

The A - Z of Home Purchase

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Disclaimer

This booklet is for information purposes only, and must not be relied on as a substitute for legal advice. For more information about this topic, please contact The Homeloan Guru on

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Before you start

Buying a home will probably be the most expensive and important purchase you ever make. A successful purchase involves adequate research, planning and patience. Assuming you need to borrow to purchase your home, ask lending bodies (ie banks, building societies, credit unions, mortgage originators/managers or your Mortgage Broker) how much you can borrow, and when.

Calculate what you can afford to spend by adding the amount you have saved with the amount you can borrow. Allow for lender fees, duty, legal and moving costs. For more detailed information about borrowing, please refer to our booklet Financing Your Home Purchase. A golden rule of home buying is never to assume anything! If you do not know – ask. Don't be hesitant about asking what you consider to be simple questions because often these are the most important.

It is a good idea to draw up a budget. You will often be surprised by how much banks and other lenders are prepared to lend to you. If you borrow up to the maximum, this may well affect your future lifestyle. Sit down with your mortgage broker or download our Budget Planner to do up a budget and get clear about where your funds are going now and where they will go once you have made your home purchase.

Choosing what to buy

The type of home you purchase should be based on affordability, your current and future needs, and your lifestyle.

For instance, if you are single, you have a demanding job or spend a lot of time away from home participating in sport and social activities, then a unit or town house may prove less demanding than a house and garden.

If your household includes very young children, elderly people or people with disabilities, you should probably avoid a steep site with many access stairs.

If you have a large family, the number and placement of bedrooms will be important.

These are simple examples and there are many others. Make sure you are clear about your personal requirements to avoid being inconvenienced or disappointed after you move in.

Buying land and building a home

For many people, buying land and building a home can be an attractive alternative to buying an existing house or unit. There are several options: land may be bought and the house contracted and built on it, or a house and land package may be bought from a developer. The actual building of the house may be by a project home builder, or a custom builder.

Some people opt to build a kit home and others decide to owner build. Please refer to our booklet Buying Land and Building a Home or contact the Office of Fair Trading which publishes booklets on building.

Buying an existing home

Generally, it is a case of caveat emptor, meaning let the buyer beware. There is no onus on the seller to admit any quality defects. There is no comeback if, after purchase, the buyer finds faults. Refer to our Home Buyer's Checklist of things to look for when inspecting properties.

Your risks are reduced by taking the following steps:

- Make sure that those fittings you are buying with the property, eg blinds, curtains and light fittings, air conditioners, stoves etc. are listed separately in the Contract of Sale; and
- Arrange a building inspection and a pest inspection before exchanging contracts or at least before the cooling-off period expires.

A house

Consider the maintenance involved if you are considering buying a house. Do not reject a property because it needs minor repairs or regular maintenance if it otherwise suits. You could benefit financially by doing the work yourself. If you contemplate any additions or alterations, these costs should be considered.

A home unit

When buying a home unit, the proximity of neighbours makes it advisable to check the layout of adjoining units to determine noise levels. For example, it will be noisy if the bedroom of your unit is directly below or above someone else's kitchen or living room. Check whether a car parking space is registered on the title and whether it's a lock up garage or a carport. Don't assume that unit numbers correspond to car spaces or garage numbers, or that any free space is available for your visitors.

Certain features, such as the location, will contribute to the unit's resale value.

Is it near reliable transport? Does it have an internal laundry? A private balcony? A lock-up garage? Is there guest parking? Does the block have adequate security? What is the internal sound proving like?

Remember, beyond your front door, upkeep is less of a worry than for a house. On the other hand, your living space may be small, you are close to your neighbours and you are governed by certain regulations depending upon the title under which the unit is owned.

A villa or town house

Villas and town houses are built on smaller individual blocks of land which can mean substantial savings. This may make it possible to live in a more convenient location closer to facilities. They can have common walls or be detached. They retain a small private outdoor area or garden space and maybe sold under Strata Title, Torrens Title or Community Title.

Buying off the plan

Buying off the plan means buying a property, usually a unit or townhouse, prior to completion of the construction. When buying off the plan, check the terms and conditions of the contract with your

conveyancer or solicitor to ensure that what is stated on the plan is what you will be buying. The contract should be examined thoroughly to see:

- who holds the deposit
- what happens if the property is not completed on time
- how you can get your deposit money back if there are problems

You should also look at what else is being built in the area and current capital growth. The following difficulties may be experienced when buying off the plan:

- Sales may take place prior to consent being granted to the development application from the local council (the council may require changes to the plan).
- There is no guarantee of the standard of workmanship.
- Properties may not live up to advertised claims for quality and end-use performance.
- The plans may be changed by the builder before building commences.
- The contract has to be signed and the deposit paid with a waiting period before completion and settlement. There may be a two to three year wait.

