

WHY SHOULD CLIENTS OBTAIN A LAND INFORMATION MEMORANDUM (LIM) FROM THEIR LOCAL COUNCIL BEFORE PURCHASING A PROPERTY?

We are often asked the question why clients should obtain a LIM, and in particular why a client should obtain a LIM addressed to them (as distinct from one obtained by the Vendor or the Vendor's agent) before purchasing a property.

Under section 44A of the Local Government Official Information and Meetings Act 1987, a Council is legally obliged to give you relevant information and records about a property held by Council upon request. This information constitutes a LIM.

A LIM provides certain details on the property, including the zoning, what resource consents and building consents are specific to the property, what outstanding issues there are in respect of such consents such as outstanding final inspections, maps of where services are provided to lots, whether the Council has any details of any contamination of the soil comprising the property and whether there are any natural hazards specific to the property to consider.

A recent example in many areas of Central Otago is the discovery of higher than normal levels of arsenic in the soil following the imposition of new rules relating to testing soils for contaminated substances required for some resource consents. If such testing has been conducted on or in the close proximity of the property you are looking at (and known to the Council) this should be recorded in the LIM.

If instead of ordering a LIM you choose to rely on personal searches of Council records and online databases such as Edocs (in respect of Queenstown Lakes District Council LIMs), you are not acquiring the information in a legally binding form that you would when you purchase a LIM, and therefore cannot rely on it to the same degree. The same problem exists if the LIM is not addressed to you or you have acquired it after the date you purchased the property. Further, the Courts have routinely held that in leaky homes, building defect claims and cases involving natural hazard damage that if you have not obtained a LIM then you have contributed to your own loss, often resulting on awards of damages being reduced.

There are often examples of documents missing from the Council's online records such as final building inspections or missing consent documentation. If you purchase a LIM from Council that does not disclose such information and you later find this out, you have a direct claim against the Council. A prudent purchaser is entitled to rely on a LIM, as it is a core Council function to be an accurate record holder, and you have essentially paid for this service by purchasing a LIM. Quite simply, you can sue the Council for any loss caused by their mistake, an avenue of redress that is not available if you undertake to do the research on Council's file yourself.

There may well be very little (if any) change in information obtained from your own searches, a LIM provided by an agent and a Council LIM you have ordered yourself. However, for the cost of a couple of hundred dollars it is arguably the cheapest form of insurance you can acquire. Section 44A requires the LIM to be prepared by Council within 10 working days. A LIM from Queenstown Lakes District Council currently costs \$230.

If you require further information about prudent due diligence and in particular LIMs then please feel free to consult with the Property and Local Government Law experts at **TODD & WALKER Law**:

Graeme Todd	graeme@toddandwalker.com or 0274330457
Peter Sygrove	peter@toddandwalker.com or 0274449928
Sarah Ogilvie	sarah@toddandwalker.com or 021305810
Ben King	ben.king@toddandwalker.com or 0221675065