# REIANEWS

ISSUE 52: DECEMBER 2015

MERRY CHRISTMAS AND A HAPPY NEW YEAR FROM ALL AT THE REAL ESTATE INSTITUTE OF AUSTRALIA.

REIA NEWS WILL BE BACK IN FEBRUARY 2016.

## ALSO IN THIS ISSUE

Mr Neville Sanders
REIA President

# PRESIDENT'S REPORT

## WELCOME
### FROM REIA'S PRESIDENT

As 2015 draws to a close it is timely to reflect on the remarkable year that has passed.

Economic circumstances are not greatly different to what they were twelve months ago – growth is still below trend, unemployment whilst relatively stable is lower than it should be for growth and business and consumer confidence are mixed despite record low interest rates.

Investor activity in housing which has been strong but is now slowing, as macro prudential measures take affect, has resulted in a supply response from the building sector which reports a better outlook than it has for some years and is taking up some of the gap in economic activity from a declining mining sector. Indeed, dwelling investment has been the second largest contributor to growth in the Australian economy. Australia's property industry is emerging as the main driver of economic growth and increased employment.

Whilst investor activity is abating the lending figures show that owner occupiers are now having a greater presence in the market. First home buyers have, however, slipped to just 15.1 per cent of total owner-occupied housing finance commitments – the lowest since June 2004.

Spurred on by low and stable interest rates we have seen weighted median prices increase for the eight capital cities to nearly $700k for houses and $550k for other dwellings with Sydney reaching a median house price of over $1m.

A legacy of the past increase in investor activity has been increases in vacancy rates and with it only moderate increases in rents and, in some cases, declines.

A feature of the past year has been the diversity of the Australian housing market with the median price in Sydney increasing by 22.6 per cent in the twelve months to September whilst Perth decreased by 5.0 per cent. The Sydney median is three times that for Hobart.

On the policy front it is particularly pleasing that the Government has embraced taxation reform. There is no doubt that taxation policy and its reform will be the number one issue going into the 2016 Election and public debate will intensify following the release of the Green Paper in February next year.

Whilst negative gearing will be scrutinized in the Green Paper the economic arguments for its retention will prevail. REIA will continue lobbying for the maintenance of the present taxation arrangements regarding property as well as the abolition of stamp duties which are hindering economic growth.

New arrangements for foreign investors buying residential property came into effect on 1 December. REIA's lobbying secured several wins in the process leading up to this. Importantly the compliance burden will not fall on agents. Conveyancers and lawyers will have to fill in the paperwork which will be used to populate the Foreign Investment Database managed by Treasury. Agents, as has been the case, have to advise foreign buyers that they need FIRB approval before purchasing a property and that unless they are citizens, temporary or permanent residents, they are not eligible to buy existing property, only new properties with FIRB approval. The penalties will be for those who 'knowingly assist' those breaking the law such as lodging false documents relating to company ownership and attempting to circumvent the rules. They won't affect agents who are given the wrong information by foreign buyers.

Foreign investors bidding at multiple auctions will only pay a single fee to cover a 12-month period. This addresses REIA's concern with the initial proposal that those attending auctions might have to pay fees for each auction they bid at.

The Government's response to the Financial System Inquiry (Murray Inquiry) provided a further win for the position REIA took in its submission and subsequent response when the Government rejected the Murray recommendation that was to prohibit borrowing by SMSFs to buy property.

From the REIA we wish all readers a Merry Christmas.

***Mr Neville Sanders***

REIA PRESIDENT

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# REIA PRESIDENT ACKNOWLEDGES PAST PRESIDENT, PETER BUSHBY

During the REIA Board meeting and AGM held in Canberra last week, REIA President Neville Sanders on behalf of the REIA Board of Directors and members, acknowledged and thanked Peter Bushby for his five years dedicated service to the REIA. Peter was appointed to the REIA Board in November 2010 representing REIT and during this term served two years as REIA President from 2012-2014. We wish Peter well and know that despite stepping down from his position on the REIA Board he will continue to contribute to the profession with commitment and integrity.

# NATIONAL MARKET SNAPSHOT SEPTEMBER QUARTER

**2015 REIA Real Estate Market Facts**

- **Quarterly Australian weighted average median house price is $698,826**
- **Quarterly Australian weighted average median other dwellings price is $549,145**

**Median house prices up:**
- Sydney 3.6% to $1,040,129
- Melbourne 4.5% to $729,500
- Brisbane 0.2% to $480,000
- Canberra 3.1% to $566,000

**Median house prices down:**
- Perth 3.8% to $527,250
- Hobart 5.2% to $357,000
- Darwin 0.7% to $605,500

**Median house prices unchanged:**
- Adelaide at $430,000

**Median other dwelling prices up:**
- Sydney 2.8% to $683,746
- Melbourne 2.6% to $532,000
- Brisbane 1.9% to $397,500
- Hobart 6.2% to $289,000
- Darwin 3.0% to $494,500

**Median other dwelling prices down:**
- Adelaide 2.1% to $325,000
- Perth 0.3% to $428,500
- Canberra 4.8% to $403,750

*Please click here for information regarding REIA Real Estate Market Facts quarterly reports.*

# NATIONAL AFFORDABILITY SNAPSHOT
# SEPTEMBER QUARTER

**2015 Adelaide Bank/REIA Housing Affordability Report**

**WA: At 22.4%, Western Australia has the highest proportion of the owner-occupier market across Australia.**

- housing affordability improved by 0.6 percentage points. 23.8% of the median family income is now required to cover average monthly loan repayments
- rental affordability improved by 0.7 percentage points. 21.5% of the median family income is now required to meet average rental repayments.

**TAS: The average loan size to first home buyers in Tasmania decreased over the quarter and over the year.**

- housing affordability declined by 0.1 percentage points. 23% of the median family income is now required to cover average monthly loan repayments
- rental affordability improved by 1.9 percentage points. 24.1% of the median family income is now required to meet average rental repayments.

