

Freecall 1800 621 071

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PROPERTY LAW

# Buying Property Off The Plan

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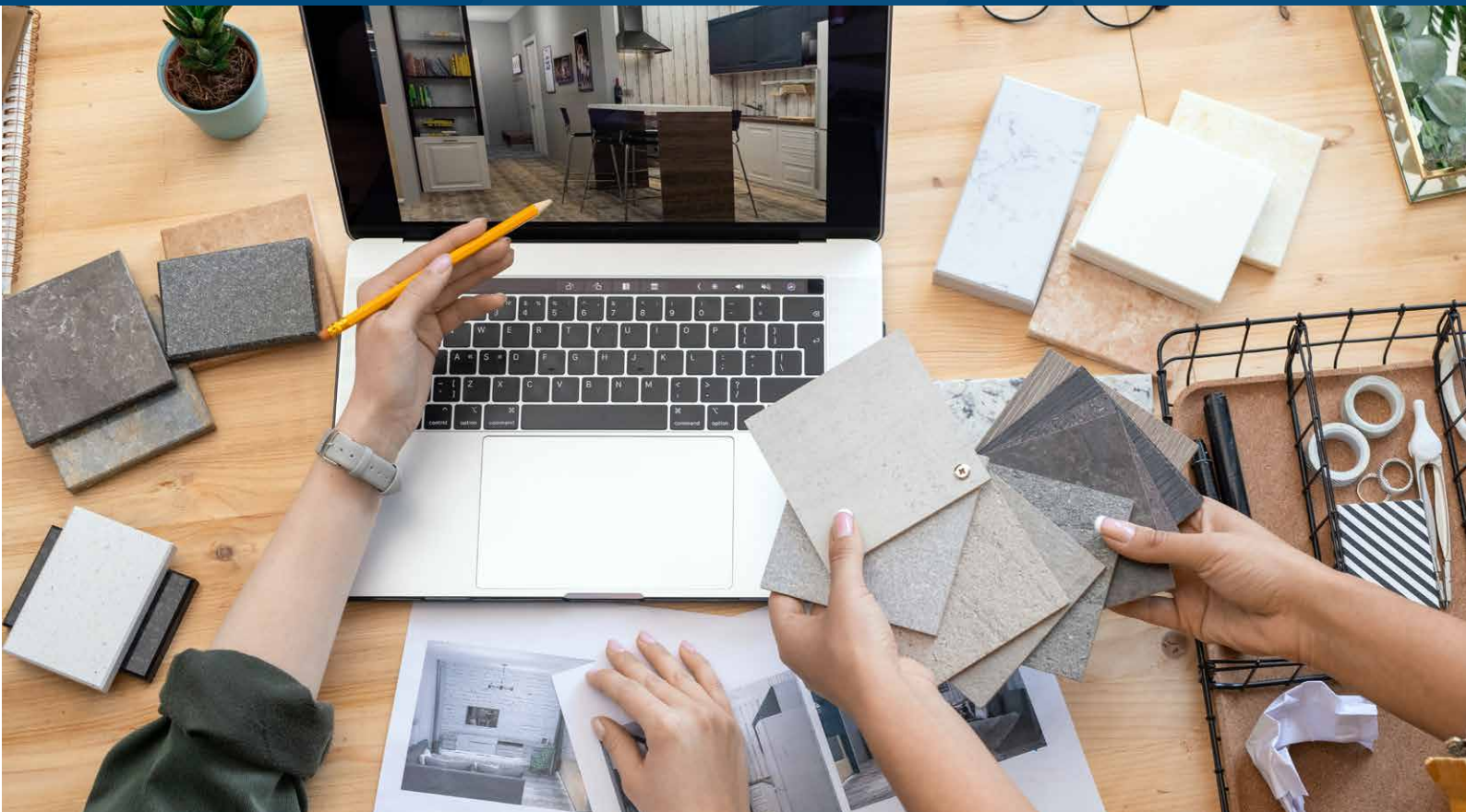
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When you buy real estate off the plan you are buying a property that may not yet have been built or is still under construction. When deciding to buy an off the plan property you are doing so based on the plans and designs rather than the finished product.

It is important to do your homework and due diligence when purchasing off the plan. Spend time researching the developer, builder and architect of the development you are interested in and make sure they have a good track record and are reputable. One of the biggest risks when buying off the plan is losing your deposit if the developer goes into administration during construction.

Once you have made a decision

on a specific property, it is extremely important to make sure that you understand the terms and conditions within the Contract of Sale. These types of contracts have extensive additional special conditions included. Off the plan contracts are usually extremely lengthy and confusing. It is important to discuss the contract with a property lawyer prior to signing so that you have a complete understanding of the costs and risks involved in buying the property.





## The Process

1

### Reserve your property

Once you have found a development you are happy with, you will need to reserve it. This is done by submitting an official Expression of Interest (EOI) form and paying a holding deposit.



2

### Get legal advice

Off the plan contracts are complex and include extensive special conditions and terms. It is imperative that you engage an experienced property lawyer who can ensure the transaction goes smoothly and everything is above board. Your lawyer will review the Contract of Sale and go through the terms and conditions ensuring that you have a complete understanding of the intricacies of the contract.

To start the process:

- Contact our office on 1800 621 071
- Want us to contact you directly? [Click here](#)

Our Property Department Manager will contact you to arrange a consultation for you to obtain pre-signing advice.



