

Freecall 1800 621 071

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ACN 126 248 208



Attwood Marshall
LAWYERS



PROPERTY LAW

Buying Property in Queensland

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Purchasing a residential property involves the process of transferring ownership (legal title) of property from the previous registered owner (seller) to the new owner (buyer). This is also known as a conveyance and can be one of the most significant financial transactions you may ever make.

There are a number of factors involved in a Queensland residential purchase, and whether you are a first home buyer or an experienced investor, you will need to ensure you meet all your legal obligations involved in the property transaction.

In Queensland, 'time is of the essence' is a contractual term in the standard Contract that requires a timely completion of a task. If a task is not completed on time by a party, then the other party to the Contract will have rights

against the defaulting party. There can be serious consequences for buyers who fail to comply with their obligations. This may include termination of the Contract, loss of a deposit or claims for damages.

Our property solicitors will help you ensure your purchase proceeds smoothly and settles on time.

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.



The Process

1



Offer and Acceptance

Once your offer has been accepted, we can review the Contract before you sign it to understand your rights and obligations.

To start the process:

- Contact our office on 1800 621 071
- Want us to contact you directly?

Click here: <https://attwoodmarshall.com.au/contact-us/>

Our Property Department Manager will contact you to arrange a consultation for you to obtain pre-signing advice from one of our property lawyers. During the consultation the lawyer will provide you with advice as to the conditions and clauses of the Contract.

2



Signed Contract

Our lawyers understand the importance of 'time is of the essence' and once we have received the signed and dated contract from the agent, we will endeavour to obtain your instructions to ensure all conditions are met on time. Your lawyer will also ensure the following are completed appropriately:

- Deposit, stamp duty and other outlays are paid on time
- Relevant property/land searches are ordered to identify if there are any council planning or development proposals or disputes affecting the property
- Transfer documents are drafted, signed and witnessed correctly
- Revert your instructions to the seller's solicitor and vice versa
- Liaise with your financier as required
- Prepare for settlement and ensure rates, body corporate levies (if applicable) and any other outgoings are correctly adjusted.

3



Settlement

After settlement has occurred, your lawyer will confirm with you that settlement has been effected and registration documents will either be lodged by your lawyer or your financier. Once registration is completed, the property will be officially recorded on the QLD Land Register, noting you as the new registered owner of the property.



Things to consider

TIP 1

Get pre-signing advice

Prior to signing a contract in Queensland, it is important to have the contract reviewed by your solicitor. Once a contract is executed, you must carry out the obligations imposed on you under the contract or risk the other party terminating or suing you for damages.

Once a contract is signed, it can be extremely difficult, potentially costly and cause unnecessary delay, to terminate a contract or negotiate changes to your obligations.

At Attwood Marshall Lawyers, we understand the importance of providing pre-signing advice. Our property team will help you understand the terms and conditions of the contract, including your rights and obligations, assist to ensure it is practical and possible for you to meet your obligations, draft or review any special conditions to ensure that they are effective and enforceable, and assist in negotiating special conditions or amendments to the contract to protect your interests.

TIP 2

Ensure you can pay the deposit

When purchasing a property, you need to ensure you have enough money to pay the initial and balance deposits when required under the contract. If you cannot pay the deposits on time you will be in default of the Contract and the seller may recover any part of the deposit as a liquidated debt.

TIP 3

Property ownership

Joint Tenancy

Joint tenancy is a method of owning property that allows all tenants to have their names recorded on the title as co-owners. The effect of joint tenancy is that upon the death of one of the joint tenants, their share is automatically given to the other joint tenant by a legal process known as survivorship. This rule of survivorship will apply regardless of instructions in the deceased's Will.

Tenants in Common

Tenants in common own property in individual shares, for example 50/50, 40/60 or 10/90. Each individual and their share of the property will be recorded on title. If a property is owned as tenants in common, and one of the owners passes away, their share will be distributed according to their Will. If they do not have a Will, their share will be distributed according to the rules of intestacy.

Contact our property team for advice on which type of tenancy may best suit your circumstances.