**ACT: The ACT remains the most affordable state or territory in which to buy or rent a home**

- housing affordability improved by 0.2 percentage points. 19.3% of the median family income is now required to cover average monthly loan repayments
- rental affordability improved by 0.1 percentage points. 16.8% of the median family income is now required to meet average rental repayments.

**NSW: Is the only state or territory with the average loan size above $400,000.**

- housing affordability declined by 2.4 percentage points. 38% of the median family income is now required to cover average monthly loan repayments
- rental affordability improved by 0.3 percentage points. 28.1% of the median family income is now required to meet average rental repayments.

**VIC: Of all Australian first home buyers, 29.5% were from Victoria.**

- housing affordability declined by 1.9 percentage points. 34% of the median family income is now required to cover average monthly loan repayments
- rental affordability improved by 0.2 percentage points. 23% of the median family income is now required to meet average rental repayments.

**QLD: First home buyers in Queensland make up 15.2% of the owner-occupier market.**

- housing affordability declined by 0.3 percentage points. 27.6% of the median family income is now required to cover average monthly loan repayments
- rental affordability improved by 0.1 percentage points. 23.4% of the median family income is now required to meet average rental repayments.

**SA: South Australia recorded a 7.1% decrease in the number of loans to first home buyers over the year.**

- housing affordability improved by 1.4 percentage points. 26.9% of the median family income is now required to cover average monthly loan repayments
- rental affordability improved by 0.2 percentage points. 23.2% of the median family income is now required to meet average rental repayments.

**NT: had the biggest drop in the number of new loans over the quarter and over the year.**

- housing affordability was unchanged with 24.9% of the median family income still required to cover average monthly loan repayments
- rental affordability improved by 3.4 percentage points. 27.9% of the median family income is now required to meet average rental repayments

*Please click here for information regarding Adelaide Bank/REIA Housing Affordability quarterly reports.*

This article is brought to you by REIA Acting Chief Executive Officer, Jock Kreitals
Jock can be contacted at jock.kreitals@reia.com.au

# REIA'S OPPOSITION TO REA GROUP'S APPLICATION FOR REALESTATE.COM.AU TRADE MARK

**Twelve months ago I wrote an article on how intellectual property can be dominated by large corporations in a bid to stifle competition and used the example of trademarks for website domain names.**

The experience of REIA and others is that grabs by big business for trademarks not only have a major adverse impact on competition, particularly for small business, but they are deliberately used to reduce competition.

As an example, reference was made to the REA Group which had applied for a trademark for '*realestate.com.au*'. REIA had asked that REA Group withdraw its trademark application as, if granted, the trademark could jeopardise the use of the term '*real estate*' by other businesses and professional bodies in the sector.

The REIA believes that to allow a single company to claim trademark rights to a generic term would unfairly hamper competition and that allowing a trademark on a generic term is contrary to the Australian Consumer Law.

It is for these reasons and with the best interests of the entire real estate profession that REIA has taken the matter to court as there are concerns for the potential for REA if it owned the term '*real estate*' to oppose a number of other businesses that have the term *real estate* and *.com.au* in their name. These concerns extend to the domain name being used to increase the market power of the REA Group – which is already a dominant player. Any increase in the holder's already substantial market power raises the scope for it to eliminate or substantially damage a competitor or prevent the entry of another competitor.

The initial step was for REIA to lodge with IP Australia our Evidence in Reply in response to REA's Evidence in Answer to Statements of Opposition.

Since then REIA has lodged an application for hearing which will take place in the first half of 2016. The costs of doing this, including representation by a trade mark attorney, are high and REIA has combined resources with REIWA to mount a single legal response. REIV has also lodged its opposition to the trade mark.

A related concern is that under the current law even if the REIA was successful and the application by REA is refused the applicant can continue to reapply and those opposed to it have to continue to appeal against the granting of the trade mark. A win against REA is no guarantee that they would not reapply at some future stage, remembering that they initially applied in 2012.

It is for this reason that REIA has welcomed the recommendation of the Harper Competition Policy Review that an overarching review of intellectual property be undertaken by the Productivity Commission and that the review should focus on competition issues arising from new developments. REIA will be making a submission to the review when it is held.

An interview with David Airey, outgoing REIWA President

# DAVID AIREY RETIRES AS A SUCCESSFUL INDUSTRY LEADER

**Retiring REIWA president David Airey has successfully raised the profile of WA's real estate sector during his four year tenure at the helm of the institute, and is satisfied that the industry is well governed and in a strong position to thrive in a recovering market.**

***As a Councilor and long-serving president, what are the most significant changes you've seen in the operation of REIWA and its representation and administration of the WA property industry?***

Technology changes have been immense and reiwa.com has seen incredible changes and growth to keep up with the competition and make sure members support their own product. REIWA under Anne Arnold as CEO was completely reinvented with new governance and policies from the board down, and I believe our reporting and standards are run as well as many public companies. Under Neville Pozzi this has improved and strengthened to the extent that REIWA has a very high level of respect in the community and at the highest levels of government.

***What do you believe are the major market challenges nowadays confronting WA's property sector?***

I've never seen such a lack of confidence in the business community and with the public as we seem to be experiencing at present. The mining downturn has had a huge impact on every WA business and our members have felt it. Lower sales numbers and the huge increase in available rentals have impacted hard on many agencies. I think we'll have a very strong market once the local economy recovers. Agencies need to position themselves for different economic times and work on their strengths. Great opportunities exist to grow businesses through mergers and acquisitions, and that will feed into better fee income and better agency business.