3

### Grants and incentives

We can assist you with determining if you are eligible to receive any government grants or incentives, and if so, help you with your applications.

4

### Organise your finance

Shop around and find the best product and most competitive rate and arrange your finance for the property.

5

### Finalise contracts and pay deposit

We will review the contract and ensure there are no outstanding issues with the developer. Then it is time to sign and exchange contracts and pay the remaining deposit.

6

### Pre-settlement inspection

Leading up to settlement, it is important to conduct a pre-settlement inspection to ensure that the property meets your expectations. Make a list of anything that does not appear as it should and provide this to your solicitor.



7

### Settlement

As part of the settlement process, your lender will have the property valued to finalise your loan. Once this has been done, and you are happy with your pre-settlement inspection, the final step is for your lawyer to complete settlement. Settlement can be completed online through PEXA. Following an electronic settlement, the land title register will be updated to show you as the new owner.

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## Things to consider

### The value

The property market is unpredictable and can fluctuate. If you are buying before construction has begun, you could be waiting a couple of years before the building is ready. You may in that period see the property value increase or decrease. An increase is usually nothing to be concerned about, however a decrease could see the property being valued under the contract price which could result in you not being able to obtain adequate finance approval.

### Stamp duty

In New South Wales, unless you are purchasing the property as your principal place of residence, stamp duty is payable three months from the date of the contract, so you must have this money available. It is important to ensure you understand any stamp duty you will be required to pay prior to this being due. Your lawyer can help you calculate any stamp duty you will need to pay.

### Finance approval

Approval of finance granted by a lender will usually only last for a maximum period of three months. You will need to reapply for finance when the building is almost ready to settle. If your financial circumstances change in this period, you may only be able to borrow part of the funds due on settlement.

### No physical building

You are relying on plans and marketing material (designs) when purchasing the property, you are unable to physically walk through the building. Most off the plan contracts contain conditions that allow the developer to amend and change the plans so that it can comply with local authority approvals.

### Sunset date

You may be told that the property is due to be completed in two years. All contracts contain a sunset clause which is the time frame in which the developer has to complete the building. Majority of contracts contain a 5 ½ year sunset period. It is important to understand that you are unable to terminate contracts until this period has expired.



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## Meet our Property & Commercial team:



**Jeff Garrett**

Legal Practice Director

07 5506 8201

0419 304 174

[jgarrett@attwoodmarshall.com.au](mailto:jgarrett@attwoodmarshall.com.au)



**Jess Kimpton**

Department Manager

07 5506 8214

0423 587 300

[jkimpton@attwoodmarshall.com.au](mailto:jkimpton@attwoodmarshall.com.au)



**Taylah Lein**

Department Manager &  
Senior Paralegal

07 5506 8208 | 0484 281 196

[aturner@attwoodmarshall.com.au](mailto:aturner@attwoodmarshall.com.au)



**Jessica Murray**

Senior Associate

(07) 5536 9777

[jmurray@attwoodmarshall.com.au](mailto:jmurray@attwoodmarshall.com.au)



**Mieke Elzer**

Associate

02 6670 1002

[melzer@attwoodmarshall.com.au](mailto:melzer@attwoodmarshall.com.au)



**Alexandra Hughes**

Lawyer

07 5536 9777

[ahughes@attwoodmarshall.com.au](mailto:ahughes@attwoodmarshall.com.au)



**Bronwyn Scofield**

Lawyer

07 5506 8225

0438 173 474

[bscofield@attwoodmarshall.com.au](mailto:bscofield@attwoodmarshall.com.au)



**Jorja Brewer**

Paralegal

07 5506 8232

[jbrewer@attwoodmarshall.com.au](mailto:jbrewer@attwoodmarshall.com.au)

# Helping people and changing their lives for the better.

Integrity. Understanding. Responsibility.

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72 – 80 Marine Parade,  
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Coolangatta  
QLD 4225

### Open:

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Tue: 7.30am - 5.30pm  
Wed: 7.30am - 5.30pm  
Thur: 7.30am - 5.30pm  
Fri: 7.30am - 5.30pm  
Sat: Closed  
Sun: Closed

## Robina Town Centre

Shop 4135, Robina  
Town Centre,  
Robina  
PO BOX 4358 Robina  
QLD 4230

### Open:

Mon: 8.30am - 5.00pm  
Tue: 8.30am - 5.00pm  
Wed: 8.30am - 5.00pm  
Thur: 8.30am - 9.00pm  
Fri: 8.30am - 5.00pm  
Sat: 9.00am - 12.00pm  
Sun: Closed

## Southport

Suite 10, Level 10,  
36 Marine Parade  
(Commercial Tower),  
Southport QLD 4215

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## Kingscliff

Level 2, Suite 24,  
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Kingscliff  
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## Brisbane

Level 27 Santos Place  
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QLD 4000

## Sydney

Level 25, 100 Mount Street,  
North Sydney  
NSW 2060

## Melbourne

Level 2, Riverside Quay,  
1 Southbank Blvd, Melbourne  
VIC 3006

Contact Attwood Marshall Lawyers on **1800 621 071** or email [info@attwoodmarshall.com.au](mailto:info@attwoodmarshall.com.au) to speak to one of our experienced lawyers today.



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