TIP 4

Purchase in the correct entity

It is important to determine the name or entity you will be purchasing the property in. Buyers purchasing their first home or principle place of residence will usually purchase in their sole or joint names. If you are an individual who works in a high-risk profession or if you are a director of a company operating a business, purchasing in your name may expose you to potential risk if a litigious matter were to arise in your name. For asset protection purposes, it may be strategic to purchase the property in the name of your partner or a trust. Nevertheless, it is extremely important that the correct name or entity is reflected in the Contract, as spelling errors or missing names can create issues if you are obtaining finance, inconsistencies with the title registry, stamp duty conflicts, or time and legal costs to correct the contract error.

TIP 5

Subject to finance

Always ensure there is a 'subject to finance' clause in the Contract, if you are obtaining finance to purchase a property. In the event your loan application is rejected, 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. Speak with one of our experienced property lawyers if you are unsure if you require a finance condition in your Contract.

TIP 6

Get insurance

In Queensland, after signing a Contract to purchase a property, you assume risk of the property from 5pm on the first business day after the Contract date. We recommend organising insurance as soon as possible to ensure you are covered in the event of damage or loss. Our experienced team are able to refer you to an insurance broker to ensure you're completely covered. Call us on 1800 621 071.





FAQs

What is stamp duty?

Stamp duty is a government tax in a property transaction. The amount of stamp duty payable varies depending on the purchase price and if you are eligible to claim an exemption or concession for stamp duty.

Visit <https://www.qld.gov.au/housing/buying-owning-home/advice-buying-home/transfer-duty/how-much-you-will-pay/calculating-transfer-duty/estimate-transfer-duty> to find out how much stamp duty you may be required to pay.

If you're purchasing your first home, you may be entitled to an exemption of stamp duty if you meet the requirements. If you are purchasing your principle place of residence, you may be entitled to a concession of stamp duty.

To understand your entitlements, contact Attwood Marshall Lawyers today. Our team will help you understand if you can claim an exemption or concession for stamp duty.

How much deposit should I pay?

The amount of deposit you should pay is dependent on the parties' agreements. The deposit can be payable in two lots. An initial deposit of a nominal amount is usually paid upon signing of the Contract by the buyer, with a balance deposit payable when the Contract becomes unconditional, or on an otherwise agreed date.

The deposit is usually between 5 to 10 percent of the purchase price, but it cannot be more than 10 percent. Ultimately, it is the buyer's discretion to decide the amount of a deposit they would like to put down, and the seller's discretion to agree to the amount.

What is settlement?

On settlement date the relevant parties to the conveyance will come together to settle the sale of the property. Queensland conveyances can be settled electronically (through PEXA) or on paper.

Paper settlements require parties to meet at a physical venue. Typically, buyers and sellers do not attend the settlement. In a paper settlement, the transfer is provided to the buyer's incoming lender or the buyer's solicitor who will lodge the transfer documents with the QLD land title registry and the seller's cheque for the balance of the sale proceeds is handed to the seller's solicitor and to the bank on the seller's behalf.

Following an electronic settlement, the land title register will be updated to show the buyer as the new owner and the balance of sale proceeds are electronically transferred and received to the seller's nominated account same day. Once the title is registered in the new owners' names, the local authorities (e.g. Council) are informed by the land title registrar.

Why choose Attwood Marshall Lawyers?

Attwood Marshall Lawyers specialise in residential purchase conveyancing on the Gold Coast, Brisbane and throughout Queensland. Our experienced property lawyers can assist you with buying a house, unit, townhouse, or vacant land. Our goal is to provide trusted advice and exceptional service, to make the process of buying property as stress-free as possible.

Our lawyers provide FREE pre-signing advice on Queensland Contracts and assist with drafting contracts and negotiating the terms of a contract including any special terms you want included to ensure your best interests are protected.

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Helping people and changing their lives for the better.

Integrity. Understanding. Responsibility.

Coolangatta

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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,
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NSW 2487

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Mon: 8.30am - 5.00pm
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Sat: Closed
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Contact Attwood Marshall Lawyers on **1800 621 071** or email info@attwoodmarshall.com.au to speak to one of our experienced lawyers today.



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