***What do you believe are the major legislative or regulatory challenges facing the WA real estate industry?***

Both the Commerce Minister and the Commerce Department have been very reasonable in allowing REIWA to have input to legislation and regulations for real estate practice and the wider property industry. Our input has been considered and respected by the department. A strong regulatory environment is vital for the public to have confidence in real estate agents, sales reps and the property industry, especially with building, off-the-plan sales and so on. I'm a very strong advocate of sensible regulation and greater education for those working in our industry. Legislative challenges are not so much the issue as enforcement of breaches of consumer laws by the ACCC. The State Government is working to get rid of superfluous red tape regulations and I hope this will allow our industry to become more self-regulated. That means agents and their staff need to be well trained, not just to sell but to provide a better standard of service to the public. We will only earn respect through open, honest practices.

***What are the major reforms you'd like to see in terms of business practice and government legislation?***

A simple one would be to abandon the need for a licensed agent to hold an auctioneer's license. As an agent we are already licensed and regulated. It's a costly duplication. Payroll tax affects 70 per cent of WA real estate agencies and it's a costly burden. The government can't do without the tax but I would like it to look at some

» *article continues*

concessions for small business. Land tax, council and water rates have grown disproportionately and are huge burdens to commercial tenants renting shops and business premises.

***Are you satisfied with the level of property industry cooperation and fraternity in WA?***

Well, it can always be improved. REIWA has worked hard with industry partners such as the MBA, HIA, Property Council, UDIA, API and the Planning Institute to have dialogue on the issues that affect us all – common ground, in other words. This would be a formidable group if formed into a property industry alliance to represent the industry as a whole. The government would certainly notice and probably listen a lot harder. All these groups need to cooperate as a collective and not worry about point scoring because that will only serve to divide our industry in the eyes of government.

***How long do you believe it will be before we will see some real growth and activity return to the Perth market?***

Despite low interest rates and plenty of finance, we have a patchy market in Perth but buyers under $500,000 are active and the lower the price, the quicker the sale. As the price creeps up it gets slower and slower. Million plus deals are fewer in number but they are happening when the property is priced competitively and is well presented. These properties take longer to sell and buyers are very patient. Buyers are looking for homes in good areas and value for money. Investors are put off buying in a market with 8,000 or 9,000 rentals, unless it's a fire sale price. I think we'll see very strong growth in Perth property once the Sydney and Melbourne markets cool and our local economy recovers. But with the huge supply of new apartments and dwellings coming to market, it's hard to see that happening in less than two or three years.

***Do you believe you've achieved your goals and were there any disappointments for you during your time at REIWA?***

I was disappointed that despite lots of effort, meetings and dialogue, we weren't able to get the State Government to retain the First Home Owner Grant for established homes. The government kept chipping away at it but they left the $10,000 subsidy in place for new homes. I've said many times that I think it's unfair and inequitable to first homebuyers.

I am happy with my achievements. You can always do better, of course, but I wanted REIWA to be better known to the public and better understood. I think market stats, media and interaction have been the key to that. But the credit goes to the REIWA Council team I've worked with and the chief executive officer and REIWA staff. Any of my achievements or perceived success has come about through the people who have supported and helped me.

This article is brought to you by Enzo Raimondo, Chief Executive Officer, REIV

# BUOYANT YEAR FOR MELBOURNE MARKET

The past 12 months mark one of the state's strongest residential property markets we have seen in recent years. More homes went to auction than ever before with multiple records falling, including the highest number of auctions held in a single day, weekend and year. High transaction volumes, low interest rates and buyer and vendor confidence all contributed to strong capital growth. As the year draws to a close, it is timely to review the market in 2015 and the outlook for Victoria in 2016.

## TRANSACTIONS & AUCTION VOLUMES

Transaction volumes in Victoria have been at their highest in five years with around 116,000 sales in the year to November 30. This is a five per cent increase on last year when there were 110,400 transactions.

In the year to November 30, around 40,000 auctions have been held with almost 30,000 homes selling under the hammer. Just over 37,000 of those auctions were held in Melbourne, compared to 2,500 in regional Victoria where private sales are more popular.

The key to the 2015 market has been auction levels, which have hit an all-time high in recent months. In the last weekend in November, multiple national auction records fell including most auctions in a single day with 1,648 auctions held – 22 more than the previous record which was set in October last year. November 2015 was also a record month for auctions with 5,669 auctions held – 259 more auctions than the previous record month (November 2014).

## MEDIAN PRICE GROWTH

Significant house price growth has been recorded in metropolitan Melbourne throughout 2015 with the median surpassing the $700,000 barrier for the first time ever in the September quarter. Growth has been widespread across the city, with price increases recorded in all three regions – inner, middle and outer.

Growth has been consistent during the year. In the first quarter of 2015, the median house price topped $671,000, up from $664,500 in December 2014. Suburbs in the city's south east experienced the highest growth in the first three months of the year with Mount Waverley, Bentleigh and Beaumaris all up more than 16 per cent on 2014 figures.

Solid price growth continued in the June quarter with metropolitan Melbourne's median house price almost reaching $700,000, at $698,000. Melbourne's eastern suburbs recorded the highest median house price growth in the quarter with Templestowe, Glen Waverley and Balwyn North all rising by at least 17 per cent.

The September quarter saw the city's median house price rise 4.5 per cent to a record high $729,500. Bayside suburbs Brighton, Dromana and Seaford topped the highest growth suburbs in the third quarter of the year, up more than 17 per cent on June quarter figures.

House prices have also increased in regional Victoria over the year with the median house price hitting $347,000 in the three months to September 30. This was up from $341,000 in the first quarter of 2015.

## MILLION DOLLAR SUBURBS

Buyer demand in traditional million dollar suburbs has pushed up the median house price in neighbouring areas. As a result of the ripple effect, more of these suburbs have joined the million-dollar club this year. There were 61 suburbs valued at $1 million or more in the March quarter, and this has since increased to 87 in the September quarter. Toorak remains Melbourne's most expensive suburb with a median house price of almost $4 million. This is followed by Canterbury and Balwyn with median house prices of $2,430,500 and $2,281,000 respectively.

