

Freecall 1800 621 071

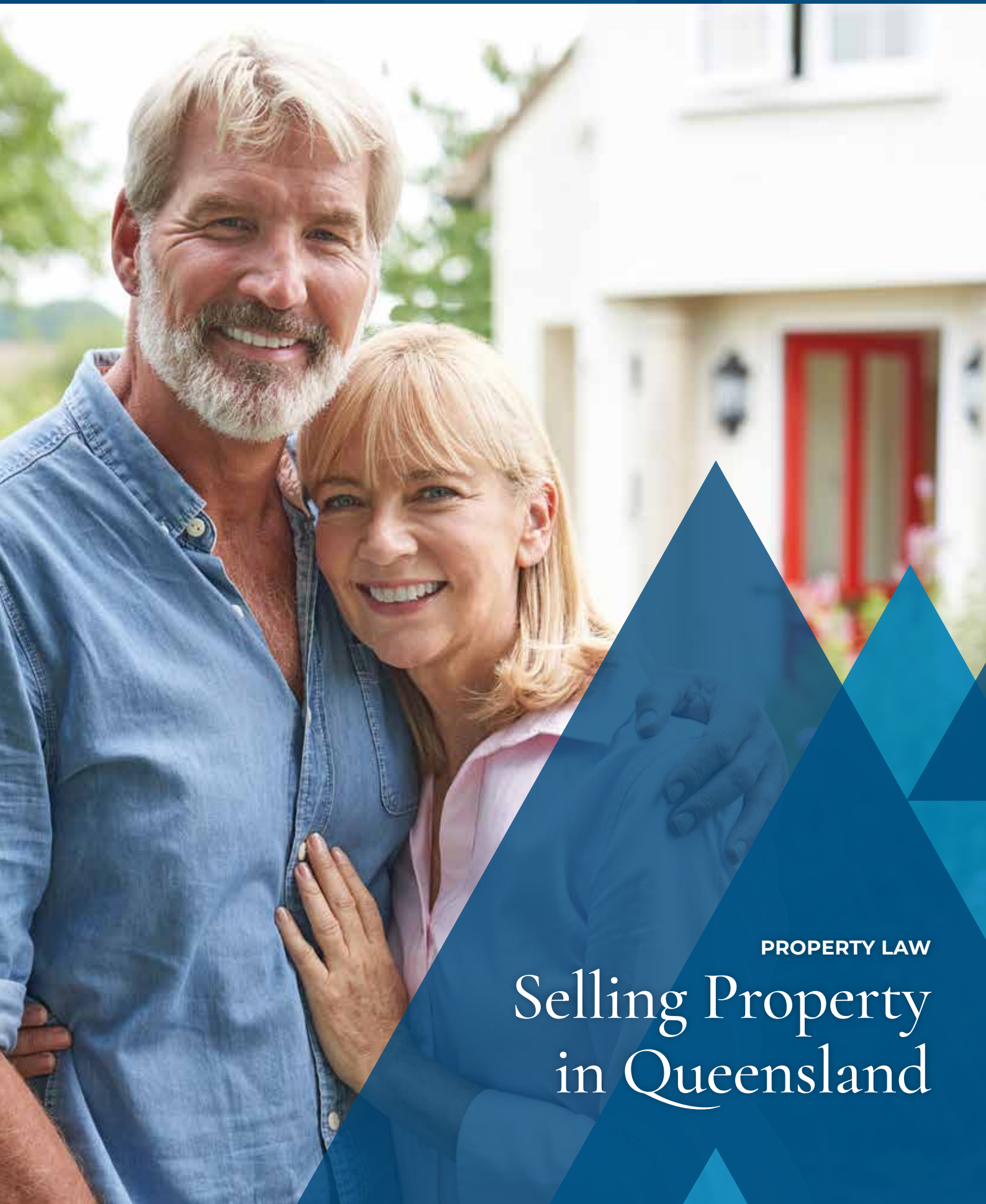
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Attwood Marshall  
LAWYERS



PROPERTY LAW

# Selling Property in Queensland



**Selling 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 referred to as a conveyance.**

There are factors involved in a Queensland sale which will require you to meet all your legal obligations involved in the property transaction. It is important to have a solicitor review the Contract before you sign to ensure the Contract reflects your best interests and to

provide you with legal advice in relation to your rights, obligations and warranties. There can be consequences for sellers who fail to comply with their obligations. Our property solicitors will help you ensure your property sale proceeds smoothly and settles on time.

