

Freecall 1800 621 071

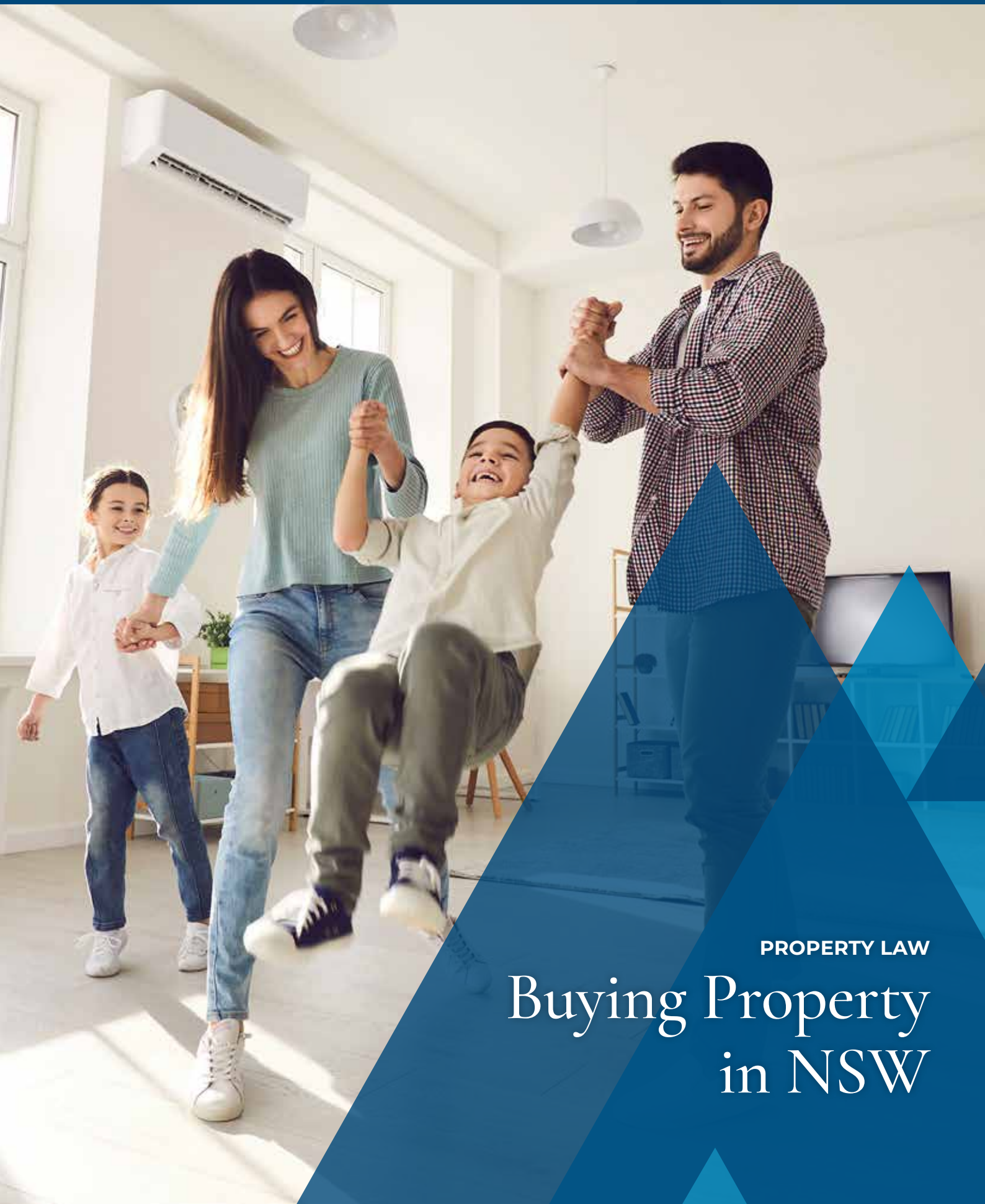
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PROPERTY LAW

# Buying Property in NSW

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Buying property is one of the most significant financial investments you will ever make. When making such a big decision, it is important to get the right legal advice, complete thorough checks on the property, and review the Contract to ensure you understand the fine print before you sign the dotted line.

Obtaining trusted legal advice when buying real estate can make or break a successful property transaction and may even help you negotiate a better deal.

Attwood Marshall Lawyers offer professional conveyancing and property law services throughout New South Wales. Our experienced team ensure buyers and investors receive up to date and trusted advice to help them make an informed decision when purchasing their next property.

We can provide pre-signing advice to purchasers, assist you with meeting the terms of the contract, and undertake thorough property searches to give you peace of mind that you know exactly what you are buying.