## LOOKING AHEAD

While clearance rates moderated slightly in November, they have still been strong given the record auction levels – and continuing high auction numbers to late 2015 indicates a high level of vendor confidence.

The mix of population increases, a robust economy and relatively low interest rates is likely to also encourage buyer interest moving forward.

Across Melbourne, the market is likely to remain steady, with solid growth in a range of areas across the city. This growth is likely to be strongest in Melbourne's inner and middle suburbs, which have seen strong buyer interest in recent months.

While this growth may not be as strong as what has been experienced this year – with up to five per cent increases per quarter – a city-wide population upturn and low interest rates both signal consistent buyer demand in the first quarter, and into the second quarter, of the new year.

This article is brought to you by Tony Collidge, President REIT

# TASMANIA, STATE OF THE MARKET

**Real Estate activity across Tasmania continued to gain momentum over the September Quarter. Many areas of our marketplace are transitioning from a buyers to a balanced market. Agents are reporting stock shortages and good buyer enquiry. The level of property sales is holding and a modest growth in prices is being recorded in many regions.**

To put our market into perspective, over the past 16 years (since the year 2000), the September quarter has averaged 1748 house sales. At the peak of our last boom (2003) house sales reached 3182 transactions. When the market bottomed out (in 2011), the September quarterly sales dropped to 1214. In 2015 we have recorded 1630 house sales, which is 416 house sales above the 2011 low but still 118 sales below our 16 years average. The pleasing feature of this analysis is that our market still has the potential for significant and continued growth. Whilst sales across Tasmania dipped slightly for the quarter (1.2%) they are up 15% over last year. The median house price increased for both the quarter (1.6%) and the year (2.8). 1630 house sales were recorded for the period at a median house price of $310,000.

Over the same period 291 unit/townhouse sales were recorded which is 14.1% up on last year. Median prices increased by 3.6%.

There were 323 land sales during the quarter.

Unlike the investor driven markets of Melbourne, Sydney and southeast Queensland, Tasmanian Real Estate continues to be dominated by 2+ (existing) homebuyers with 55% market share. Investors remain steady at 15% and first home buyers at 12%.

Interstate buyers (307 for quarter) continue their love affair with Tasmania maintaining a healthy 19% market share. Only 6 sales were recorded to foreign purchasers during the period. Again more than 60% of the sales recorded were made by locals.

Battery Point remained Tasmania's most expensive suburb achieving a median house price of $828,778 while Queenstown is our most affordable at $61,000.

Sale price distribution tended to favour the lower end of the market with 71% of sales below $399,999, 21% were between $400,000 and $599,999 and 8% between $600,000 and $999,999 nine house sales were recorded in excess of 1 million dollars.

Focusing on Municipalities; Launceston recorded the highest number of sales at 315, up 11.7% on last year, followed by Clarence 267 (up 13.6%), Glenorchy 193 (up 12.2%) Hobart 192 (up 20%) Kingsborough (down 6%) and Devonport 112 (up 3.7%).

First Home Owners Grant continues to decline from 440 in September Quarter last year to 288 this year.

Demand for rental accommodation remains strong. Vacancy rates vary from 2.8% in Hobart to 4% on the North West Coast. Whilst yields of 3.9% to 5.5% are detailed in the report, returns exceeding 8.0% are being obtained in many areas across the state.

Tasmania continues to offer the most affordable housing in Australia. With a growing economy, improving employment opportunities, and increasing consumer confidence, we remain optimistic that the prospects of the local real estate market look both sound and positive for the future.

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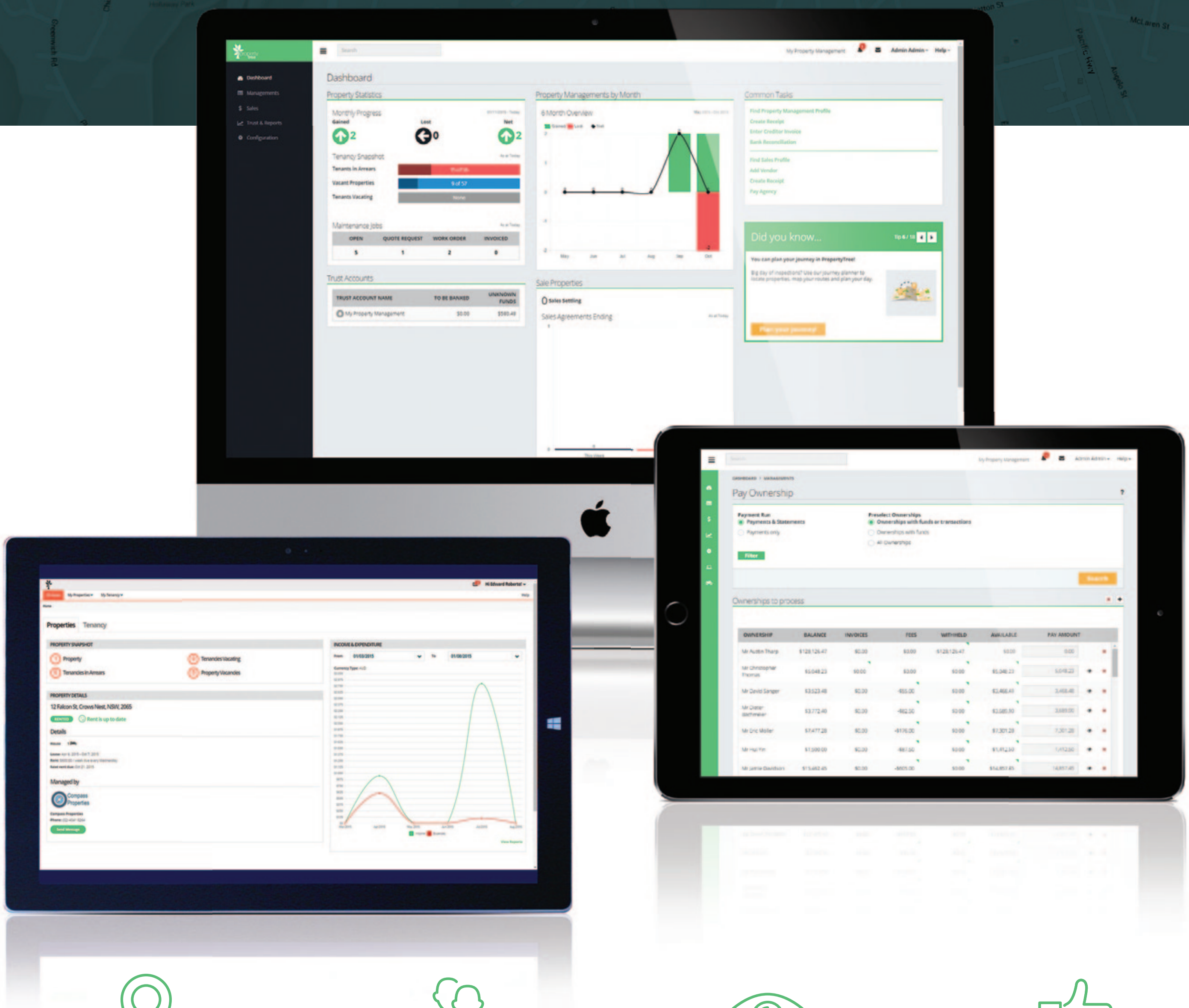