WAYS TO BUY

Private Treaty

Private treaty is the most common way to buy. It includes:

- Buying through a real estate agent; and
- Buying directly from the owner

The latter is known as a private sale because the seller does not engage an agent. Instead, the seller negotiates directly with potential buyers.

In both cases the agent or owner will try to 'sell' you the property, emphasizing its benefits and minimising its faults. DO NOT become rushed, pushed or persuaded by what is said. Remember, when it comes to signing a contract, you may be asked by the seller to state in the contract that you were not persuaded to sign as a result of anything you were told about the property. So take your time. Ask questions and, if you feel you require it, do not hesitate to ask to look at the property for a second or third time. When you are being shown through properties take notes to allow you to compare properties. Our Home Buyer's Checklist may assist you in this note-taking.

Apart from your basic needs, do not be bound by pre-conceived ideas about things like construction or suburb. Don't be surprised if you change your ideas as you inspect various homes. After all, you are learning and widening your experience of the housing market as you look.

Auction

Most auctions for sale of property are subject to a reserve price. A reserve price is the lowest amount the seller is prepared to accept for the property, although this price is not made available to buyers. An

auctioneer or agent is not obliged to accept the highest bid if it is below the reserve price, or to accept any bid until the fall of the hammer.

All bidders at auctions will have to be registered in a Bidders Record for the auction. Once registered, bidders must be given a number to display when bidding. Auctioneers can only accept a bid from a person who is registered.

Advantages Of Auction

- Inspections of the property are conducted in a well organised manner, usually with an agent who knows certain features of the property and the facilities in the surrounding area that may not at first be obvious. The viewing times are specified, giving everyone equal opportunity to inspect.
- The process of interested persons bidding for the property may result in a realistic price being set by the community and not by the seller. The purchaser could buy at a lower price than anticipated.
- The successful bid is known at the fall of the hammer. If the highest bid is not accepted then the property is 'passed in' and the reserve price is revealed to certain interested persons.
- If the reserve price is not reached, the highest bidder usually has the first opportunity to negotiate with the seller through his/her agent.
- If a bid is accepted, the contracts are exchanged on the spot. This ensures that neither the seller's nor the buyer's time is wasted.

But Beware

- Have your finance formally approved and clearly understand any conditions imposed by the lending body before attending the auction. Remember that on exchange of contracts you are legally bound to purchase the property. There is no cooling-off period.
- Remember your finance limit at all times. Do not bid above your limit.
- Remain calm and bid only FOR the property not AGAINST another bidder.
- The seller has the right to one bid. This bid can be made by the seller or by someone on the seller's behalf such as the agent or auctioneer. The right of the seller to make a bid must be included in the auction conditions displayed at the auction. The auctioneer must announce the seller's bid when it is made. Remember that he/she is a professional and experienced in this area. Further, it is in the agent's interest for the property to be sold at the highest possible price.
- Obtain a copy of the contract and any certificates well in advance and have your solicitor or legal representative check the terms and conditions.
- Make sure you understand exactly what is included in the sale. All fittings to be included should be clearly listed. Have a pre-purchase property inspection and a pest inspection to ensure the property is structurally sound and free of pests. Arrange for a strata records inspection if purchasing a unit. Consider having a valuation done on the property if you are unsure of an appropriate price for the area. You may be able to establish a realistic estimate value by analyzing recent sales information in newspapers or local estate agents' notices.

If yours is the successful bid, you will be required to pay the deposit (usually 10% of the purchase price) on the spot. These monies are handed over to the agent immediately on signing the contracts. There are certain acceptable ways of having these monies available (you should check with the agent

prior to auction). Finally, be prepared for your bid to be unsuccessful and even so, for some costs to be incurred - such as solicitor's/conveyancer's fees, inspection and valuation fees, and possibly fees from your lending body.

Options for Legal Work

The transfer of property ownership from the seller's name to the buyer's name is called conveyancing. You may choose one of the following options for carrying out the conveyancing procedure:

- engage a solicitor
- engage a licensed conveyance
- do it yourself
- If you engage a solicitor or conveyancer, it is advisable to choose one who will act solely in your interest and not also act for the seller.

