NEW ZEALAND

PROPERTY PROFESSIONAL

MAGAZINE

AUTUMN 2023

PROPERTY: NEARING THE BOTTOM

PROPERTY MARKET UPDATE

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Counting down to Conference 2023

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NEW ZEALAND PROPERTY PROFESSIONAL MAGAZINE

Contact details
Viv Gurrey, CEO
Property Institute of New Zealand
PO Box 5304
Lambton Quay
Wellington 6145
0800 698 258
v.gurrey@property.org.nz

Editor
Helen Greatrex
helen@property.org.nz

Design
Nic Porteous
nic@homestudio.nz

Advertising enquiries
Rebecca van Etten
rebecca@property.org.nz

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VIV GURREY

Connection, Celebration & Professional Growth

As I write this, our big event for 2023 is just days away.

The 2023 National Property Conference and the IVSC/WAVO Global Valuation Conference has been months in the planning and I'm very pleased with how it has come together. This has involved people at all levels of our organisation and beyond, with them often giving up their time to be unpaid volunteers committed to the property professions and service to their fellow members.

From the education subcommittees of our various communities who have helped set the CPD offerings, to the Board, to our Councils and to our branches – there has been a generous outpouring of assistance and support.

I'm also proud of the efforts of our National Support Team, who've all been involved in getting this event off the ground – and particularly our Marketing and Brand Manager, Bronwyn Starke, whose experience and keen eye for detail has kept the conference on track.

Our last face-to-face conference was in Auckland during 2021, with the 2022 event moved online due to the ongoing financial and health risks posed by COVID as it continued its path of disruption through New Zealand.

This year we're excited about the opportunity to reconnect and map out our next steps in a changing and challenging environment.

So, this year we're excited about the opportunity to reconnect and map out our next steps in a changing and challenging environment. Our conference programme is specifically designed to discuss and improve our collective responses as we navigate this ongoing journey.

The aim with our education programme is always to help members deal with what's on the immediate horizon and plan for what's around the corner – and over the three days in Christchurch from 7 to 9 June we are confident delegates will have an opportunity to share their immense experience and knowledge.

It's also a fantastic chance to celebrate with the 'best of the best' as we announce the winners of the annual PINZ & NZIV Awards at our black-tie gala dinner, and honour a group of new Fellows and one new Life Member at our Annual General Meetings.

These are members who've contributed much to the profession, their industries and this organisation. Their support and commitment to excellence sets them apart from their peers, and they are the people who help keep our organisation relevant and in touch with what's happening at the frontline.

These are members who don't just 'tick the boxes' – but do a lot more than that as they mentor young professionals, encourage a strong professional growth agenda, and (through their association) enhance the standing of our organisation and the property professions.

In advance, I do want to thank and commend every member who has registered. As a not-for-profit, every dollar earned comes back to members through increased services. Over the past few years, we have invested considerably in services to deliver first class education, new member benefits, influence over our direction, and delivery of tangible outcomes.

Our agenda for the years ahead continues to put members at the centre of all we do and is based on a philosophy of constant improvement. Conference 2023 is one more step on that path.

Kind regards / Ngā mihi
Viv Gurrey

NEARING THE BOTTOM

ANZ Chief Economist Sharon Zollner looks at the predicted further fall in house prices, housing market resilience and other factors influencing the current situation.

SHARON ZOLLNER

Declines close to done

Housing data has generally come in on the stronger side of our expectations of late, and with net migration surging, some fixed mortgage rates falling and the LVR restrictions set to be tweaked looser, we have concluded that a 22% peak-to-trough decline in house prices (our previous forecast) is a little too weak. So we are now forecasting that house price falls have more or less run their course on a nationwide basis.

If the housing market proves much more resilient than this, the RBNZ may conclude that they are not quite getting the traction they need to bring inflation down and the OCR may need to go higher. With CPI inflation as high as it is, the RBNZ is unlikely to have a lot of tolerance for green shoots in housing, as that is likely to lead to higher consumer demand and CPI inflation than otherwise.

The good news is that Quarter 1 2023 CPI inflation was not quite as high as the RBNZ's February forecast, so for now we think housing should get a 'free pass'. In fact, arguably, it just did with the recently announced easing in high-LVR lending restrictions and the RBNZ pausing its hikes.

Is important to note that downside risks have not suddenly vanished just because we are taking a bit more upside signal from the timely data. House price forecasts are notoriously uncertain. Net migration is a key upside risk; a harder landing than anticipated in the labour market is a key downside one.

We are now forecasting that house price falls have more or less run their course on a nationwide basis.

Broad narrative unchanged

Recent housing data have surprised us, versus our former forecast, with enough consistency of late that we think a forecast update is in order. We are now forecasting that nationwide house prices, currently a little over 16% below their November 2021 peak, have pretty much hit bottom. However, it is worth noting that different regions are experiencing quite different dynamics.

The broad narrative around our outlook has not undergone a major overhaul:

- Higher mortgage rates are weighing on demand (even if they have stopped rising)
- Household incomes are looking less assured as labour demand softens
- Price pressures owing to supply-demand imbalance are greatly reduced.

But relative to our previous forecast, upward pressure on fixed mortgage rates has become less intense as wholesale interest rates stabilise, and net migration has been surprisingly strong (to the point that this is threatening to create a renewed housing deficit). Together, these factors appear to go a long way towards explaining the stronger-than-expected housing data of late. And now we have a new upside risk: restrictions on high-LVR lending are being eased a little.

Risks still there

But just because we are revising our central forecasts up, that does not mean downside housing risks have suddenly gone away. CPI could prove more persistent than expected, necessitating further rate hikes (and therefore higher mortgage rates), or monetary policy lags could be just about to catch up to the labour market, with a larger shock to household incomes and more forced house sales than we are forecasting will happen.