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This article is brought to you by Sarah Dawson, Head of Real Estate Sales, Rockend

# HIDDEN REVENUE IN YOUR BUSINESS

**Many businesses are looking for ways to either uncover hidden revenue or create additional revenue streams. Although it can seem like a time consuming task to find and/or create these channels, it doesn't have to be. Maximising the potential of your technology is an easy step toward achieving this. How can your software help increase your bottom line?**

Software automation is a simple way for you to save time and improve processes. Automation means that technological systems can control certain processes, essentially meaning that your software will complete tasks for you! Property management software is increasingly incorporating automation features, which is helping property managers grow their portfolios whilst maintaining a high level of customer service.

Another example is automatic arrears management, which can save you countless hours of work. Imagine automatically send arrears notices to overdue tenants without lifting a finger. By setting up a series of templates (think SMS, email, letter) with your messaging and branding you can then schedule when arrears notices should be sent (e.g. three days, seven days and 14 days in arrears). A system like this can save hours of valuable time which translates into significant labour cost savings.

A great revenue stream that caters for the mobile generation is online access for your owners and tenants. Usually available with your property management software, this platform provides your clients with the ability to access their property information through an online login. Offering this service can be a powerful point of difference for your agency by providing valuable property information outside of business hours, driving traffic to your website and reducing your workload by providing a self-service option. As you are providing an additional service, agencies can charge a small fee to both the owners and tenants. These platforms save a considerable amount of time for both the property manager and the clients.

When was the last time you reassessed your agency fees? If your agency hasn't increased your fees for a number of years there is a likely chance that they are below your competitors pricing. Researching your competitors pricing will provide you with valuable insights about your market place and help you evaluate your fee structure.

Doing a simple evaluation on your processes and maximising your software's functionality will help to uncover revenue that you may not have even realised was missing. You might be surprised at how your property management software can increase your bottom line.

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# NEW LAW PROTECTS SMALL BUSINESSES FROM UNFAIR CONTRACT TERMS

**A new law passed in October has been designed to give small business the same protection against unfair contracts as enjoyed by consumers. The law is an extension of Australian Consumer Law and will apply to standard form contracts which are either entered into or renewed after 12 November 2016.**

The rationale for the change is that small businesses often face the same challenges as consumers when entering into a contract. That is, they have neither the expertise nor the bargaining power of their larger counterparts. The legislation is designed to redress this imbalance and will be enforced by the ACCC, Australian Securities and Investments Commission and state and territory offices of Fair Trading.

A standard form contract is a contract prepared by one party using standardized, non-negotiated terms. It is often referred to as a 'take it or leave it' contract. For the purposes of the legislation a small business is defined as a business that employs fewer than 20 people. The legislation will apply to business to business standard form contracts where at least one party is deemed a small business and the contract value is less than $300,000, or $1 million if the contract is for more than 12 months.

A term may be unfair if it:

- causes significant imbalance in the parties' rights and obligations, and
- is not necessary to protect the business interests of a party, and
- would cause harm to a small business if it were relied on.

For example, terms that may be unfair are ones that:

- allow one business, but not the other, to change or cancel the contract, or to limit or avoid their obligations
- penalise one business, but not the other, for breaching the contract.

So, what happens if a contract is found by a court or tribunal to contain 'unfair' terms? The 'unfair' terms will be void, in other words, not binding on the parties while the rest of the contract will apply to the extent that it is capable of operating without the unfair term.

Given that small businesses often see both sides of a contract, it is possible that in some circumstances a business could be the victim of unfair contract terms, or under other circumstances it could be the perpetrator of unfair terms. Find out more about your rights and responsibilities here.


# REIA

## 2016 NATIONAL AWARDS FOR EXCELLENCE

6.30 pm THURSDAY 10 MARCH 2016

CROWN MELBOURNE

## SAVE THE DATE

10 03 2016

This article is brought to you by

David Bannerman, Bannerman's Lawyers

Mark Pollinger, Bannerman's Lawyers

# COLLECTIVE SALES: WINDFALL WHEN NEIGHBOURS WORK TOGETHER

**Strong pressure on Sydney property prices and an acute shortage of suitable development sites has made it possible for neighbours acting together to achieve excellent prices for properties which in aggregate represent a suitable development site. This is illustrated by the recent sale of nine St Leonards houses, which were sold for more than $66 million to a Hong Kong based investor.**

Except perhaps for the price, this is not a unique situation, as there have been a number of collective sales across Sydney in recent years. The strongest pressure is for development sites close to the city and the harbour, but there is pressure across Sydney, as demand for higher density accommodation increases, with investment property purchasers and first-time buyers pursuing the limited available supply. Owners able to work together can take advantage of this, as have owners in St Leonards, Castle Hill, Guildford and a number of other Sydney suburbs in recent years.

