

# Due Diligence

## Our top 5 tips for home buyers

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Buying a property is the biggest investment you will make, so it's important to take your time and do your research. Sharp Tudhope Lawyers have an experienced property law team who can help you fully understand the legal documentation and other reports before committing to buying the property.

**As part of your due diligence exercise, we would recommend that you:**

### 1) Sort your Finance

- If you are borrowing money from a bank, you need to get pre-approval from your bank in writing. This pre-approval will outline any conditions the bank wants you to meet as a requirement of giving you a loan and taking out a mortgage.
- Some banks may require you to get a builder's report, weather-tightness report and/or registered valuation for a property, particularly for properties with particular types of cladding or design features, contamination or weather-tightness issues. It's better to know in advance if this is required, in case this gives the bank a reason to decline your finance approval.
- If you are planning to use your KiwiSaver for a first-home or second-chance withdrawal application and Home Start grant, you need to check you are eligible and get pre-approval for this also.

### 2) Check the LIM Report and/or Council Property File

- A Land Information Memorandum (LIM) is a report prepared by the Council that contains a summary of any relevant information that the Council has on file about a property. It may include information such as:
- What building consents have been issued for the property? Have all building consents been signed off and was a Code Compliance Certificate issued?

- Is there mention of a history of flooding or land contamination? Is there a wind or earthquake rating? Are there any warnings?
- Are there any notifications regarding neighbouring properties, roading or any other proposed development in the area?
- Council property files contain information about the property, which are not included in a LIM report, e.g. copies of original plans for buildings on properties. As property files are cost friendly and it is best to view both a LIM and property file.

### 3) Check the Certificate of Title

- The certificate of title for a property is the ownership document which shows important information, such as things called easements, encumbrances or other interests that might limit your ability to do certain things on your land.
- Like anything in life, some certificates of title are very simple, and others are very complicated. As an example, Tauranga has many cross-lease properties, which are a more complex form of title where the owners are bound by the terms in a registered lease document. It is important you understand the ownership structure of your property before you buy.

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## 4) Get a Builder's Report

- Investing in a property also means investing in future maintenance and repairs, and these can be costly.
- A builder's report outlines the condition of the property, including significant defects, or areas that require maintenance and possible future issues, so you have a clear understanding of what the upcoming costs are going to be.

## 5) Insurance

- It is critical to check that the property you are looking to buy can be insured. If you are unable to get insurance for a property, it is unlikely that your bank will provide finance for that property. Factors that can impact the ability to get insurance for a property can include:
  - A property in a coastal or low-lying location;
  - A natural hazard notation on the title;
  - A property in a flood hazard area;
  - Non-compliant building work done on the property.
- Always check with your insurance company first before making an offer to buy a property or make your offer conditional on your insurance company approving the property for insurance purposes.

## Other factors to consider:

Depending on the type of property you are looking at, some of the above may not be relevant or there might be other factors to consider, such as:

- Section Purchases – if you are buying a section to build on, you may also need advice on any building covenants, along with advice on building, engineering and geotech matters.
- House and Land Packages – do your homework on the developer and make sure the company you are buying from is reputable. Also make sure the agreement details what is and isn't included with the build.
- Rental Properties – if you are buying a rental property with tenants in place, review the tenancy agreement and bond documents etc. You should also familiarise yourself with the new law applying to landlords for insulation and smoke alarms.
- Unit Titles – if you are buying an apartment, it's likely the Unit Titles Act will apply. It is essential you understand how body corporates operate and review the relevant body corporate rules, financial records, and disclosure statements.
- Lifestyle Block, Orchards, Farms, and other Rural Properties – these types of properties are more complex and may require specific clause about GST, shares, licenses, and resource consents.

**Our highly experienced team of property lawyers will help you minimise stress and ensure your property transaction is completed as smoothly as possible.**