Indeed, for housing, it does not really matter which side of the tightrope the RBNZ falls:

- If it overshoots (raises interest rates too far), housing will likely deteriorate via the income channel – higher unemployment associated with a hard landing
- If it undershoots (doesn't raise interest rates far enough), housing will likely deteriorate via the interest rate channel, as the RBNZ has to play catch-up with the OCR down the track.

There are upside risks too, to be fair: recent data suggests net migration is booming. Our advice is to take anyone's house price forecast with a grain of salt.

Our advice is to take anyone's house price forecast with a grain of salt.

Green shoots

Recent data reads suggest the floor for the housing market is approaching a little faster than we previously forecast. After recording their lowest-ever level for the months of January and February, house sales picked themselves up off the floor in March and April but are still at sub-par levels.

Sales tend to provide around a three-month lead on prices, so are worth keeping a close eye on for a turn in broader momentum. At the same time, it is worth remembering that these data can be volatile on a month-on-month basis, and one data point certainly does not make a trend. But it is consistent with anecdote and with the lift in the Barfoot and Thompson auction clearance rate.

Indeed, auction clearance rates in Auckland suggest downward price momentum in New Zealand's largest market (Auckland accounts for around one-third of all sales) may have already turned a corner. Clearance rates and prices tend to move together, as a tighter market will typically see more properties sold under the hammer than by negotiation.

As at March, the Auckland house price index was around 21% below its November 2021 peak, so not too inconsistent with our previous national-level forecast for a 22% peak-to-trough decline. But given its size, if Auckland prices start lifting even as some other regions continue to soften, national-level prices are unlikely to continue falling with the same momentum as over the past few quarters. Days to sell remain at historically high levels (indicative of tough going for sellers) but fell by four days in March. Like sales, the number of days it is taking for houses to sell is a useful forward momentum indicator. And, like sales, this indicator says the market is loose but possibly on a tightening trajectory.

Auction clearance rates in Auckland suggest downward price momentum in New Zealand's largest market (Auckland accounts for around one-third of all sales) may have already turned a corner.

Meanwhile, housing anecdotes have been mixed. There are still plenty of tales from the coalface about the negative impacts of higher mortgage rates on demand. But there has also been the odd anecdote suggesting first-home buyer interest might be picking up in some areas. That makes sense if would-be buyers believe rates do not have much further to rise (or are at the peak), house prices don't have much further to fall, and job security is intact.

Of course, these same would-be buyers should be aware that monetary policy tends to impact the labour market with a considerable lag, meaning job security and household incomes are likely to deteriorate to some degree in the period ahead.

In addition to that, although inflation is falling, it is still entirely possible that it does not fall as far or as fast as the RBNZ is expecting, representing upside mortgage rate risks. And if rates are falling rapidly, it is probably because unpleasant things are happening to the economy. So even if the housing market does find a floor earlier than expected, we still see limited scope for prices to surge higher anytime soon.

And, finally, the RBNZ has announced that it is going to ease high-LVR restrictions from 1 June 2023, allowing a little more lending to happen over an 80% LVR. Given broker reports that demand for borrowing at these levels is outpacing its availability, this is likely to lead to more mortgage lending than otherwise (more house sales and more support for house prices). At this stage it is not possible to quantify the impact of these changes, but the direction will be towards house price falls petering out sooner rather than later.

Housing market resilience

Broadly speaking, housing market resilience appears to be driven by a couple of key factors – fixed mortgage rates and net migration.

Fixed mortgage rates

Fixed mortgage rates could be close to or past their peaks. Certainly some longer-term fixed rates have even fallen recently. It is unclear at this stage what tolerance the RBNZ will have for falls. On the one hand, any newfound strength in housing would likely lead to higher-than-otherwise CPI inflation, but on the other hand the RBNZ probably has a little more wiggle room than it thought it had, given that Quarter

> Fixed mortgage rates could be close to or past their peaks.

1 2023 CPI came in (at 6.7%) weaker than they were forecasting in February (7.3%).

In its May Monetary Policy Statement, the RBNZ continued to forecast the housing market remaining largely 'out for the count'. The RBNZ has indicated they have reached a point, with the OCR at 5.5%, that they can pause to 'watch, worry and wait' to see the impacts of their efforts so far, including on the housing market. We expect that by the end of the year they will be back hiking again, but only modestly. Both we and the RBNZ see monetary policy 'working'; we just see a need for a bit more work down the track as the impacts of both fiscal stimulus and strong net migration make themselves felt on both activity ad inflation.

Net migration

Net migration has surged in recent months, and if sustained at recent levels could end up leading to materially stronger activity and housing outcomes than we currently expect. Our working assumption is that after pent-up demand dynamics have played out, net migration will settle at an annual net inflow of around 40,000 in 2023.

But if the February pace was maintained for a year, we would be looking at an annual inflow of 140,000 by this time next year, so the risks look skewed strongly to the upside. As we noted recently, a 'miss' this size could be significant enough to keep the economy out of recession, and it would certainly have implications for the housing market (both house prices and rental markets).

Increased fundamental demand for housing (via migration) appears to be occurring just as residential construction activity is slowing, possibly very sharply. That's monetary policy in action. It is what's needed to take the heat out of the economy and get inflation lower, but it is not great for New Zealand's housing supply-demand balance, particularly if migration does surge to new highs.

We estimate the pre-pandemic housing deficit (around 75,000 houses) had been almost fully eroded as at Quarter 3 2022, reflecting gangbusters construction activity over the prior two-and-a-half years and slower population growth following closed borders. In Quarter 4 2022, high migration alongside moderating consents saw New Zealand record its first quarterly deficit in net housing supply since closing the border.

While this was a relatively small deficit (around 1,600 dwellings), the Quarter 1 2023 read is not going to be pretty. And if net migration proves persistent at higher levels than we assume, we could easily be looking at a housing deficit of 20,000-30,000 by this time next year. Although the housing market is affected by a great many factors, the fundamental demand-supply balance is a very important one.