For strata buildings, proposed new legislation will make this possible even where some owners don't want to sell. The proposed new legislation may make it possible for a 75% majority to drive through collective sale, provided that certain procedural and compensation requirements are satisfied. This is already proving controversial and will clearly have some significant downsides, but gives owners much more flexibility to sell or redevelop a dilapidated building where maintenance costs have become prohibitive or to take advantage of the commercial opportunity presented by a developer keen to purchase and redevelop the building as a whole.

Where all owners are in agreement, including for strata properties, the process is reasonably straightforward. The main steps would be:

- Confirm that your property is suitable for development and determine what other properties need to be included for the site to be attractive to a developer.
- Negotiate arrangements with other owners, which would usually lead to a collective sale agreement, committing all owners to the process and addressing matters such as allocation of sale costs and distribution of the sale price.
- Engagement of the selling agent and conduct of the marketing campaign. Particular expertise and ideally contacts with developers would be required. The agent's commission would be a hot negotiation point, given the substantial amount likely to be requested and the limited potential for comparison to other sales.

» *article continues*

# COLLECTIVE SALES: WINDFALL WHEN NEIGHBOURS WORK TOGETHER

» *continued*

- Where necessary, engagement of other appropriate consultants, such as planning consultants and surveyors. This will usually be unnecessary and attended to by the purchasing developer, but may on occasion be necessary to determine or demonstrate suitability or to address any issues which may make the site unattractive to developers.
- Entry into a sale contract with the purchaser and conduct of the sale process. This will usually be reasonably straightforward, given that the developer will usually have little interest in the existing structures on the property, but the various sales will need to be coordinated and the settlement period may be extended to meet developer planning approval and other requirements.

For strata buildings under the proposed new legislation with a dissenting minority less than 25%, collective sale may still be possible, but things get a bit more complicated. The main steps are:

- Development of a proposal.
- Compliance with various procedures leading to the development of a plan.
- Application to the Court for orders giving effect to the plan.
- Action to market and sell the property, as described above. Normally, a lot of this action would be taken in parallel with development of the plan and the likelihood is that the developer will already own a number of lots in the building and be actively involved in development of the plan.

Where the owner of a necessary property does not agree or for strata buildings at least 25% of owners don't agree, the options are very limited. There is no compulsory acquisition mechanism in these circumstances, so the only possible solution is commercial, i.e. finding a way to persuade enough dissenting owners to change their position.

We have considerable expertise with property development, but strata and non strata, acting for developers, property owners and strata managing agents and can assist with all of these issues. In particular, we can assist you with the following:

- Identifying suitable sites and any issues which may need to be addressed to make the site attractive to a developer.
- Negotiations and agreements with other owners.
- Engagement of appropriate consultants.
- Negotiations and sale contract with developer.
- For strata buildings with a dissenting minority, guidance through the requirements of the strata legislation.

This article is brought to
you by Ursula Hartenberger*,
Global Head of Sustainability, RICS

# MAINSTREAMING RESPONSIBLE BUSINESS IN REAL ESTATE

**All real estate development has an impact. This impact can be good or not so good.**

From an economic perspective the land, construction and real estate sector is an economic powerhouse making up a large percentage of global wealth and helping economies to develop and to grow by offering investment and employment opportunities and as such a pathway out of poverty for many.

But the other side of the coin is that unfortunately this comes with a high price tag. Disproportionately high levels of carbon emissions contributing to climate change, energy and water resource intensity, waste generation, etc. The list of potential environmental impacts from the real estate sector goes on.

Lesser known and talked about is the social impact of development projects. It starts well before construction even begins when the land use change is signed and sealed. This land may have been the home and livelihood of people who may now be displaced and may have to leave.

We hear more and more about human rights and labour malpractice on construction sites in certain parts of the world where workers are being held against their free will, housed in sub-standard conditions and having to work without even the most basic health and safety provisions.

It is also a well-known fact that there are many potential loopholes along the sector life cycle that leave room for opaque business practices such as bribery, bid-rigging, extortion and money laundering.

Listing all of the above is in no way meant to paint a completely bleak picture of the sector. There are many sectoral stakeholders spearheading good responsible business practices in relation to all of the highlighted issues.

But a lot still needs to be done to mainstream what may as yet still be the exception rather than the rule.

To help companies operating in the sector and those who are the sectors' many users improve their business practices in the land, construction and real estate industry, the United Nations Global Compact and RICS partnered in the summer of 2013 to jointly develop a good practice resource for the sector. The subsequent Resource 'Advancing Responsible Business Practices in Land, Construction and Real Estate Use and Investment', which was recently also launched by the Global Compact Network Australia and the regional RICS office, translates the Compact's ten principles in the areas of human rights, labour, the environment and anti-corruption into practical action. By taking a whole-life cycle approach and by mapping out the key issues and associated action items for every one of the sectoral life cycle's phases -Development, Real Estate Use and Recovery- it aims to break down traditional silo-thinking and encourages greater cross-sectoral collaboration and dialogue. It also aims to widen the current scope of responsible action which is predominantly focused on environmental issues and challenges.

The collaboration between RICS and the Global Compact is among the UN Global Compact's first initiatives to address corporate sustainability in a specific sector.

The Resource can be downloaded at:

- RICS website.
- UN Global Compact website.

** Lead author of 'Advancing Responsible Business Practices in Land, Construction and Real Estate Use and Investment'*

# AUSTRALASIAN REAL ESTATE INSTITUTES' AUCTIONEERING CHAMPIONSHIPS 2016


For the first time in its illustious history,
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Watch for details of the official website - coming early January 2016 - for details of event bookings and tourism activities in and around Alice Springs, airfare packages.... plus a whole lot more.

