

Land Information Memorandum (LIM)

PIER LAW
Incorporating STROWAN LAW

Information about a property is held by the local council. The availability of this information is intended to help owners and prospective purchasers with the investigation of material matters affecting the property they own or may be considering purchasing.

To the surprise of many, a LIM does not tell a purchaser all they need to know about the purchase of a property.

You should obtain a LIM, but there are other issues that arise that are often not dealt with in the LIM.

As a LIM can take some time to obtain, there are other ways in which the purchase can obtain similar information where they have limited time. The two most common alternatives are the Property File, and an Independent Contractor's Report (see below).

Examination of Property File

Instead of obtaining a LIM, it is possible to go to the council and ask to see the property file. However many councils hold this information off site and an appointment will need to be made to view the file - and the council may make a charge for the service. The records you see in this file often overlap with what is contained in a LIM. However a LIM also includes information obtained from other departments within the council that should be inspected. For example, the property file may not tell you of a recent application made to construct a bar and restaurant.

Independent Contractor's Report

This is similar to you, as the purchaser, examining the council file but differs in that someone more specialised looks at council records and makes their own enquiries.

Again, there may be the same limitations which result from missing information dealt with by other departments within council.

While a LIM is useful to a purchaser, banks sometimes require a copy of a LIM or confirmation that you, the purchaser, have obtained a LIM as part of giving mortgage approval.

If you plan on taking a shortcut by using one of the two options set out above, you should check with your bank or mortgage broker to avoid you suffering the same expense twice and losing time.

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Whilst time frame as between councils differ as to the availability of this information, 10 working days should be allowed (although in some instances the information will be available earlier than that).

If a council provides a customer with a LIM which is defective there may be remedies available against council for loss suffered by the purchaser. This is less likely where you inspect records yourself or engage a consultant.

A LIM differs from a building inspection report although both deal with building consent issues. In older properties no final inspection was required by council when the house was built or when alterations were made to a property. Since 1991 the Building Act has required any works to have a code of compliance certificate (being a final building inspection). A building report would tell a purchaser whether or not an alteration has been made in accordance with the building permit. In addition, even where a permit was obtained and work completed in accordance with that permit, deterioration may have occurred. For example, although a bungalow may have been built in the 1940s to a good workmanlike manner it may now have deteriorated requiring substantial foundation work, which would not appear in a LIM and of which the council would be unaware.

Contents of a LIM Report

The council will provide information on the following where they hold such information:

- Special features or characteristics of the land concerned (if any) including but not limited to potential erosion and or subsidence
- Records of any storm water or sewerage drains
- Details of any rates owing in relation to the land
- Any consents or notices affecting the land or any building on the land previously issued by the territorial authority whether under the Building Act 2004 or any other act
- Any certificate issued by the building certifier
- The use to which the land may be put to and the conditions attached to that use

The information contained in a LIM can affect the value of a property. If, for example, the house was built on the site of an old rubbish tip and the council notes on the LIM report state that there may be hazardous contaminants located in the soil the house is built on, such information will affect the attractiveness of the property to prospective purchasers.

Accordingly, when you receive a LIM you have the opportunity to reconsider your offering price or purchasing decision prior to confirming your contract to purchase.

If you are selling a property, obtain a LIM as part of the process of preparing a property for sale. It may be prudent to discuss the LIM and the impact of the information disclosed by the LIM on the terms of a contract to buy or sell a property with a solicitor. You are then in a position to disclose matters which may affect the purchasers decision to buy property at the price specified in the contract, and further are able to avoid giving warranties you cannot keep. As the parties enter into the contract with all relevant information before them there is a greater likelihood that your contract of sale will confirm without any difficulty arising.

Costs for LIM reports vary from council to council.