Taming the beast

Lastly, it is important to note that 'animal spirits' in the housing market can get very wild, and these are extremely difficult to capture in a consistent way in econometric modelling. At the end of the day this is largely why economists (yes, all of us!) are so bad at forecasting the housing market. Ultimately, house price forecasts require a decent dose of judgement on top of any 'fundamentals' view. And we are very aware of the possibility that we've got this wrong (we are just not sure if we're too pessimistic or too optimistic).

As the housing market navigates the turn, we are becoming wary that there is a potential cohort of would-be buyers out there waiting to get in at the low point. The irony is, if they do this in droves and housing picks up steam, it will probably stoke CPI inflation along the way. And if the RBNZ deem that to be premature and inappropriate, it will very likely lead to a renewed round of OCR hikes and an eventual renewed downtrend in house prices. So while animal spirits may well surprise our (and the RBNZ's) outlook, the RBNZ has the tools to tame this beast if needed, no matter how wild it gets

Sharon Zollner is Chief Economist at ANZ Bank New Zealand Ltd based in Auckland.
sharon.zollner@anz.com

BIG BENEFITS ENJOYED BY OWNERS AND OCCUPIERS OF SUSTAINABLE COMMERCIAL BUILDINGS

OLLIE COTTAM

Reduced operating expenses, increased productivity, better staff retention and fulfilling ESG obligations mean modern, sustainable commercial buildings have the edge over others. Understanding how an asset will perform in ESG terms begins with a building survey.

Technical due diligence

Organisations the world over are increasingly concerned with sustainability. Most now have some form of Environmental, Social and Governance (ESG) targets they need to meet, whether enforced by regulation or as part of a voluntary commitment to corporate responsibility. Corporate ESG budgets are also increasing rapidly, and a report from PWC suggests ESG-focused investments will double within the next four years.

That focus is feeding directly into real estate, where modern, efficient, sustainable commercial properties are proving easier to lease and sell. They are also providing greater returns and lower risks as building occupants reap the benefits of increased efficiency, staff productivity and retention, as well as the ability to meet their ESG obligations.

When a purchaser is investigating the viability of a property, sustainability should be a key part of that consideration. The Technical Due Diligence (TDD) process needs to assess a building's sustainability alongside its construction, condition, and legal and statutory compliance.

Why does a building's sustainability matter?

Businesses have a corporate social responsibility to protect both people and the environment, and having sustainable properties is a fundamental part of that. But there are also direct financial benefits to the owners and occupiers of sustainable buildings:

- Studies have shown that in Auckland's CBD, the percentage of vacancy rates for Greenstar-rated buildings is lower than for non-rated buildings, as occupiers tend towards higher-quality, more efficient spaces
- Sustainable buildings are more efficient to run, with lower operating costs
- Healthy buildings contribute to a healthy workforce, which studies have shown to increase productivity and staff retention.

Studies have shown that in Auckland's CBD, the percentage of vacancy rates for Greenstar-rated buildings is lower than for non-rated buildings.

How to ensure you are investing in a sustainable building

New Zealand's building stock varies greatly, from 5 Green Star-rated modern CBD offices to the sub-prime 50-year-old out-of-town assets. Unfortunately, beyond the city centres there are more of the latter than the former, so finding and investing in sustainable buildings can be tricky.

While a high Green Star rating or NABERSNZ (a system for rating the energy efficiency of office buildings) score is appealing, there is more to sustainability than that, and the lack of a rating does not exclude a building from being considered sustainable in the future. Nor does it prevent an investor from enhancing the sustainability of a building and in turn its potential for letting or selling.

> The Government also recently announced that NABERSNZ ratings will be mandated on many commercial buildings by the end of 2024.

Sustainability considerations in building surveys

When we are considering sustainability in our TDD reporting, we look at the key ESG factors below to give you a high-level overview of the building's sustainability performance.

Energy efficiency

Energy usage is a hot topic, with net zero carbon certification currently being pursued by many organisations. The Government also recently announced that NABERSNZ ratings will be mandated on many commercial buildings by the end of 2024. It is possible that New Zealand will follow the lead of countries like the UK in setting a minimum energy efficiency standard and making it unlawful to transact on buildings that perform below it.

Owners and investors who move early on improving their building's energy performance will have a head start on the market. But improving an existing building's energy efficiency can be more complex than it first seems, so having experienced advisors who can do detailed cost-benefit analyses is crucial.

Water use

Understanding a building's approach to water – its use, re-use, harvesting and recycling – is all critical to improving its sustainability. Your building survey should identify any current water-saving installations. It should also advise on the opportunity for improvements through techniques such as low-flow sanitary facilities, stormwater and grey water harvesting, and sub-metering. Much like energy, saving water has a direct impact on operational expenditure.

Biodiversity

Biodiversity is a subject close to our hearts in New Zealand where the native flora and fauna are unique. When you're buying a building, its location in respect to sensitive biological habitats will impact the restrictions and opportunities related to its ownership.

Other biodiversity considerations for a building include design aspects such as green roofs and green walls. These can be retrofitted, subject to structural assessments, and also provide additional insulation values that can contribute to the conservation of energy with a direct cost-benefit.

Sustainable planting, the use of native species, and the provision of beehives and nesting boxes not only enhance biodiversity but also improve a property's general amenity, making them more attractive to tenants and their workforces.

Wellbeing and accessibility

The wellbeing and accessibility aspects of a property can greatly enhance its amenity for the people using it. A healthy building contributes to a healthy workforce, which in turn increases productivity.

A 2017 Harvard study found that increased ventilation improved workers' cognitive function to the tune of US$6,500 per person per year. 'Green'-rated buildings with improved ventilation boasted a staggering 101% improvement in workers' cognitive function.