The REINT is very pleased to be playing host to this great event in 2016 and we look forward to welcoming you to our home. In the meantime if there is anything we can assist you with, please contact us at:
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# INDUSTRY UPDATE

Industry news from around Australia

## Dwelling approvals in October

Australian Bureau of Statics (ABS) Building approvals show the number of dwelling approvals fell 0.6% in trend terms, however the seasonally adjusted estimate rose by 3.9% to 19,652 dwellings.

The trend estimate of the value of total building approved fell 0.3% in October and has fallen for three months. The value of residential building fell 0.4% and has fallen for six months. The value of non-residential building fell 0.2% after rising for six months.

The seasonally adjusted estimate of the value of total building approved rose 6.4% in October after falling for two months. The value of residential building rose 9.8% after falling for two months. The value of non-residential building fell 1.0% and has fallen for three months. For full survey results, click here.

## National Rental Affordability Scheme

The Australian National Audit Office has released an audit of the Administration of the National Rental Affordability Scheme (NRAS).

NRAS was an Australian Government initiative to make rental properties more affordable. It was designed to encourage investment in affordable rental housing. The goals were to:

Stimulate the supply of up to 50,000 new affordable rental dwellings

Reduce rental costs for low and moderate income households

Encourage large scale investment in, and innovative delivery of, affordable housing

The audit found that by mid 2015 the target of the number of dwellings for the scheme had been reduced to 38,000 and less than 27,000 dwellings had been delivered under the scheme.

The Auditor- General in his foreward of the report, notes that 'the implementation of NRAS has highlighted the need for effective planning and sound administration, if government programs are to be successfully implemented and are to achieve their objectives and expected outcomes.' Click here to read the full Audit report.

## Review of Australian Consumer Law

A review of Australian Consumer Law will be conducted in 2016, a major objective of which is to assess the law's impact on protecting consumers and streamlining regulatory requirements for businesses, as well as the effectiveness of the collaborative enforcement model adopted by regulators administering the law.

The review will be overseen by Consumer Affairs Australia and New Zealand (CAANZ) and will include a public consultation process. It is expected that the final report will be delivered in early 2017.

An integral part of the review will be the second Australian Consumer Survey, which will build on the findings of the first Australian Consumer Survey conducted in 2010-11 and form part of the evidence base for the review.

The survey will assess the level of understanding by consumers and businesses of consumer laws, their application and enforcement and determine whether laws are working as intended to prevent unfair trading without unreasonably burdening businesses.

The review will also examine the flexibility of the ACL to respond to new and emerging issues to ensure that it remains relevant into the future as the overarching consumer law in Australia.

The ACL was an initiative of all Australian Governments, drawing on the recommendations of the Productivity Commission's 2008 *Review of Australia's Consumer Policy Framework*, as well as best practice in state and territory consumer laws, including a provision regulating unfair contract terms. For more information click here.

# MAKING NEWS

General national news

## Commonwealth Bank to refund $80 million

Commonwealth Bank of Australia (CBA) will refund approximately $80 million to around 216,000 customers as compensation for failing to apply fee waivers, interest concessions and other benefits since 2008.

The refund applies to, the Wealth Package customers (sometimes described as 'Mortgage Advantage Package') who were offered benefits such as interest rate discounts and fee waivers in relation to a range of products including home loans, credit cards, transaction accounts, personal loans, overdrafts and insurance.

CBA discovered the problem following a customer complaint. CBA reported the breach to ASIC in 2014 and undertook to fully investigate the cause and ramifications of the breach. CBA engaged an independent firm (Ernst & Young) to review and provide recommendations to improve controls, ensure its remediation process would identify all those affected, and ensure an accurate calculation of refunds.

CBA commenced contacting affected Wealth Package holders in October. They anticipate that they will have contacted the majority of affected Wealth Package holders prior to the end of the year and the rest early in 2016.

## Crowd funding for small business

Earlier this month legislation was introduced into Parliament to allow eligible public companies with gross assets or revenue of less that $5 million to raise up to $5 million in equity from retail investors in any 12 month period.

Minister for Small Business Kelly O'Dwyer welcomed the changes saying that 'crowd funding is an emerging way for start-ups and early stage businesses to assess the funding and investors they need, while maintaining adequate protections for retail investors who share in the risks and successes of theses businesses … Australia's CSEF model is competitive globally with the issuer cap of $5 million each year higher than the US and New Zealand cap, and the investor cap of $10,000 per issuance higher than the average in New Zealand and the UK.'

## ASIC crackdown on unlawful advisors

ASIC have been working to raise the awareness among developers and advisors as to licensing requirements when providing financial advice.

ASIC took legal action against the Park Trent Property Group resulting in the Supreme Court of NSW finding that Park Trent had had breached the Corporations Act in providing advice related to the setting up of self-managed super funds for the purpose of investing in property, without holding the proper advice or authority. ASIC has provided on its website an update for consumers who may have made financial decisions regarding superannuation as a result of dealing with Park Trent. Click here for more information.

## Increase in card fraud over the internet

The interim payments fraud data release by the Australian Payments Clearing Association (APCA) provides a timely reminder to Australians to remain vigilant when shopping online over the busy holiday period. Fraud on Australian payment cards continues to increase in the card-not-present space, reflecting a global trend both in online cad fraud and in cybercrime in general.

The release by the APCA shows that the rate of fraud on Australian payment cards increased from 53.6c to 60.3c in every $1000 spent. Card-not-present fraud accounted for 80% of all Australian card fraud having increased from $256.5 million to $322.7 million over the 12 month period. Australians spent a total of $672.5 billion on their cards over that time. Click here for more information.