Solicitors

All solicitors carry professional indemnity insurance and contribute to a fidelity fund. Solicitors charge a negotiable fee with disbursements usually charged separately. Disbursements are the miscellaneous fees and charges incurred during the conveyancing process, including search fees charged by government authorities. A solicitor will often charge for preparing the Contract of Sale and for advising on the mortgage document if this is needed

Conveyancers

Conveyancers specialize in conveyancing only. They charge a negotiable fee and disbursements are charged separately. Under the Conveyancers Licensing Act all licensed conveyancers carry professional indemnity insurance and are covered by fidelity insurance.

Do-it-yourself conveyancing

Do-it-yourself conveyancing can be carried out with the aid of a kit available from: The Law Consumers' Association – (02) 9267 6154 (you will be required to join the Association to obtain a kit); or Australian Property Law Kits – 1800 252 808 In addition to the cost of the kits, you will need to pay disbursements. If you do it yourself, you may save \$1,000. However, when you conduct your own conveyancing, the full responsibility rests with you in the event of a mistake. When paying a Solicitor to do it for you, not only do you get their expertise but there is also the professional indemnity insurance and fidelity cover as important security for the buyer to consider.

STEPS OF BUYING

Where to start

Real estate groups advertise through journals such as Homes Pictorial and The Realtor which are published regularly. They are available from real estate agents and contain photographs and illustrations of properties available.

Many newspapers carry advertisements of properties for sale. If you have decided on a specific area or suburb, local newspapers will be helpful as they usually contain illustrated real estate sections relating to that area.

The most popular way to search for property is on line with the two major sites being www.realestate.com.au and www.domain.com.au.

If you give details of your requirements and price range to real estate agents, they will be able to assist you by showing you a number of suitable properties in the area you are looking.

An 'Open House' is a good opportunity to visit a property at an advertised time. Make sure you are very specific about the type, location and price of the home you are looking for as some agents may show you properties which they are finding difficult to sell. It is wise to view a large number of properties to compare value for money. This will also help you to realize your own requirements and what your money can realistically buy.

There are many points to consider when inspecting properties.

Perhaps the four main questions are:

- Does it suit my needs?
- What are its faults?
- What are its features?
- How does the price compare with other properties seen?

Our Home Buyer's Checklist may assist you when inspecting properties.

The Contract of Sale

A seller must have the Contract of Sale prepared and available for inspection before offering a property for sale. Attached to the contract are the various certificates the seller must provide:

- a 'Section 149' certificate from the local council, detailing zoning and other information
- a sewerage diagram
- a copy of the title folio from the Land and Property Information NSW
- copies of all documents creating easements or restrictive covenants
- a cooling-off statement has to be provided
- a notice directing parties to the Conveyancing Act 1919 (Section 52A) and the Conveyancing (Sale of Land) Regulation 2000
- if it is a strata unit, copies of the folio of the Register for the lot and common property and a copy of the strata plan.

If the seller does not attach the disclosure information, the buyer may be entitled to rescind (cancel) the contract within 14 days of exchanging the contract. The buyer may also have the right to rescind the contract prior to completion if the seller breaches certain warranties required by the Vendor Disclosure and Warranty Regulation.

Expressing an interest in a property

Once you have found the property you intend to buy and agreed on a price with the vendor or agent, obtain a copy of the Contract of Sale from the real estate agent. You and your solicitor or conveyancer should check it.

Some real estate agents will ask you to pay an initial or part deposit as a sign of good faith.

If you haven't signed and exchanged contracts this payment does not 'hold' the property. It is refundable if you change your mind. Paying an initial or part deposit only means that the agent will be less likely to show anyone else the property. You can still miss out if another buyer exchanges contracts before you.

You can make arrangements through your solicitor or conveyancer with the agent to exchange contracts with a five day cooling-off period in order to secure the property. **It is unwise to enter into any contract without first obtaining legal advice and finance approval.** We recommend that you find a solicitor before you find the right property.

Gazumping

Gazumping can take two forms:

1. The intending buyer believes that the property has been secured by payment of an initial or part deposit, then proceeds to arrange finance, legal and other matters. When ready to exchange contracts, the intending buyer finds that another buyer has exchanged contracts on the property; or
2. The seller, or the real estate agent, accepts two or more initial deposits and then tells the intending buyers that the price has gone up. The intending purchasers are then left to outbid each other as if it were an auction. This is unfortunate for the buyer, but the seller is entitled to get the best price for the property.

Applying for a loan

Submit a formal application to your lending body for a loan on the property as soon as possible. You should not exchange contracts for the property (with or without the cooling-off period) before finance has been approved in writing. Establishment and valuation fees will often have to be paid to the lending body with your formal application. The lending body will also value the property to determine whether the property is adequate security for the loan amount.