Providing facilities beyond the traditional work environment, such as cafes, gyms, cycle hubs and multi-use event spaces, can also have big benefits for staff attraction, retention and productivity. Creating a sense of 'place' in this way can be done to existing buildings, as well as new buildings, and although they require investment have a direct benefit in attracting and retaining tenants.

'Green'-rated buildings with improved ventilation boasted a staggering 101% improvement in workers' cognitive function.

Certification and management

There are at least 57 different types of sustainable building certification listed by the World Green Building Council, so it is important to understand what a building's particular certification means and how to retain it. For example, any future works on a green certified building – refurbishments, tenant fitouts and maintenance – will likely need to be undertaken in accordance with the green accreditations in order to maintain the certified standard.

Many green building certifications have refurbishment or existing building options, so there will always be an option to enhance your existing asset by gaining green building certification. But it is vital for investors to understand the financial and administrative burden of doing so.

Sustainability an ongoing focus

As the world moves towards the Paris Climate Agreement target to limit global warming, New Zealand's focus on making our property sustainable will only increase. For investors who are keen to get ahead of the market, there is significant value to be realised in considering the sustainability of their assets and this should start at the technical due diligence stage

Ollie Cottam is Associate (Commercial Building Surveying) at Prendos based in Auckland.
ollie.cottam@prendos.co.nz

COOLSTORE SALES

PAUL HIGSON

This article discusses the attributes of coolstores and their value characteristics.

Yields

As noted in my article in the Summer edition of the *Property Professional*, coolstores are rooms that are capable of refrigeration to cool or freeze product. They are typically constructed from metal-coated insulation panels with polystyrene type insulation.

Past analysis of property sales containing coolstores indicates that they tend to sell at higher yields to the general industrial property market. This premium is usually between 0.5% and 1.5%. However, rurally located commercial property is often 1% to 2% above urban commercial property, prior to adjusting for specialised improvements. Overall, then, rurally located specialised industrial properties can exhibit yields that are 1.5% to 3.5% above those shown for more generalised properties in built-up industrial locations.

There are several reasons for coolstore facilities exhibiting higher yields. Essentially, they have a higher risk profile. Specific reasons include that:

- Specialised buildings such as coolstores are highly depreciating in nature compared to more generic industrial improvements. A basic warehouse structure may be said to have an economic life of around say 50 years, and with some maintenance and modernisation the economic life can often be extended to say 60 to 80 years. However, coolstores tend to last around 40 years and that is predicated on the major replacement of coolstore plant and machinery, which often lasts around 20 years. Depending on the nature of the coolstore, refrigerant plant and machinery typically makes up around 30% to 40% of the cost of a coolstore. The wall and ceiling cladding likewise is a somewhat specialist product and also does not have the same life-cycle as more generic storage structures.
- They are often in low-profile rural locations. While this is often appropriate for such properties, as they are located close to the growers of the fruit being stored, it is at odds with more generic industrial property. Therefore, there is less scope for alternative uses.
- The scale of post-harvest developments usually puts them in a higher price bracket for property in the region they are located in.
- If older buildings are involved there may be major items of capital replacement needed. Sometimes this is known, but if it is not, then it stands to reason that the market will make some assumptions around possible capital expenditure and should factor this into the purchase price.

Rurally located specialised industrial properties can exhibit yields that are 1.5% to 3.5% above those shown for more generalised properties in built-up industrial locations.

- The inherent fluctuations within horticultural industries. This includes weather and commodity price cycles. As most fruit production that is coolstored is exported from New Zealand, exchange rate changes and other international factors can also affect the industry. Some fruit naturally tends towards fluctuations in production from year-to-year (e.g. avocadoes). Also, for those facilities in kiwifruit growing areas there is a perceived risk factor associated with the Psa infection in that industry. This includes possible mutations of the virus that may affect the production.
- High ongoing operating expenses associated with the coolstores, regardless of whether they are occupied. As coolstores exhibit heightened fire risks, insurance on a relative basis is often a lot higher than for generic industry buildings. Other elevated operating expenses include the continuing maintenance, tests and checks that the refrigeration plant and equipment require. This will often involve the replacement of components. Unlike for more generic buildings, such checks, coolant tests and maintenance need to be undertaken to keep the coolstores in a functional state. These costs will need to be fully borne by the landlord if no tenant is in place. If one is in place, then most leases provide that ongoing maintenance will often be covered by the tenant, but usually will not involve them paying for the capital item replacement. As alluded to, such capital costs are likely to be significant.

A property with a coolstore component has higher ongoing costs and capital item replacement than a similar-sized generic industrial development.

Higher costs

Manifestly then, a property with a coolstore component has higher ongoing costs and capital item replacement than a similar-sized generic industrial development. Often for such a development to be built, the occupier will be a related party. Alternatively, if a leasing arrangement is to be arms-length, then for the reasons given above a developer would be inclined to seek an economic return on cost. There are very clear reasons then why higher yields often apply.

Sometimes, however, sales will be recorded that show little to seemingly no adjustment for the factors described above. Often the reasons for this include one or all of the following:

- The development is either new or very modern. Modern relative to dated coolstores tend to have attributes such as increased air changes per hour, better fire retardant/suppression measures and (due to such efficiencies) an overall lower total occupancy cost. They will also have modern more environmentally-friendly coolant systems, as well as a longer remaining economic life than older coolstores.

- Occasionally, ownership of coolstore refrigeration will be in the hands of the tenant. Accordingly, many of the characteristics listed earlier that led to elevated yields do not apply.
- Long lease terms apply. If there is a very long lease term remaining – say 10 to 20 years – then many of the risk factors associated with location, unrecovered operating expenses and tenant risk are mitigated.
- There is a very high underlying land value.

Building net rates

The net rate analysis provides a high-level value check on the income approach methods. The analysed net rates from the market evidence sit within a very wide range and often show little consistency. There is a tendency towards a high level of owner occupiers in this industry, so true arm's-length sales tend to be infrequent.