# POLITICAL WATCH

Information and news from government

### Foreign investment

The Turnbull Government's new foreign investment regime came into force on 1 December. The arrangements provide stronger enforcement and a better resourced system for foreign investors. "The Government welcomes foreign investment that is not contrary to our national interest. Without foreign investment, production, employment and income would all be lower. But it is important that foreign investment is appropriately monitored to ensure that it benefits all Australians," Treasurer the Hon. Scott Morrison said.

Two important changes are firstly, the ATO has taken over full responsibility for enforcing residential real estate purchases by foreign citizens and existing criminal penalties have been increased to $135,000 or three years' imprisonment, or both for individuals; and up to $675,000 for companies. Secondly, application fees have been introduced so the cost of the system is no longer borne by the Australian taxpayer. For further information, click here.

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### Monetary policy

The RBA left official interest rates unchanged at 2.0 % at its monthly meeting. The RBA has signalled that the cash rate will remain on hold for the foreseeable future and that if there is to be any change in 2016 it will be a further reduction. That is a welcome message for now given the uncertainty over house price movements.

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### Defence Housing Authority

The Opposition has moved a motion to hold a Senate inquiry into Defence Housing Australia and its potential privatisation. The operations of Defence Housing Australia have been referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 30 April 2016. The terms of reference are: senior management arrangements and board composition; whether the requirements of the *Defence Housing Australia Act 1987* have been met; how the review announced by the Minister for Finance on 11 May 2015 will affect the accounting, information technology and business reporting systems; what role land sales will play in future business planning, and what implications there are for current residents if existing housing stock is sold; and any other related matter.

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### GDP

Figures released by the ABS show that real GDP grew 0.9 per cent in the September quarter and 2.5 per cent over the past year. This is a strong increase from the 1.9 per cent growth recorded in the year to the June quarter. The key drivers of economic growth were net exports, household consumption and housing construction, more than offsetting the fall in business investment.

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### ATO advice to employers

As 2015 draws to a close, the Australian Taxation Office (ATO) is encouraging employers to cross SuperStream off their 'to-do' list ahead of the 30 June 2016 deadline and cut time spent on super administration.

Philip Hind, ATO's National Program Manager, Data Standards and E-Commerce (SuperStream), says now is a good time for businesses who haven't yet adopted SuperStream to get on board and experience the benefits first-hand.

"Over a quarter of a million small businesses have adopted SuperStream. While it may take a little time to set up, we're hearing that SuperStream is reducing the time employers spend on super by around 70% – or 1.5 hours – each cycle, on average. And you may save money too, with small businesses who have implemented SuperStream so far collectively saving up to $50 million per year." For further information, click here.

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# THE WORLD

Property news from around the world

## Kevin McCloud's sustainable housing development

The new housing development in Bristol will be a collaboration between housing association United Communities and Kevin McCloud's development company HAB Housing (Happiness Architecture Beauty). It will include 150 properties of which a third will be affordable.

The affordable homes will be built to the equivalent of Passivhaus energy efficiency standards and all homes will meet level four of the Code for Sustainable Homes.

The whole development will be built with the environment in mind. The estate will have a green infrastructure, including sustainable food production, low carbon energy sources and new cycle routes.

'HAB has been eager to win a project in Bristol ever since we began to plan our move here. Now that our offices are in the city, it's with great relish that we can roll up our sleeves and begin work at Dunmail,' said McCloud.

'This scheme gives us the opportunity to work alongside local people and organisations and to partner with United Communities, whom we particularly admire. We're looking forward to working in Southmead and delivering something of quality, richness and sustainability for the area,' he added.

Local residents helped to shape the design of the development, and the community will continue to be involved throughout the project. Feedback from residents reflected in the scheme includes the desire for smaller low rise properties, the need for a mixed tenure site and the inclusion of outdoor community space.

It is hoped that a planning application for the development will now be submitted in March 2016, and if consent is given work would be due to start in September 2016.

## Average home buyer £4,500 better off in England and Wales since tax change

The average home buyer in England and Wales is £4,500 better off under the new progressive structure of stamp duty introduced a year ago but the Treasury is collecting a record amount of the tax.

Since the change the typical home buyer has paid a total of £3,676 in stamp duty, based on the current average house price of £273,531. Under the previous flat structure, a buyer paying this price would have been subject to stamp duty payments of £8,205, a saving of £4,529.

London alone contributed 40% of all UK stamp duty revenues in 2014-2015 compared with 13% of all property transactions.

72% of stamp duty revenue raised in the UK in 2014-2015 was in London, the East of England and the South East. This was significantly higher than their 61% share in 2007-2008.

## New research reveals what UK residential tenants want

A survey by YouGov for real estate firm Knight Frank turned up some interesting results: A third of respondents said they would be willing to pay extra in rent to keep a pet in their property; 4% of those in the private rental sector already pay extra to have their pet live with them and this rises to 7% for those aged over 55; 69% of tenants aged between 18 and 24 and 61% of 25 to 34 year olds said they would prefer a tenancy agreement of up to a year; respondents said that their preferred timeframe for a break clause, which would allow tenant or landlord to end the lease early, is six months; and, 24% of Londoners are prepared to pay 50% as a maximum amount of their gross annual income on rent, up from 22% last year.

## Auckland sees unexpected property price surge

According to data from real estate agent Barfoot & Thompson average residential property prices in Auckland increased by 4.2% in November month on month, the biggest rise since March 2014. This took the average price of a home to $876,075 and marks a substantial monthly rise compared to the more modest increases seen in the last seven months.

The data showed that the median home price increased by 1.9% in November compared to October to $795,000.

The number of sales in November fell 7.7% month on month, the firm's lowest in a month since February.

The data also shows that the price segment which experienced the largest decline in sales numbers in November compared to October was the $500,000 to $750,000 category. In November 286 homes were sold in this price category compared to 353 in October. It is a price category popular with investors with portfolios of less than three properties.

The number of sales in November between $750,000 and $1 million, and those over $1 million were similar in number to those sold in October, as was the number of homes sold for under $500,000.

*Articles courtesy of propertywire.com.au*

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