

Remarkables Residences

Located at Five Mile, Frankton, Remarkables Residences is a unit title development of terraced homes providing 56 units in stage one and approximately 200 to 225 units in total. There are six different unit types.

Like most of the developments we are seeing in the Queenstown Lakes region, this agreement is drafted on terms that are strongly favourable to the Vendor and it is important to be informed of the terms before entering into an agreement proposed for Remarkables Residences.

A summary of the terms of the agreement for sale and purchase are as follows:

1. The Purchaser will need to specify whether the purchase price is plus GST (if any) or inclusive of GST. We assume most Purchasers will not be GST registered so the purchase price should be inclusive of GST. If the Purchaser is GST registered, the purchase price should be plus GST (if any) and the transaction will be zero rated for GST purposes.
2. A deposit of 10% (20% for a non-resident) is payable on signing. If it is not paid within three days of signing, then the Vendor can give notice requiring the same to be paid within a further three days and, if not paid within that time, the agreement can be cancelled. The deposit is paid to the Vendor's solicitor who must hold it as stakeholder until the agreement is unconditional. If the agreement is cancelled because a condition has not been fulfilled, the deposit and interest will be paid to the Purchaser. If the Purchaser defaults under the agreement, the interest will be paid to the Vendor. If the agreement settles, the Purchaser will receive a credit on settlement for the amount of the net interest.
3. If the purchasing entity is a trust or company, an individual director, trustee or beneficiary must also enter into agreement as a guarantor.
4. The agreement is conditional on:
 - a. The Vendor obtaining sufficient pre-sales by 31 October 2017; and
 - b. The Vendor procuring title and code compliance within 36 months of the first condition being satisfied.

If the conditions are not satisfied, the deposit, and any interest, will be returned to the Purchaser.

5. Prior to settlement, a Purchaser cannot assign the agreement without the written consent of the Vendor, and such consent will not be unreasonably withheld.
6. The development will be a unit title development and a draft set of body corporate rules are attached to the agreement and are summarised below.
7. A copy of the unit plans is attached to the agreement. The plans are subject to change as required by the developer and the developer can make any changes they require without the

Purchaser's approval. If the final area of the unit you purchase differs by more than 5%, the purchase price shall be adjusted upward or downward (as the case may be) by an amount equal to the percentage by which the area has increased or decreased.

8. The agreement makes it clear that the developer may make any adjustments or variations to the Unit Plan, Plans and Specifications, staging of the development, and any other aspect whatsoever in relation to the development.
9. The Vendor can vary the materials used in the construction of the unit and can substitute like materials provided such amendment or substitution does not materially diminish the value of the unit.
10. The agreement specifically provides that the Vendor may grant any easements, encumbrances and consent notices required to complete the development.
11. The Vendor is entitled to register a non-opposition covenant against the title for the unit which will prevent the Purchaser from objecting to the Vendors further development.
12. The Purchaser is deemed to have accepted the Vendor's title in every respect, and is prohibited from making any objections or requisitions to the title.
13. The Purchaser has no right to caveat the Vendor's title.
14. The Vendor may, if required by the resource consent or if they choose to, establish an incorporated society to hold and maintain any communal facilities or common areas. If such a society is established, the agreement obliges all Purchasers to become members. There are no draft rules of the society currently available but there will be an annual levy payable by all members. The agreement does not specify a proposed levy.
15. The agreement creates a power of attorney in favour of the Vendor for the purpose of signing, and doing, all things necessary to complete the development. This power of attorney will continue for 36 months after settlement and the Vendor can require a Purchaser to enter into a separate deed recording this.
16. Settlement will be 7 working days after the later of code compliance or certificate of title issuing. Prior to taking possession, the Purchaser must provide written confirmation that the property has been completed to their satisfaction.
17. The Vendor is required to make good defects notified by the Purchaser within three months of practical completion.
18. The agreement has two "sunset dates" which allow the Purchaser to cancel if the Vendor has not completed certain acts:
 - a. Three years after the date of the agreement or three years after the date that resource consent for the relevant stage of the development is issued, the Purchaser can cancel the agreement if the Vendor has not lodged the Unit Title Plan with the Council for Council's approval under section 223 of the Resource Management Act.
 - b. If the Unit Title Plan has not been lodged within three years of either the date of the agreement or the date of resource consent, the purchaser can cancel the agreement at any time after three years from the date of the issue of the section 223 certificate from Council if the Vendor has not obtained a separate certificate of title for the unit.

Body Corporate Rules

1. The draft body corporate rules are attached to the agreement.
2. These contain numerous restrictions on use of the individual properties and the common areas and security and safety requirements which a prospective Purchaser will need to read carefully and ensure they comply with.
3. Each owner is required to pay an annual levy. An initial budget and levy has not been set.
4. Owners are not to damage or deface common property and must only use common property for its intended use.
5. Alcohol may not be consumed in any part of the common property and the Body Corporate may specify parts of the common property that will be smoke free.
6. Aerials, satellite dishes and antenna may not be fixed to the exterior of a unit or common property without the prior written consent of the Body Corporate.
7. Rubbish must not be left in common areas, except those designated for rubbish collection.
8. Each owner is to ensure that their unit and any garden or yard within the unit is kept neat and tidy.
9. The Body Corporate may erect fences on an accessory unit for privacy and these are not to be removed, altered or painted by owners.
10. Owner are not allowed pets, other than fish or small birds, without the consent of the body corporate.
11. The exterior of a unit cannot be altered, including changing the colour of the exterior, without the prior consent of the Body Corporate.
12. An owner cannot erect or fix any washing line outside a unit or to the exterior of a unit or install an air conditioning unit or heat pump without the consent of the Body Corporate.
13. The colour and design of all curtains and blinds is to be approved by the Body Corporate and only white linings are allowed.
14. An owner may not make or permit noise or behaviour, in a unit or the common property, that is likely to interfere with the use and enjoyment of other owners.

A number of the above conditions are standard clauses for this type of development.

Again, we stress that the above is purely a summary of the specific terms of the agreement and draft body corporate rules. Purchasers should read the agreements in full as, upon signing, it will constitute a binding agreement. Once you have done so please contact us for clarification on any matters.

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