Building rates need to have taken into consideration matters such as the location and the age profile of the improvements. Given that there is typically a lack of consistency with the market evidence, it is usual to place little reliance on an approach dependent on building net rates.

Summary

Coolstores are highly depreciating assets that also have significant ongoing costs associated with them. Such costs are largely incurred regardless of whether the asset is being occupied or not. For these reasons, they consistently show higher yields than the wider market for more generalised assets.

The highly depreciating nature of the assets is also shown in the analysis of building net rates, although less consistency with building net rates has been noted from sales analysis. However, typically modern coolstores will show significantly higher building net rates than older ones. As with other specialised assets, the motive to build for an investor is based on an expectation of a market return on cost

Paul Higson is Director of TelferYoung from CBRE Valuation & Advisory Services based in Tauranga. He has over 20 years' experience in property valuation over a wide range of commercial property asset classes.
paul.higson@cbre.com

Join us at the 2023 National Property Conference

There's still time to register for the National Property Conference being held at the Te Pae Convention Centre in Christchurch from 7–9 June.

FIND OUT MORE BY CLICKING HERE

On that web page property professsionals can also get up-to-date information about the programme, the confirmed speakers, and investigate our new Awards format, which includes a new Business Category.

Of course, the event is a special one this year due to New Zealand's hosting of the IVSC/WAVO Global Valuation Conference.

The Property Institute of New Zealand and the New Zealand Institute of Valuers are encouraging members to attend what will be a first-class networking and learning opportunity

Boyd Gross –
Supreme Award
Winner 2021

CELEBRATE WITH THE BEST OF THE BEST

Congratulations to all the finalists of the 2023 Property Industry Awards. Support and celebrate the finalists and winners at the National Property Conference Gala Dinner on Thursday 8 June. Judges report an extremely high calibre of candidates entered for this year's Awards, with strong interest in many categories.

Supreme Award: The Property Industry Award Finalists

Peter Mence (Argosy Property)
Kenneth Taylor (Quotable Value)

Professional Business of the Year (Large Business) Finalists

JLL New Zealand
Quotable Value

Professional Business of the Year (Small Business) Finalists

APL Property
Logan Stone
Trust Management
Quantify Consulting

Future Leader Award Finalists

Blake Ngarimu (Quotable Value)
Divya Patel (Beca)
Celeste Patutama (Align)
Ben Rotto (APL Property)

Professional Community Awards are at the discretion of each Council and winners will be announced on the night:

- Commercial Property Manager of the Year
- Property Advisor of the Year
- Iain Gribble Memorial Award
- John M. Harcourt Memorial Award

Thank you to all those who entered.

Conference venue: Te Pae Christchurch Convention Centre

The Property Institute would also like to take this opportunity to thank our generous supporters and sponsors:

- Simpson Grierson
- Preston Rowe Paterson
- CoreLogic
- Custom Software (Quickmap)
- Valocity
- Land Professionals Mutual Society
- Archistar
- Opteon
- Property InDepth
- Mainland Capital
- Headway
- Thomas Reuters (Westlaw)
- Assemble Recruiting
- Bayley's

BRANCH CHAIRS

This is the second of a four-part series showcasing the talent and experience of the Property Institute's Branch Chairs throughout New Zealand.

Branches are at the heart of everything we do. At a grassroots level, our network of branches helps set PINZ apart from many other similar organisations, keeping us ahead of local issues and in touch with members at the frontline.

We thank our volunteers for their commitment and their dedication to the Property Institute, the professions we serve and our members.

PAUL BIBBY
Hawke's Bay Branch

Originally from a rural background in the Hawke's Bay, I graduated from Lincoln University in the late 1990s with a Bachelor of Commerce, majoring in Valuation and Property Management. My career in valuation commenced in Tauranga with Valuation New Zealand, just prior to VNZ being rebranded to Quotable Value.

While I thoroughly enjoyed my time in Tauranga, I jumped at the opportunity to transfer to Hawke's Bay with QV in 2000. I gained registration in 2001 and joined a small private firm in 2003. I have been in my current role at My Valuer since 2011, where I specialise in the residential and accommodation sectors.

I have been a proud member of the Property Institute since its inception in 2000. PINZ plays an important leadership role, and ensures valuers maintain high standards and continue to remain relevant in an ever-changing industry.

I joined the local branch committee of NZIV/PINZ shortly after returning to the Hawke's Bay. I am now in my third term on the committee and into my second year as Branch Chair.

The local committee acts as a link between the individual firms, and provides members with the opportunity to network and share information with other members in an informal and collaborative setting. I have certainly benefited from my time on the committee and see my current role as Branch Chair as an opportunity to make a larger contribution and give back to the profession.

The Hawke's Bay branch has a fresh look to it in 2023 with five new members. We now have representation from most Hawke's Bay firms, which is important as the committee aims to provide a direct link between these firms and PINZ.

My goal for 2023 is to encourage a collaborative team environment where all committee members are involved in the process, are comfortable sharing ideas, and enjoy their time on the committee.

We have a number of education events planned throughout the year, providing local members with cost-effective and targeted CPD education opportunities.

We now have representation from most Hawke's Bay firms, which is important as the committee aims to provide a direct link between these firms and PINZ.

MICHAEL HILLIGAN
Taranaki Branch

My valuation career commenced back in 2014 when I was working as an intern for a rating valuation company during my university holidays. This was my first time working in the industry and provided me with a good understanding of how rating valuations work.

After graduating with a Bachelor of AgriCommerce degree majoring in Rural Valuation, I took a graduate role in Hamilton with Quotable Value Limited working in the Rating Valuation Team.

In 2017, I relocated to Taranaki where QV manage the rating valuations for three local councils. Here I completed the rural aspects of the local district revaluations, rural subdivision work and rating amalgamations, as well as maintenance and revision objections to rating valuations. On top of this, I was able to complete market valuations of rural, lifestyle and residential properties. In 2021, I gained my valuer's registration.