## The Process



1

### Offer and Acceptance

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

To start the process:

- Call us 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 your rights and obligations in a Contract and once we have received the signed and dated Contract from the agent, we will endeavour to protect your best interest throughout the conveyance.

The lawyer will also ensure the following are completed appropriately:

- Liaise with the mortgagee on title (if applicable) to ensure the mortgage is released on time;
- Receive instructions from you and revert your instructions to the buyer's solicitor and vice versa;
- Prepare for settlement and ensure rates, body corporate levies (if applicable) and any other outgoings are correctly adjusted between parties; and
- Ensure relevant payment directions on settlement.



3

### Settlement

After settlement has occurred, your lawyer will confirm with you that settlement has been effected and the balance of your sale proceeds will be disbursed into your nominated account.



## 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

#### Release of mortgage

If you have a mortgage on title, you must ensure the mortgage will be released on settlement. If a bank is not ready or has not been instructed to release the mortgage on settlement date, this will cause settlement to be delayed and can give rise to certain buyer's rights.

Different financial institutions have certain processing times, and our lawyers understand the importance of ensuring the release of mortgage authority has been correctly completed, signed, and provided to your financier in a timely matter to process for settlement.







## FAQs

### What is the difference between selling through an agent and a private sale?

Selling a property through an agency involves a real estate agent, who represents the seller and will receive a commission from the seller when the property is sold. The real estate agent is responsible for marketing the property, negotiating the best price and drafting the standard Contract of Sale for the seller. A real estate agent is not qualified to give legal advice on the Contract, draft clauses or modify the pre-printed Contract in any way.

A private sale is an unadvertised sale of property which is not open to the general public. A private sale is negotiated between a buyer and a seller directly. Usually, there is no intervention by an agent in a private sale and the seller's solicitor will prepare the draft Contract to provide to the buyer's solicitor for review.

### What is a Disclosure Statement and when do I need one?

If you're selling an existing lot in a community titles scheme (Body Corporate), you must give a prospective buyer a signed Disclosure Statement before the buyer enters into the Contract for Sale. A Disclosure Statement will contain information required to be disclosed to the prospective buyer including; the contact details for the body corporate manager, the amount of annual contributions payable by the owner of the lot, any improvements on common property which the buyer will be responsible for, the insurance details and the lot entitlements. If a Disclosure Statement has not been provided or has not been signed by the seller, before the buyer has entered into the Contract, the buyer may have a right to terminate the Contract.

### What does 'time is of the essence' mean?

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 sellers who fail to comply with their obligations. This may include termination of the Contract, forfeiting the deposit or claims for damages.

### What do I need to disclose in a standard Sale Contract?

Certain legislation requires you to disclose information about the property you are selling including the following:

- **Environmental Protection Act 1994 (Qld):** if the land is recorded on the Environmental Management Register or the Contaminated Land Register, you must disclose that the particulars have been recorded in the register and, if the land is subject to a site management plan, the details of the plan;
- **Electrical Safety Regulation 2013 (Qld):** You must disclose whether a safety switch is installed in the property;
- **Fire and Emergency Services Act (Qld):** You must disclose whether there are compliant smoke alarms installed in the property;
- **Queensland Building and Construction Commission Act 1991 (Qld):** If any building works were carried out by an unlicensed builder and if the property is sold within six years of completion of the work, you must give notice detailing the work carried out along with the relevant warning under the legislation;
- **Neighbourhood Disputes (Dividing Fences and Trees) Act 2011:** You must disclose if there are any applications to, or orders made by QCAT in relation to trees affecting the property.
- **Title Encumbrances:** You are required to disclose all title encumbrances which will remain after settlement. For example, easements on title and statutory easements for sewerage and drainage which may not appear on a title search. Failure to disclose these may entitle the buyer to terminate the Contract or to compensation. It is not sufficient to state "refer to title", "search will reveal", or similar.

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# Helping people and changing their lives for the better.

Integrity. Understanding. Responsibility.

## Coolangatta

72 – 80 Marine Parade,  
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Coolangatta  
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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  
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Sat: 9.00am - 12.00pm  
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## Southport

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

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## Kingscliff

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Kingscliff  
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NSW 2487

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## Brisbane

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32 Turbot Street Brisbane  
QLD 4000

## Sydney

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North Sydney  
NSW 2060

## Melbourne

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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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