As a PEXA certified law firm, we provide greater certainty of a successful, on-time settlement by managing the property transaction electronically, in a quick and secure manner.

## What is conveyancing?

Conveyancing is the legal process of transferring legal title for real property from the vendor to the purchaser.

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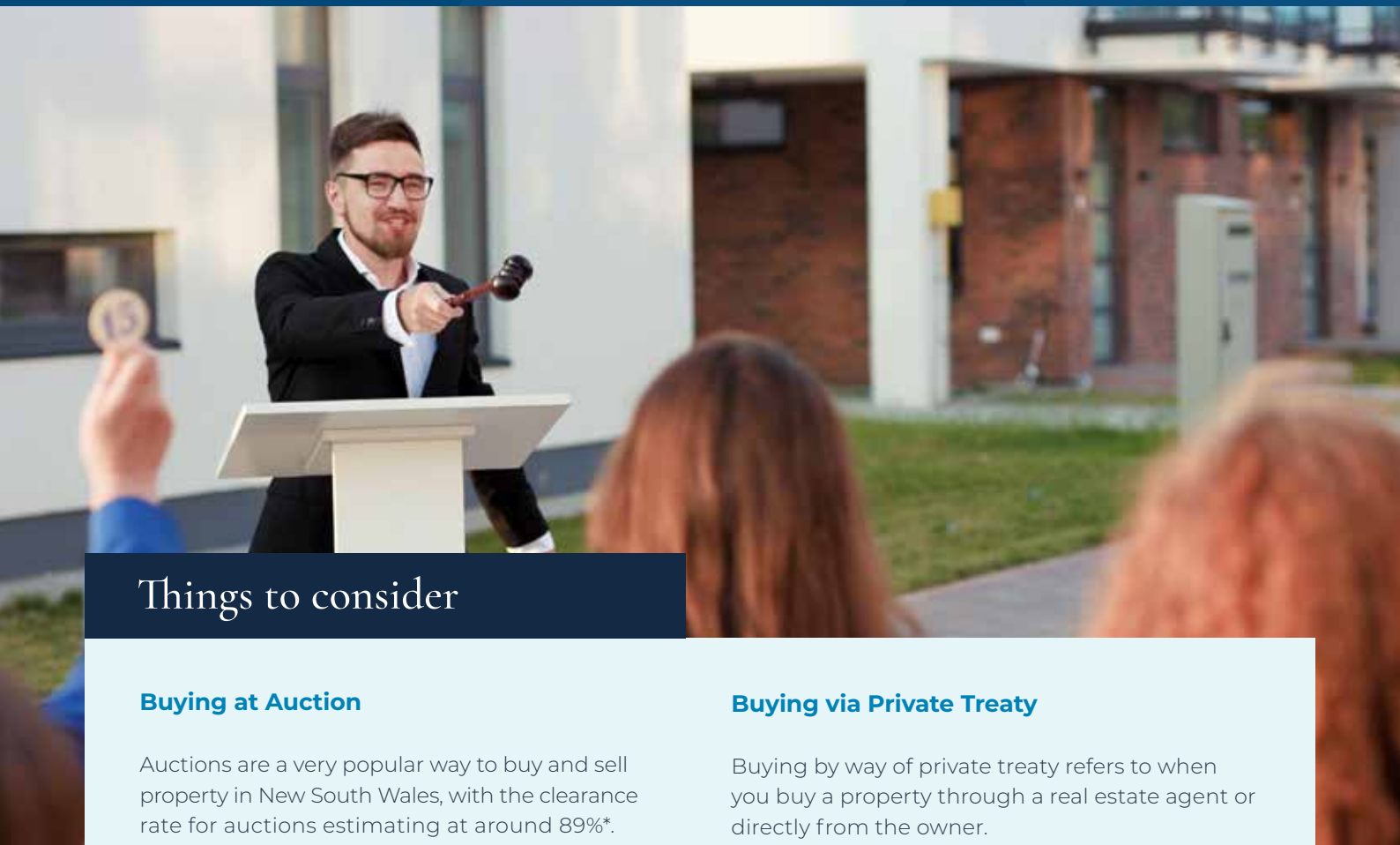
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## Things to consider

### Buying at Auction

Auctions are a very popular way to buy and sell property in New South Wales, with the clearance rate for auctions estimating at around 89%\*.

The auction process is governed by general rules that apply Australia-wide, and additional regulations vary by State and Territory.

Auction sales are 'unconditional' and there is no cooling off period, nor is the contract subject to finance or a satisfactory building and pest inspection. For anyone bidding at an auction, they need to be ready to pay the 10% deposit and sign the contract of sale immediately upon the fall of the auctioneer's hammer should they be the highest bidder on the day. The sale contract is usually a 30-day settlement and you take the property 'as is'.