In October 2022, I accepted an agribusiness partner position at BNZ in New Plymouth. Here I manage and look after a portfolio of agricultural clients in the Taranaki and Whanganui areas.

I have been involved with the Property Institute as a local committee member since 2017. In 2019, I became the Branch Secretary and Treasurer and in 2020 I became Branch Chair. Being a member of the local branch has been a great way to network and build relationships with other local property professionals.

Taranaki is a small place and running networking events helps us to share local knowledge about the market, develop strong professional relationships, and celebrate our local members' progression through their careers and PINZ membership levels.

> Being a member of the local branch has been a great way to network and build relationships with other local property professionals.

DIANA SIGNAL
Whanganui Branch

As the founder of Whanganui Valuers, I bring 28 years of experience in the property industry. My journey began purchasing land at 19, building a home in Titirangi, Auckland. Since then, I have invested in and developed residential properties across New Zealand before settling in Whanganui to start a family.

Alongside my experience, I am a Registered Valuer. I obtained my registration after completing a Bachelor of Business Studies, majoring in Valuation and Property Management at Massey University. My unwavering dedication to my family, combined with my passion for property, have been the key drivers of my success. As a result, I take great pride in the fact that my valuation firm is widely recognised as a leader in the River City.

I have been an active PINZ member for many years, collaborating and networking with individuals of different experience levels. I was elected Whanganui Branch Chair for six years, during which time I have championed a more inclusive environment and encouraged new members' involvement while promoting active participation from women. In addition, we have ensured our members have stayed informed about changes through conversations and data sharing.

As a single parent myself, I have first-hand experience of the challenges women face trying to balance a career with raising a family, which motivated me to establish a scholarship programme funded by Whanganui valuers. The programme is designed to provide financial scholarships to vulnerable women and support their families by supplementing living and childcare costs while they establish their own businesses.

While passionate about helping others succeed, I also recognise the importance of family first as my daughters prepare to leave home. In 2023, I will ask the PINZ committee to elect a new Chair who can advance the exciting projects we have in the works, while I will pursue new passions and opportunities. I look forward to remaining an active member and providing support to help shape a more equitable and diverse industry.

'I know for sure that what we dwell on is who we become.' We can shape a more equitable and diverse industry by focusing on inclusivity and creating opportunities for all. Thank you for the opportunity to share my story.

As a single parent myself, I have first-hand experience of the challenges women face trying to balance a career with raising a family, which motivated me to establish a scholarship programme funded by Whanganui valuers.

CHE WHITTAKER

Gisborne Branch

The world-class beaches and temperate climate of Gisborne got the big tick for me and my career when I joined Lewis Wright Valuation & Consultancy in January 2009. Shortly after I completed a Bachelors degree with a double major from Massey University in Palmerston North in Property Valuation and Marketing.

I gained valuer's registration in 2014, becoming a Director at Lewis Wright in 2015. I was then appointed as Chair of ValGroup Limited in September 2019, a nationwide network of 13 independent valuation practices. I specialise mainly in urban and lifestyle high-end valuations and more recently, following the extreme weather events, the market value of land damage for Toka Tū Ake/EQC purposes.

I joined the local branch committee in 2009, shortly after becoming Branch Secretary, and was appointed Chair in 2015. Being on the committee means I am intrinsically involved in the profession and able to gain a broader perspective, maintaining good relationships with local members.

For the Gisborne Branch, given our isolation, downturn in the market and recent extreme weather events, our objectives in 2023 involve high-level field trips and market updates. This helps us to develop, grow as professionals and 'keep our finger on the pulse' in an ever-changing environment

Being on the committee means I am intrinsically involved in the profession and able to gain a broader perspective, maintaining good relationships with local members.

Flooded rural road — Cyclone Gabrielle

NO LONGER JUST A ONE-IN-100 YEAR FLOOD

landowner obligations to clear and maintain waterways

NICK WILSON & SARAH HESLIN

This article looks at the responsibilities of private landowners in relation to waterways and the regulatory powers councils can use to penalise them.

Regulatory enforcement to prevent severe property damage

In the wake of the 2023 Auckland Anniversary weekend floods, Mayor Wayne Brown has threatened to unleash Auckland Council's (Council) regulatory powers against landowners who fail to clear streams, waterways and drains.

It is important that landowners understand their obligations when it comes to streams, waterways and drains situated on their property. As seen in the recent severe flooding, failure to adequately address these obligations may lead to severe property damage. Below we:

- Discuss the basic principles of natural servitude which are relevant to drainage on property
- Discuss and review the responsibilities of private landowners in relation to stormwater management
- Describe the regulatory powers that councils can use to penalise landowners who fail to clear waterways, and contribute to property damage following future severe weather events
- Provide recommendations for landowners and potential purchasers based on current Simpson Grierson practice.

What is natural servitude?

'Natural servitude' is a fundamental concept and consideration of property law in New Zealand. It means that low-lying land is obliged to receive water that naturally falls from higher land. This flow of water must be due to a natural use of the land. This would include rainfall that has accumulated on the higher land.

The higher landowner is prohibited from discharging any water from their land that has not been generated naturally (i.e. water that has been brought onto the land from a different water source). The higher landowner may also not (unless by way of easement or other such registered instrument) manipulate the natural flow of water from the higher land to the low-lying land (e.g. to concentrate or redirect the flow onto a neighbour's land).

Stormwater will naturally flow from drains, gutters and downpipes onto overland flow paths and into streams and other waterways. Manipulation of the natural flow of water can arise from failing to clear debris from waterways, or even doing something which blocks an overland flow path. This can result in flooding, both on that landowner's or the neighbour's property.