The lending body lends a percentage of the valuation of a property, not a percentage of the purchase price. Although the five day cooling-off period can be used to secure a quick exchange, it is wiser to make sure your loan has been formally approved in writing before signing and exchanging contracts.

Please check out our ebook "Financing your Home Purchase".

Building inspection

The buyer is not provided with any guarantees about the structural soundness of the dwelling. Therefore it is advisable that a building inspection be undertaken before the exchange of contracts. A building inspection checks structural soundness, indicating visible quality defects and necessary repairs.

An inspection should include:

- foundations
- the condition of all structural timber, ie floor joists, rafters all load bearing walls and members
- the outer skin of the building (may be brick, stone, timber, fibro)
- plumbing and electrical wiring
- kitchen and bathrooms (to update can be expensive)

Before engaging a consultant, confirm exactly what the inspection entails and what further inspections, if any, may be required. A consultant should have sufficient knowledge to enable them to identify any areas of concern. Building inspections are conducted by companies listed in the Yellow Pages under Building Inspection Services or you can ask us for a recommendation.

Pest Inspection

It is recommended that you have any building inspected for pests before buying it. This may be a requirement of the lending authority. Check that the company carrying out the inspection carries professional indemnity insurance. This will cover the company, and therefore your costs, should the company make a mistake. Pest Inspection reports often make scary reading, let the inspector explain to you what is of concern and what is not.

Strata inspection

The seller's solicitor will supply the prospective buyer with a certificate under Section 109 which should show relevant information about the management committee, insurances, cost of levies, deeds, books etc.

The prospective buyer should also arrange for a pre-purchase strata inspection covering other written records. This inspection, although optional, is recommended as there can be problems that might otherwise go undetected. We have seen cases where the body corporate was in litigation with the builder, with the potential if not likelihood of thousands of dollars in legal fees which will need to be covered by the owners. The inspection needs to be carried out before the exchange of contracts. Strata inspections are conducted by some of the companies listed in the Yellow Pages under Title Searchers. As strata inspections cover written records only, a separate building inspection is recommended.

Shared ownership

If you are buying the property with someone else, you will need to decide the type of ownership you will have.

There are two types of shared ownership:

Joint Tenants, where the property is held by two or more people in equal shares. If one dies, his/her share goes to the survivors; and

Tenants in Common, where the property is held by two or more people in equal or unequal shares. If one dies, his/her share goes to the estate of the deceased.

Exchange of Contracts

When all the reports are in order and the loan is formally approved, your solicitor or conveyance will organise the exchange of contracts. The contract is a legal agreement between the seller and the buyer. It sets out the terms and conditions of the sale. Any fittings you are purchasing with the property such as curtains, blinds, light fittings, awnings, air conditioner or TV antenna should be listed in the contract to avoid disputes at, or after, settlement. The contract is prepared in duplicate by the seller's solicitor or conveyancer. The original is forwarded to the seller for signature. The copy is forwarded to the buyer's solicitor or conveyancer for approval and then signed by the buyer. The exchange of contracts is then carried out.

The contract is dated at the exchange and thereafter the seller and buyer are committed.

Deposit

On the date that the contracts are exchanged, the agent will request that you pay the agreed deposit stated in the contract. While the amount is usually 10%, it can vary by agreement. Your solicitor or conveyancer will normally pay this deposit to the real estate agent, and it will be held in the agent's trust account. Alternatively, the parties may agree to invest the deposit and receive interest. It is very unwise for the buyer to hand the deposit over directly to the seller on exchange, or to release the deposit to the seller to use as a deposit in a separate purchase of their own.

Five day cooling-off period

After the exchange of contracts, there is provision for a five business day cooling-off period. This means you can change your mind and cancel the contract. If you decide not to proceed during the five day cooling-off period, you will forfeit 0.25% of the purchase price to the seller, eg on a \$250,000 property you would forfeit \$625.

There is no cooling-off period if:

- you instruct your solicitor or conveyancer to sign a Section 66W Certificate which waives your cooling-off rights; or
- you are a successful bidder at an auction.

It is important to have your loan formally approved and inspections carried out before attending an auction or before waiving your cooling-off rights.

This strategy is harder to adopt in a sellers' market because the property may be sold to someone else if you delay. You may have to risk the 0.25% just to secure the property and take it off the market.

Stamp Duty

The contract is subject to stamp duty paid by the purchaser and calculated on the purchase price of the property. It must be paid within three months of signing the contract. Ask us or your solicitor if you are not settling on your purchase in that time.

