

COVENANTS AFFECTING AFFORDABILITY

Although there is demand for affordable housing, it's getting harder to find a site to build a modest home. In Christchurch, for example, restrictions by developers on house size are leaving some red zone residents unable to afford replacement housing.

By Lois Easton, Beacon Pathway, Tricia Austin, The University of Auckland, and David Hattam, Selwyn District Council

As a result of the Canterbury earthquakes, over 10,000 dwellings are being demolished, with 5,100 homeowners from the red zone areas alone potentially seeking new land to build their replacement home on.

Many affected homeowners are from the lower property value eastern suburbs of Christchurch or lower property value areas such as Kaiapoi. Alongside the lower property values, many of the affected households are on low or fixed incomes, meaning that affordability of replacement housing is a critical issue.

Older houses more modest

A range of factors affect the affordability of housing, many of them canvassed in the Productivity Commission's *Housing Affordability Inquiry, March 2012 Report*. However, a fundamental factor not considered in any detail by the Commission is dwelling size.

The Department of Building and Housing advises that the average cost per square metre of new house construction in Christchurch is between \$1618/m² and \$1778/m². Based on their estimates, a house of 150 m² will cost an average estimated \$266,700 to build, and a 200 m² house will cost \$323,600 to build.

The floor area of most houses in the worst-affected areas of Christchurch is considerably smaller than many of today's new homes. Many households are receiving payouts for their homes and land around \$300,000.

Inevitably, affected homeowners will be looking to rebuild on land they can afford, with a more modest dwelling size than usually found in many new subdivisions today. With an average cost of \$160,000 for a section in Rolleston and using one of the cheaper home builders, it would be possible to build a smaller – for example, 110 m² – house in Rolleston, with a \$300,000 payout.

Developers imposing larger houses

New house sizes have increased substantially over the past few decades, increasing by 50% in the last 25 years from 134 m² to 209 m².

There is a range of reasons for this, but a significant contributor is the increasingly common use by land developers of minimum house size covenants on lots created during subdivision.

Research recently undertaken by David Hattam of Selwyn District Council and John Raven of Lincoln University looked at the prevalence of restrictive covenants in the Canterbury township of Rolleston. They found that 75% of new house sites created in the township had a restrictive



Affordability and covenants are issues as homeowners in Christchurch with damaged modest older houses look to new subdivisions to rebuild.

covenant requiring a minimum house size of at least 160 m², with a typical requirement being 180 m², and 25% of sections had a requirement of a minimum house size of 200 m².

Even for the 25% of sections where there were no explicit size controls, almost all required house designs to be approved by the developer – with houses greater than 180 m² predominating in these subdivisions. Only 3% of sections created since 1990 had no minimum size covenants.

Affordable options not possible

Terraced houses and medium-density development are often proposed as a mechanism to provide for more affordable housing and better housing choice – with smaller sites and smaller footprints available for development. In Christchurch, Hattam and Raven noted that what has resulted instead are 200 m² 2-storey houses with very small gardens because developers have squeezed the same sized house on a smaller section.

Just as significantly, where small lots of around 350 m² were created, the minimum house size was often 160 m², showing that reducing section size does not necessarily provide new housing choices.

An alternative response for addressing housing construction costs is to design more flexible housing, starting with a relatively small central unit, enabling the owner to add additional rooms if needed and as resources allow. While this might be beneficial to households in Christchurch, it would also be impossible if a covenant required a minimum dwelling size.

It's worth noting that the cost of raw land is typically less than 20% of the cost of a section, so reductions in section size – without reductions in house size – do not result in significant increases in affordability. For instance, in Rolleston, the cost of a half-size 350 m² section is usually only around \$20,000 less than that of a full-size section.

Covenants are a nationwide issue

Some researchers have recognised the use of restrictive covenants by developers as a widespread problem across New Zealand. It hasn't been dealt with because:

- regulation of covenants has been considered too difficult by many councils since they are imposed after the council has signed off the titles
- under the Resource Management Act, there is no mechanism available for councils to address this issue
- conditions on a subdivision consent could specify no covenants, but this would have to be put on a consent notice at the time of issue of title and the covenants would be put on at the same time.
- developers can put in place agreements with land purchasers – a group builder, for example – separate to the title.

Local planning legislation needed to over-ride covenants

As with many affordability issues, the problem is a well recognised one overseas. In Australia and the United States, most states and territories have addressed this issue specifically in local planning legislation.

In New South Wales, for example, the Environmental Planning and Assessment Act 1979 specifically enables environmental planning instruments to over-ride restrictive covenants. This is the kind of mechanism needed by, but not currently available to New Zealand local governments working under the Resource Management Act.

The best way to provide houses that are more affordable is to make them cheaper to build, and the easiest way to do this is to make them smaller. The prevalent development paradigm denies people the choice to build a house that would suit their needs.

Action needed in Christchurch

The government has acted to free up land, ostensibly to make sure that houses are provided for the people of Christchurch. Yet the developers of that land continue to impose covenants that allow only very large houses to be built, which will not address the needs of many of the people displaced from their homes.

While reforming the Resource Management Act to enable district plans to over-ride covenants might be something for the long term, the rebuild of Christchurch may require more immediate action. Special powers enabling the district plan to over-ride residential covenants could enable local Cantabrians to remain living in the region, without destroying the residential amenity that no doubt covenants were put in place to protect. ■