Stormwater bylaw requirements

Councils nationwide have implemented bylaws and policies to address public and private landowner expectations about stormwater:

- Te Ture-ā-rohe Wai Āwhā (Stormwater Bylaw) 2015 (Auckland Bylaw) was created to regulate land drainage and protect the public stormwater network in the Auckland region (the bylaw also regulates the maintenance and operation of private stormwater systems)
- Similarly, Nelson City Council implemented Bylaw No. 212 in 2006, aimed at preventing pollution from stormwater
- Christchurch recently adopted their Stormwater and Land Drainage Bylaw 2022, seeking to protect public and private infrastructure from damage and misuse.

A private stormwater system is defined in the Auckland Bylaw as:

> … *any component of the stormwater network that drains water from premises on private land to a receiving environment or up to the point of service connection with the public stormwater network and includes pipes, gutters, downpipes, catchpits, swales, subsoil drains, stormwater treatment devices, rain water tanks and any stormwater management device or redundant stormwater system.*

A landowner must ensure that their private stormwater system is maintained in good operating condition and does not cause or contribute to nuisance.

Councils nationwide have implemented bylaws and policies to address public and private landowner expectations about stormwater.

Council's advice about sustaining adequate natural drainage on a property includes:

- Maintaining drains, gutters and downpipes and keeping them free of debris
- Laying permeable pavers
- Sustaining adequate grassed areas to help with drainage
- Avoiding planting near pipes as roots may damage underground pipes.

Council may inspect a private stormwater system at suitable intervals and notify the landowner that maintenance must be carried out. Such maintenance must be carried out within an advised timeframe and to Council's expected standard. Under clause 22 of the Auckland Bylaw, Council may then recover costs from the landowner associated with the inspection of private stormwater systems.

It is important to note:

- For landowners and prospective purchasers, there could be additional costs that may arise when maintaining a property that contains waterways and drainage systems
- The onus is solely on the landowner to maintain waterways and drainage systems, with the potential for Council costs arising from lack of maintenance to be high.

Potential landowner liability arising from a failure to maintain

If a council issues a Bylaw Notice to remedy a breach (e.g. failing to carry out maintenance), and a landowner fails to comply, they commit a breach and are potentially liable to a penalty under sections 239 and 242 of the Local Government Act 2002. They may also be liable to a penalty under other legislation, including the Resource Management Act 1991. A landowner who is convicted of an offence under sections 239 and 242 is liable to a fine not exceeding $20,000.

However, regulatory powers may not be a landowner's only concern. Common law claims could also be pursued by neighbours, including claims for:

- **Nuisance –** a continuing activity (e.g. the continuous unnatural flow of water onto a neighbouring property), which is injurious or causes discomfort to a landowner, may constitute nuisance

Rain water over gutter

The onus is solely on the landowner to maintain waterways and drainage systems, with the potential for Council costs arising from lack of maintenance to be high.

- **Negligence –** a landowner does owe a duty of care to neighbouring properties, and should avoid doing anything that may cause a neighbour harm.

In order to successfully claim negligence, a neighbouring property must be able to prove foreseeability of harm.

A situation may arise whereby Council has issued a Bylaw Notice on a landowner to improve the maintenance of existing drainage systems. If this Bylaw Notice was not rectified (such a notice arguably indicates foreseeability of damage), and a significant rain event occurred (being, as previously discussed, a natural use of the land), this could increase the possibility of a successful negligence claim.

Blocked drains may cause flooding on a neighbouring property. Negligence may be argued, and given the breach of a duty to clear drains and ensure unimpacted water flow, a neighbour may be able to recover damages for losses.

It is important to note the requirement of 'foreseeability' when looking to establish a claim in nuisance or negligence. Regulatory penalties and tortious remedies ought to only be used in instances where the potential damage arising out of the inaction of a landowner was foreseeable.

Yet, the rise in global warming-induced weather events may very well increase the likelihood of the '100 year flood'. Landowner contributory damage from the Auckland and Hawke's Bay flooding from incapacitated stormwater systems may not have been foreseeable. But does this mean that it 'should' be foreseeable in the future, when those areas inevitably have another '100 year flood'?

In a statement following the recent floods, Auckland Mayor Wayne Brown noted that, 'It is… obvious that Auckland must get better prepared for severe weather events.'

Recommendations

It is vital landowners understand their obligations and potential purchasers understand the repercussions of purchasing a property that is flood-prone (or which could cause or contribute to flooding of surrounding properties). We would recommend that:

- Thought be given to any potential flood risk
- Legal advice be obtained by landowners and prospective purchasers about the potential liabilities that may arise before they proceed to purchase a flood-prone property, or a property with drains or streams on it.

It is vital landowners understand their obligations and potential purchasers understand the repercussions of purchasing a property that is flood-prone.