In New South Wales, anyone who wishes to bid at an auction will need to register before the auction begins and provide suitable ID. By registering as a bidder, you are bound to the laws which govern auctions – which obligates you to exchange contracts and complete the sale if you place the winning bid. Auction conditions and the draft sale contract are set by law and are on display before an auction takes place so everyone can read them.

### Buying via Private Treaty

Buying by way of private treaty refers to when you buy a property through a real estate agent or directly from the owner.

In both instances, the real estate agent or property owner will try to 'sell' you the property, emphasising its benefits and playing down its faults. Make sure you do your homework and never feel pressured or rushed to make a decision or make an offer.

Ask as many questions as you need to find out as much information about the property as possible and, if you feel you need it, do not hesitate to request to inspect the property multiple times.

When you are being shown through properties, take notes to allow you to compare any other properties you may be considering.

\*Source: [www.realestate.com.au](http://www.realestate.com.au) Data based on clearance rates and recent sales for the week ending Sun 20 Jun 2021. The clearance rate is a percentage that is calculated by: Adding the total auction properties that were sold for the week (including those sold before and after auction) and dividing this by the number of auction results available (including Sold, Withdrawn and Passed In results), then multiply by 100 to get the clearance rate percentage.



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### Obtaining finance pre-approval

Obtaining pre-approval for finance before entering a contract can provide more certainty when determining whether you can finance the purchase.

'Pre-approval' or 'conditional approval' doesn't mean that your loan has been approved. These terms are only an indication from your financial institution that they are likely to approve your finance if certain conditions are satisfied and your circumstances have

not changed significantly.

Always ensure if you are obtaining finance to purchase a property, there is a 'subject to finance' clause in the contract. In the event your loan application is refused, the finance condition gives you the right to terminate the contract and receive your deposit back. It is also important to determine the finance date and how many days you will need to obtain unconditional finance approval.



### Transfer Duty in New South Wales

You are required to pay transfer duty in NSW when you purchase:

- property, including your home or holiday home;
- an investment property; or
- vacant land or a farming property.

If you're a first home buyer, you may be entitled to a concessional rate of transfer duty or even an exemption from paying it altogether under the First Home Buyers' Assistance Scheme (FHBAS).

You may be eligible for a transfer duty concession or exemption if:

- your home is valued at less than \$650,000, you can apply for a full exemption;
- the value of your home is between \$650,000 and \$800,000, you can apply for a concessional rate of transfer duty. The amount you'll have to pay will be based on the value of your home.

You must pay transfer duty within three months of signing a contract for sale or transfer, except in the case of off-the-plan purchases. If you buy off-the-plan and you intend to live in the property, you may be able to defer your transfer duty liability for up to 12 months.

Talk to our property team today to determine if you are exempt or will receive a concession for stamp duty.



## What to expect when you buy a property through an agent



### STEP 1

#### Making an Offer

When you make an offer on a property the agent will take this to the vendor. If the vendor accepts your offer, the agent will prepare a sales advice and send to the lawyers for both parties. The vendor's lawyer will then prepare the contract in accordance with the information on the sales advice and provide to your lawyer for review and signing. Once your lawyer receives the contract, they will arrange an appointment to explain the contract and answer any questions that you may have.



### STEP 2

#### Exchange of Contracts

When both parties have signed their respective contracts and we have received the purchaser's signed contract and the deposit to the agent trust account we will attend to exchange of contracts. This is when the contracts are dated and the running of conditions and completion period will begin.



### STEP 3

#### Conditions

When you are satisfied with your conditions, your lawyer will notify the vendor's lawyer and the agent. All conditions need to be met before the contract becomes unconditional.



### STEP 4

#### Settlement

When the contract becomes unconditional, the next step is to prepare for settlement. If you have a bank we will book settlement in with them directly.

Settlements in NSW happen through the electronic settlement platform PEXA.

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## Meet our Property & Commercial team:



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# Helping people and changing their lives for the better.

Integrity. Understanding. Responsibility.

## Coolangatta

72 – 80 Marine Parade,  
Coolangatta  
PO BOX 334,  
Coolangatta  
QLD 4225

### Open:

Mon: 7.30am - 5.30pm  
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

### Open:

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

## Kingscliff

Level 2, Suite 24,  
42 Pearl Street,  
Kingscliff  
PO BOX 1413 Kingscliff  
NSW 2487

### Open:

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

## Brisbane

Level 27 Santos Place  
32 Turbot Street Brisbane  
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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