

# Raising the Bar

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## AND THEN THERE WERE TWO

Staying up to date on the latest market commentary on trends in NZ real estate sometimes feels a bit like riding a roller coaster straight after Christmas dinner. BUT recently, arguably one of the most wide-ranging changes affecting property law in the last few decades has occurred and it has the potential to significantly affect how we Kiwis trade property.

If you have bought or sold a property in the last twenty years you have likely used the form of agreement which was a joint initiative between the Auckland District Law Society and the Real Estate Institute of New Zealand. The REINZ has now decided that it is time for a major revamp and have launched their own new look set of Agreements which are being touted as the “plain English” approach to conveyancing. Change for change sake, maybe?? But the upshot of this is, for the first time, there are two forms of agreement out there for use – the tried and tested ADLS form or the new look REINZ Agreement.

The real problem though, is not that there is a new agreement, but that the new agreement is significantly different

in content and structure and some of the changes are not going to be satisfactory in a commercial context and will require amendment. Just how different can it be though, here are a few examples:

- Room for the previous “set in stone” settlement date to be delayed if certain things don’t go as they should before settlement - potentially catastrophic if a Vendor has back to back agreements
- Some new pretty heavy duty “promises” (formerly warranties) from Vendors relating to building structure;
- Vendor requirement to provide a Purchaser with details of “unfavourable agreements” entered into - a post settlement litigation minefield
- Different processes in the new Agreement which will cause confusion, especially in the scenario where the old agreement is being used for a purchase and the new agreement for a sale
- No Court cases to help determine the correct interpretation of the agreement

In short, if you are looking at buying or selling property it is now more important than ever to check with your lawyer before signing on the dotted line!

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