

PRACTICE NOTE 1 – CONVEYANCING SERIES

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Purchasing Property

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Summary:

This Practice Note offers guidance to prospective purchasers of property and an overview of the key steps in the conveyancing process when looking to acquire real property in NSW. The practice Note does not represent legal advice and prospective purchasers should obtain legal advice as early as possible and always before entering into a contract for sale.

<p>1. Getting Ready to Buy</p>	<p><u>Housekeeping</u></p> <p><i>Before you even start looking there are a couple of things you should do:</i></p> <ul style="list-style-type: none"> • Know how much you can afford – have a clear understanding of your expenses and your income. • Know how much you can borrow – talk to banks and lenders. • Check your credit report. • Find a Home Loan Deal that suits you. • Applied for and received pre- approval for a Home Loan. • Start Looking for a property in your price range.
<p>2. Finding the Property!</p>	<p><u>You Found the Property - Now What?</u></p> <p><i>The hardest part is over – actually finding the property that meets your requirements! The next steps are easy provided you get good advice and know what to expect and what you need to do!</i></p> <ul style="list-style-type: none"> • The purchasing of a property can be a complicated process, but it doesn't have to be difficult. Having a clear understanding and information about the purchasing (conveyancing) process and getting sound advice and assistance from a qualified lawyer reduces the stress and eliminates many of the risks involved.

What am I buying!

Am I getting what I want?

The first step is to make sure you are getting what you want!

Look at the Marketing Contract to find out what you are actually buying.

- If it is **vacant land**, are there any restrictions on what you can do with the land:
 - how is it zoned – what can you build?
 - are there any easements, restrictions or other encumbrances noted on the title to the land?
 - are there any unusual special conditions?
- If the property has a **house**:
 - What is included with the sale,
 - What is the condition of the house - are pest and building reports available, should you obtain these?
- If the property is a **Unit**
 - What are the by-laws – can I keep a pet?
 - What is the cost of the annual strata levies

Make some additional inquiries:

- Are there any developments planned nearby – is a block of flats going to be built next door?
- Do improvements have all the necessary council approvals?
- Is there a swimming pool - is it compliant?
- Are there any outstanding Council Orders?
- Are there any existing disputes with neighbours over trees or fences?

Your solicitor can help you understand what you are buying, the questions you need answered and the trips and traps to avoid before you sign the Contract. Don't get pressured to sign the Contract before you have all the answers you need.

What is it going to cost!

Are there any hidden costs?

You are not just agreeing to pay the Price on the front page of the Contract!

Yes, the **Price** is going to be the most significant expense but don't ignore the following costs and consider when they have to be paid:

- How much is the **deposit** that you have to pay – can you pay less than 10% of the price?
- How much **stamp duty** are you going to have to pay - you will need to pay it at the time of settlement if you are borrowing money or no later than 3 months from the date you sign the Contract.
- Will you have to pay any **land tax** – Does the contract allow for an adjustment on land tax?
- Will you have to pay **GST** on top of the purchase price?
- How much will the **pest and building reports** cost?
- How much will you need to pay in **legal fees** and **property searches**?
- How much are the **bank fees**?
- How much will it cost to **Transfer** ownership of the property into your name.
- What **rates** and **charges** and **levies** will you need to pay?

The Timeline

The key stages of the Conveyancing Process

Once you sign the contract and the cooling off period is over there is no turning back!

It is important to keep the following timeline in mind.

Step 1 - your solicitor has helped you answer the key questions and negotiated suitable contract terms and you have satisfied yourself that the property is what you want and you are able to buy it on terms in the Contract.

Step 2 – If you are borrowing money to fund the purchase price - the bank has approved your loan application after valuing the Property and issued a formal Loan Approval.

Step 3 – You sign the Contract and pay the deposit (the **Contract Date**).

Step 3 – The contract becomes unconditional – it is now binding on you – usually five days from the Contract Date (or earlier if you have obtained a certificate from your solicitor waiving your cooling off rights – s66W Certificate).

Step 4 – The contract becomes unconditional – it is now binding on you.

Step 5 – Your solicitor undertakes additional searches, issues requisitions on title and prepares for settlement by preparing the settlement adjustment figures.

Step 6 – The bank notifies your solicitor that funds are available for settlement and your solicitor books in the settlement to finalise the purchase of the property.

Step 7 – the Settlement Date – the day usually falling 42 days after the Contract date when you have to pay the balance of the purchase price subject to any adjustments – your solicitor attends the settlement venue or the settlement takes place electronically via the PEXA platform (All property sale transactions will shortly need to be undertaken electronically via PEXA) and ownership of the Property transfers into your name.

Get Advice

Get advice early!

We are here to help – If you have a question about anything in this Practice Note call us on 02 8095 7977 or email us at mail@schmidt-liermann.com.au and we will be more than happy to answer your questions.