Overland flow paths

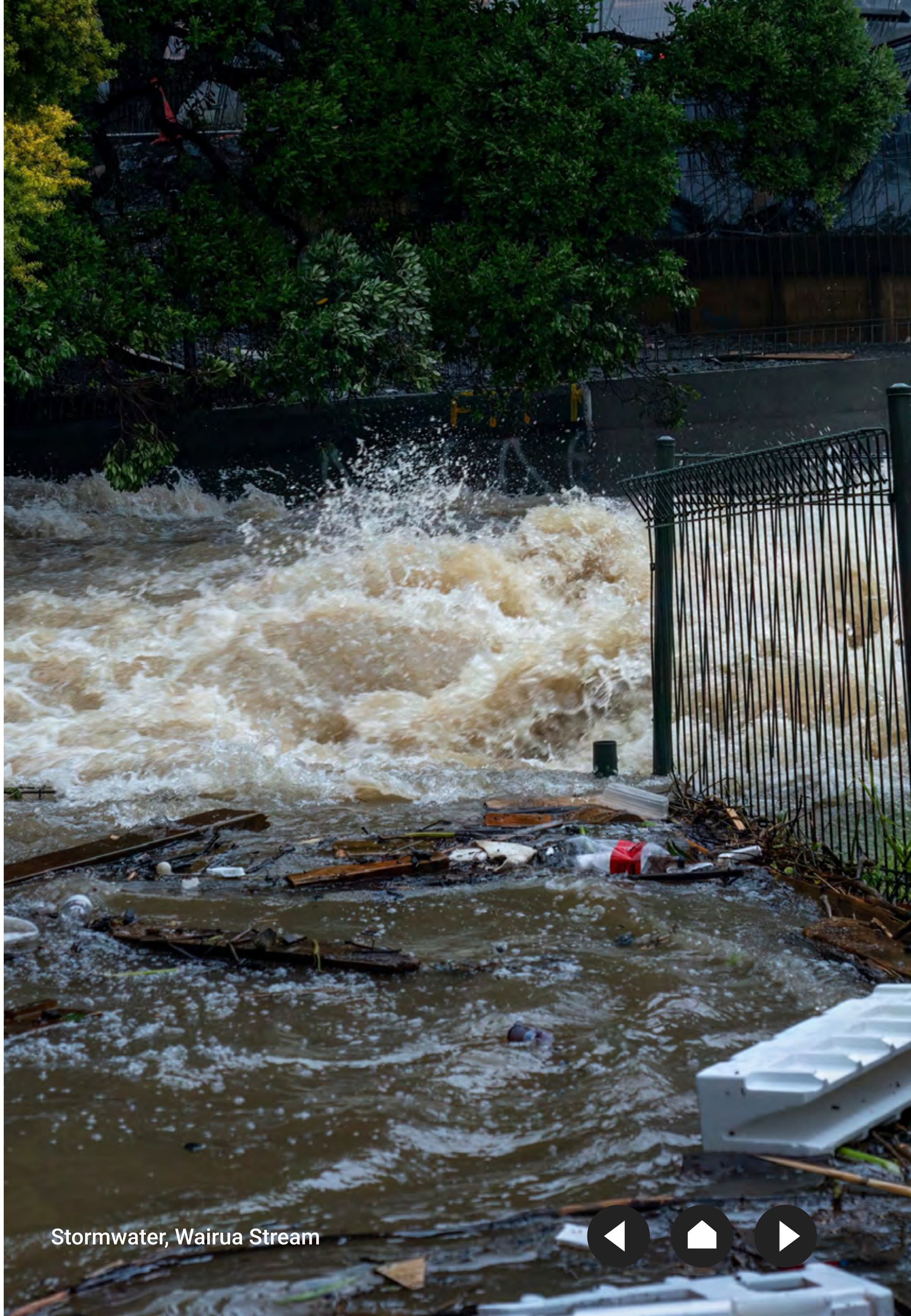
Given the increased likelihood of significant rain events, it is important to make prospective purchasers aware of any overland flow paths or waterways that may cross a property, and explain the consequences should a landowner manipulate the flow of naturally occurring water. Landowners must also be aware of the repercussions should overland flow paths become obstructed.

Underground services

Council LIM reports include underground services maps, which should show the various public and private stormwater systems located on or around properties. It is recommended that solicitors acting for purchasers review these maps and cross-check against historic aerial photos of the property, to ensure that no landscaping and/or building has occurred over these systems and pipes. Additional construction or planting may damage existing pipes and drains, which may worsen flooding during serious weather events.

Unconsented works

Any changes to the level of the land, or the flow of water, can have serious consequences if it leads to a blockage. Minimum floor levels are typically requirements for building consent and are a critical flood protection mechanism. It is important to investigate whether any building works are unconsented on a prospective property, as the floor levels may not be up to standard. Or worse, the unconsented building and/or landscaping works may manipulate the natural flow of rainfall, resulting in flooding on a property or neighbouring properties.



Stormwater, Wairua Stream

Disclosure

A real estate agent has an obligation to disclose material facts. The New Zealand Law Society has indicated that vendors and agents should be disclosing whether surface flooding occurred during the Auckland floods (or other extreme weather events such as Cyclone Gabrielle). This creates additional obligations on a vendor and may affect a purchaser's interest in a property.

It may become more common for a purchaser to seek a specific warranty from vendors that full disclosure of material facts has been made, including information of any past flooding on the property. The following additional clauses may be useful to insert into Agreements for Sale and Purchase to provide a purchaser with comfort:

- A building report condition
- If damage has been caused, details of repairs and regulatory sign-offs or potentially a clause to assign any ongoing claims
- Making the agreement conditional on the purchaser arranging satisfactory ongoing insurance (being an essential term which if unable to be satisfied can be grounds to cancel the agreement).

Landowners should turn their minds to the inevitability of more frequent severe weather events and the effect this will have on waterways situated on their land. Councils may look to more frequently enforce stormwater bylaws and impose penalties, while neighbours may be forced to look to tortious remedies to dissuade adjoining landowners from damaging their properties. Ultimately, solicitors should ensure that they provide 'watertight' legal advice to purchasers about flood-prone properties

Nick Wilson is a Partner in Simpson Grierson's Real Estate Practice Group based in Auckland. nick.wilson @ simpsongrierson.com

Sarah Heslin is a Solicitor in Simpson Grierson's Real Estate Practice Group based in Auckland. sarah.heslin@ simpsongrierson.com

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Greg Allen | Partner
gregory.allen@simpsongrierson.com


Tara Wylie | Partner
tara.wylie@simpsongrierson.com


Nick Wilson | Partner
nick.wilson@simpsongrierson.com


Donna Hurley | Partner
donna.hurley@simpsongrierson.com


Michael Wood | Consultant
michael.wood@simpsongrierson.com


Hugh Lindo | Partner
hugh.lindo@simpsongrierson.com


Andrew Kirk | Partner
andrew.kirk@simpsongrierson.com