

When buying a property there are several legal issues that must be addressed. These include the contract of sale and the conveyancing process.

CONTRACT OF SALE

It is important that you obtain independent legal advice prior to signing any contract. If you consult a lawyer prior to entering into a contract we can provide you with very useful advice to assist you in your purchase. This advice can include:

1. assisting you in drafting and explaining the effect of any special conditions that may be required in the contract
2. ensuring that all details and terms contained in the contract reflect the agreement that you have reached
3. perusing the draft contract to ensure that all details the seller is required to provide have been provided
4. advising you of your obligation to obtain insurance after the contract has been signed
5. advising you of your right to obtain an independent property valuation prior to entering into the contract
6. advising you of your rights under the cooling off period
7. advising you of searches that can be attended to on your behalf in the conveyancing process.
8. advising you of the approximate costs that you will incur in proceeding with the purchase, including government charges such as transfer duty and registration fees.

THE CONVEYANCING PROCESS

Conveyancing is the legal transfer of a property's title from the seller to the buyer.

Conveyancing can be a difficult process if you are not equipped with the skills to ensure that the transfer of title runs smoothly. Experience shows that a high proportion of people who act on their own behalf in conveyancing matters strike problems in the process and end up seeking professional advice that can cost more than the original conveyancing charges they initially sought to avoid.

COOLING OFF PERIOD

In Queensland the purchase of any residential property (apart from property purchased at an auction) is subject to a cooling off period. This period expires at 5pm five business days after the date that you become bound by the contract, which is when you or your lawyer receives a copy of the contract signed by both the buyer and the seller, and your attention is properly directed to the Warning Statement and the Contract. You can terminate the contract at any time during the five day cooling off period for any reason. However, if you do take advantage of the cooling off period to terminate the contract you must pay to the seller an amount equal to .25% of the purchase price.

INSURANCE

The risk of the property you purchase passes to you at 5pm on the first business day after the Contract Date. It is therefore important that you arrange insurance cover for the property (including public liability) immediately after you sign the Contract.

DEPOSIT

It is important that the Deposit stipulated in the contract is paid on time. If the Deposit is not paid on time the Seller may terminate the Contract.

FINANCE

It is important that if you have not already done so prior to entering into a contract that you obtain unconditional approval of finance in writing from your financier. If you do not have this at the time of entering into a contract it is important that the contract is made conditional upon you obtaining that approval of finance.

It is also essential that the Seller is notified of the outcome of your finance application, if the contract is conditional on you obtaining finance approval. If the Seller is not notified on time they may terminate the contract.

INSPECTIONS

You are entitled to obtain building and pest inspections on the property. We recommend that you do obtain a building and pest inspection on any property being purchased that has buildings or other improvements upon it. If the building and pest inspection is not to your satisfaction you are entitled to terminate the contract. Obviously you must act reasonably when determining whether the reports are to your satisfaction or not.

SEARCHES

We will conduct a number of searches on your behalf including:

1. Body Corporate Search if you are purchasing a unit in a body corporate complex.
2. Title Search
3. A Plan of Survey to identify the property that you are purchasing.
4. Land Tax Search to reveal if there is any land tax outstanding.
5. Main roads search to reveal if there are any requirements that main roads may have with respect to your property.
6. A Council search to reveal if there are any rates or other outstanding matters with respect to the property.

7. There are a number of other optional searches including Flood Searches, Environmental Management and Conservation Searches, Swimming Pool Registration, Building Services Authority Search, Electricity Transmission Corporation, Queensland Rail Search, Contaminated Site Searches, etc. When we act on your behalf we will provide to you a comprehensive list of searches that may be required and allow you to choose any additional searches that you feel are important with respect to the property you are purchasing.
8. Recent safety switch legislation was introduced requiring a seller to disclose whether a safety switch is installed in the property. If a safety switch is not installed it is the responsibility of the buyer to install a safety switch within 90 days of taking possession of that property.

SURVEY

A contract of sale allows you to have the land surveyed by a licensed surveyor to ascertain its boundaries and area to establish the location of any structures purporting to be on or adjoining the land. We recommend that you carry out this survey in the process of purchasing your property.

STAMP DUTY

Stamp duty, or Transfer Duty, is payable on the purchase of property. This is a government duty and we will be able to advise you of the amount of Transfer Duty payable when entering into a contract.

BODY CORPORATE UNITS

The conveyancing process for the purchase of units is slightly different to purchasing residential houses and land. We will ensure that a comprehensive body corporate search is undertaken on your behalf to ascertain if there are any outstanding body corporate issues that may affect your purchase.

COMMERCIAL PROPERTY AND LAND SUBDIVISIONS

The Directors and Solicitors at Ferguson Cannon have experience acting for people in purchasing commercial property, and purchasing large portions of land for subdivision. We act on behalf of a number of developers throughout Queensland and have the necessary experience to ensure that the development and subdivision process runs as smoothly as possible.

All staff in our conveyancing team are involved in ongoing legal education to ensure their knowledge is kept up to date at all times.

Our professional fees are competitive to ensure that our clients receive a quality service at a cost effective price.

Any queries in relation to any conveyancing issues should be referred to Byron Cannon, Director.