included
- February 2017 – Auckland Golf Day – a chance to network with fellow members on the lush greens of the Akarana Golf Course (date to be confirmed)

Waikato

Branch Chair: Glenda Whitehead

glenda.whitehead@tetumupaeroa.co.nz

Rotorua

Branch Chair: Kendall Russ

kendall.russ@telferyoung.com

Tauranga

Branch Chair: Paul Higson

paul.higson@telferyoung.com

Gisborne

Branch Chair: Che Whitaker

cwhitaker@lewiswright.co.nz

Taranaki

Branch Chair: Stephen Hodge

stephen@taranakipropertyvaluers.nz

Upcoming event:

- 16 December 2016 – Taranaki Branch Christmas function, 5–7pm at QV Offices, 15 Devon Street West, New Plymouth

Hawke's Bay

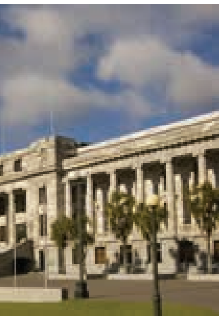
Branch Chair: Trevor Kitchin

trevor.kitchin@telferyoung.com

Wanganui

Branch Chair: Rob Boyd

rob.boyd.nz@outlook.com



JOIN THE INSTITUTE TO ATTEND EVENTS, SEMINARS & OUR ANNUAL CONFERENCE AT MEMBER RATES

Manawatu

Branch Chair: Bruce Lavender

brucel@blackmores.co.nz

Wellington

Branch Chair (PINZ): Callum Taylor

ctaylor@linz.govt.nz

Branch Chair (NZIV): Hamish Bills

hamish@lockwoodassociates.co.nz

Nelson

Branch Chair: Simon Charles

simon@dukeandcooke.co.nz

Canterbury Westland

Branch Chair: Simon Newberry

simon@fordbaker.co.nz

South/Mid-Canterbury

Branch Chair: Alistair Wing

awing@xtra.co.nz

Central Otago

Branch Chair: Heather Beard

heather.beard@colliersotago.com

Upcoming events:

- 5 December 2016 – The Wakatipu Valuers Study Group meets once a month from 6–7pm
- 9 December 2016 – Branch Christmas event (further information to come)

Otago

Branch Chair: Adam Binns

adam.binns@abcommercial.nz

Upcoming events:

Southland

Branch Chair: Phil Janssen

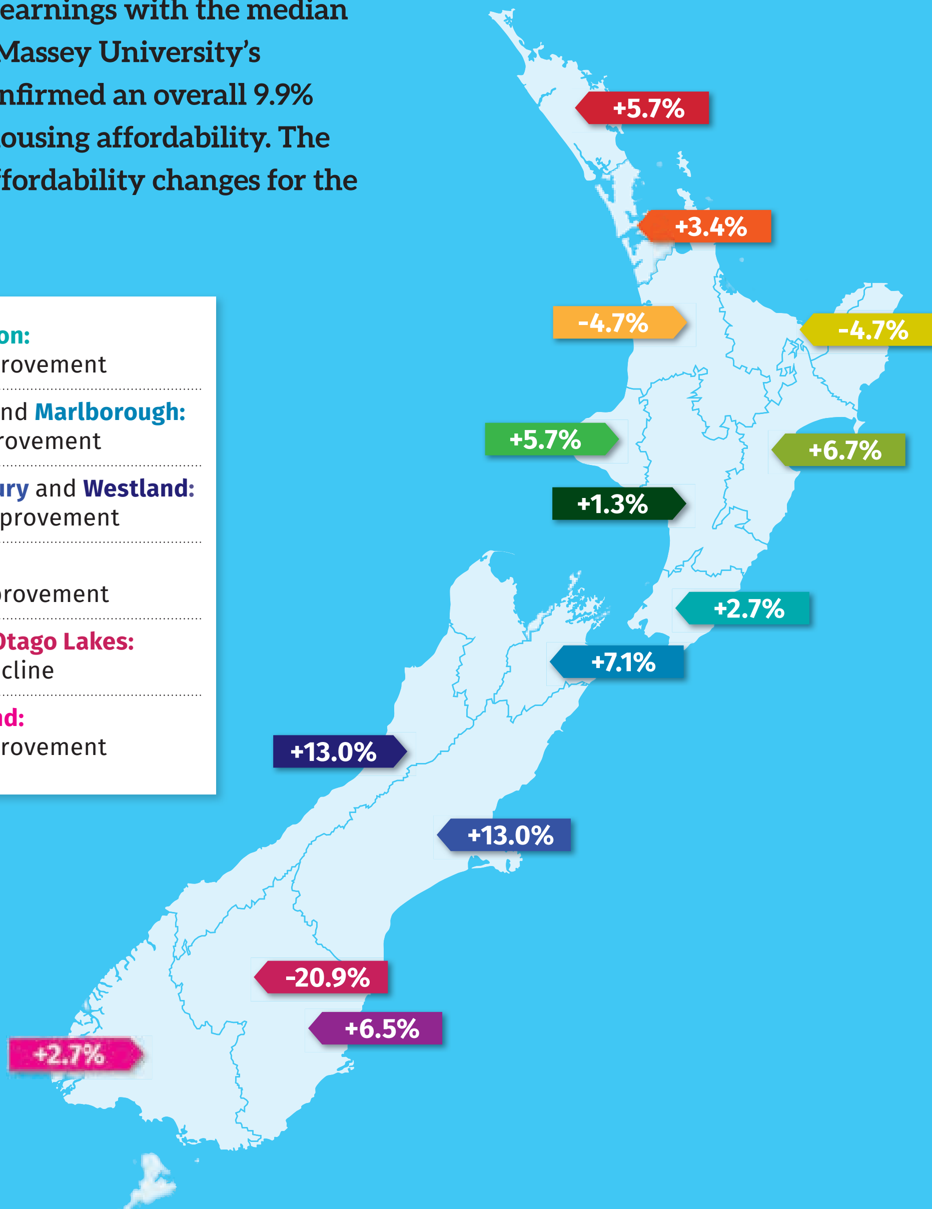
phil.janssen@qv.co.nz

Upcoming events:

Home Affordability UPDATE

By comparing the average weekly earnings with the median dwelling price and mortgage rate, Massey University's quarterly survey for September confirmed an overall 9.9% annual improvement in national housing affordability. The following infographic shows the affordability changes for the year to June 2016:

Northland 5.7% improvement	**Wellington:** 2.7% improvement
Auckland 3.4% improvement	**Nelson** and **Marlborough:** 7.1% improvement
Waikato and **Bay of Plenty:** 4.7% decline	**Canterbury** and **Westland:** 13.0% improvement
Hawke's Bay: 6.7% improvement	**Otago:** 6.5% improvement
Taranaki: 5.7% improvement	**Central Otago Lakes:** 20.9% decline
Manawatu and **Whanganui:** 1.3% improvement	**Southland:** 2.7% improvement



The Massey survey is the longest running survey of New Zealand house prices, accumulating data since 1998.

Key Points

- Nationwide median sales price shows a 5.8% year on year increase after a 2.8% drop from last quarter's record high
- Auckland hits a new high median for the quarter of $842,500 in August, sustaining the growth that has seen a $102,500 increase year on year
- Four regions are surpassing Auckland's annual growth, Central Otago Lakes (40.5%), Waikato (23.2%), Manawatu (14.7%) and Wellington (14.5%)
- Evidence of a slowdown in growth as seen by some drops in median house prices over the last quarter – Taranaki (-9.7%), Central Otago Lakes (-8.1%), Canterbury (-3.6%), Wellington (-0.9%) and Southland (-0.5%)
- A 0.8% point drop in interest rates, which equates to a 13% reduction in mortgage interest costs, coupled with an increase in national wage data of 1.9% contributes to the annual improvement in national affordability of 9.9%

GET PREPARED FOR AN EARTHQUAKE

www.getprepared.org.nz

During an earthquake:

- If you feel a long or strong earthquake: DROP, COVER AND HOLD
- If you are in a tsunami evacuation zone, immediately get out of the zone. If there is a blue line in your neighborhood, go above the line.

After an earthquake:

- Keep the phone lines clear for emergencies. Text in preference to phoning and only use the phone for short, essential calls.
- Keep up to date – listen to the radio, watch the news, check the website above and our ‘Get Prepared’ Twitter and Facebook pages.
- Stay where you are if it is safe to do so.
- If life is at risk dial 111 for the fire, ambulance or police.
- It is much safer to stay inside than immediately go outside.
- Be aware that electricity supply could be cut, and fire alarms and sprinkler systems can go off in buildings during an earthquake, even if there is no fire.
- Look for, and extinguish, small fires as fire is a common hazard following earthquakes.
- Check for damage. Turn off the gas if you smell or hear gas. Turn off the electricity if you see sparks, broken wires or evidence of electrical system damage.
- If you have to leave the building look for an open space where you will be safe.
- When moving or leaving the building use the stairs, not the elevators.
- Check yourself for injuries and get first aid if necessary.
- Help others if you can.
- Keep your animals under your direct control as they can become disoriented. Take measures to protect your animals from hazards and other people from your animals.

If you have to evacuate because your building is no longer safe:

- Put your household emergency plan into action – check in with your out-of-region contact, gather at your meeting place.
- Take your get-away kit, wallet, keys and mobile phone.
- Take any mobility aids and medical devices with you.
- Watch out for fallen power lines or broken gas lines and stay out of damaged areas.
- If possible, take your pets with you.

Insurance and repairs:

- Carry out the emergency repairs needed to make your home safe, sanitary, secure and weather tight.
- Take photos before moving and repairing anything, if possible.
- Keep a record of everything to be repaired/replaced and a copy of any invoices or receipts.
- Clean up spillages of crockery and glass breakages, but don’t dispose of them.
- Dispose of perishables like ruined or spilt food, but keep a record of what you have thrown out.
- Contact EQC and your insurer(s) as soon as possible. If you rent your property, contact your landlord as soon as possible.


JLT
RIDING THE WAVE
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