After exchanging contracts

It usually takes six weeks from exchange of contracts until settlement but shorter or longer periods can be negotiated between the parties. During this time, enquiries and searches are made and documents prepared by your solicitor or conveyancer.

The Transfer document is prepared and taken to the Office of State Revenue for stamping together with the original Contract of Sale. The transfer is then sent to the seller or the seller's representative. Once signed by the seller, it will be returned to you at settlement.

- If the seller does not have a recent survey attached to the contract, your solicitor or conveyancer may obtain a survey report. This will identify the property, show the position of the buildings and fences in relation to the correct boundaries and show any encroachments upon the land or to the neighbouring property.
- All relevant enquiries relating to your land are made. These include the relevant electricity authority, water authority and the local council. These show if authorities have any interest in your land, for example, whether the Roads and Traffic Authority plans to resume part of your land for road-widening. They also show the amount of council and water rates, if there are any arrears and if the land is subject to a land tax charge in the hands of the seller.
- Your lender will prepare a mortgage document which sets out the terms and conditions of the loan. Make sure you fully understand your mortgage document before signing it. Know exactly what you are contracted to pay: how, when and for how long. This document allows the lender to sell the property if you do not make the repayments. The lender can recover the amount owing, including the original amount of the loan, interest payable on it and costs.
- Requisitions on title are sent to the seller or the seller's representative for completion. Requisitions obtain information from the seller which may not have been previously disclosed or discovered during inspection of the property, eg any disputes with neighbours relating to fences. Close to settlement a Settlement Statement is sent to the seller for completion. This details the final amount owing including the adjustments to rates and taxes as at the date of settlement. The seller will inform your solicitor or conveyancer how the cheques are to be drawn.

Insurance

'Passing of risk' legislation transfers the responsibility for damage to the seller up until settlement or completion of the sale. From settlement, when the property becomes yours, you are responsible for damage. It may still be prudent to insure the property before settlement if you are unsure whether the seller has a current insurance policy.

If you are buying a home unit, a Certificate of Currency should be obtained from the owners corporation's insurer to make sure the property is adequately insured. Your lender may require details and proof of this on or before settlement.

If you move into the property before settlement, the seller will probably want to make a special arrangement whereby you are responsible for insurance from the time you take possession.

Final check

On the day of settlement, it is important that a final search of the title is obtained from the Land and Property Information NSW. This is to ensure that the property is clear from any interests or restrictions which may have been recorded between the date of exchange and settlement. You should carry out a final inspection of the property to ensure that it has not been damaged and all fixtures and fittings listed in the contract are intact.

Settlement

Settlement is the completion of the transaction. A date is arranged by both parties and your lender for settlement. This is usually at the seller's lending body. Representatives of the seller and the purchaser attend, together with a representative from the lending bodies of the seller and purchaser.

- The lending body pays the loan money and the buyer pays the balance. You must check before settlement (when the settlement statement is being prepared) what the actual amount provided on settlement by your lender will be. Your lending body will usually deduct its costs and disbursements from the loan amount so you will not get the full amount you are borrowing.
- Your solicitor or conveyancer authorises the seller's representative to collect the deposit from the real estate agent. The buyer will pay, in addition to the price, adjustments such as taxes, council and water rates already paid in advance by the seller for the current rating period. This payment will be calculated by your solicitor or conveyancer from the date of settlement. Land tax is payable in total by the seller and may be adjusted if provided for in the contract.
- Your solicitor or conveyancer will receive a signed Transfer and a Title Deed, and the lender will arrange for the Land and Property Information NSW to register the Transfer and the mortgage on Title. The Title documents and mortgage will be held by the lending body until the term of the mortgage is completed.
- The buyer pays on the contract.
- You are responsible for insuring the property from settlement. You should have arranged this before settlement whether or not it was a requirement of your lender. Remember to budget for your moving costs and ongoing costs such as council rates, water rates and insurance. Your solicitor or conveyancer will advise you to pay all rates at settlement.
- The keys to the property are handed over at settlement or you can pick them up from the estate agent immediately after settlement.

Types of Ownership

Torrens Title

Torrens Title is the name given to the government system of recording ownership of land. It is by far the most common land title, and the cheapest to buy and sell. Once you are registered on the Title you are the guaranteed owner.

Strata Title

Strata Title is the common method of unit ownership. The Strata Schemes (Freehold Development) Act makes possible the subdivision of the airspace above the surface of the land, and the issue of a Certificate of Title to part, or parts, of a building. This enables the purchaser to buy the actual space enclosed by the unit and then sell, lease, mortgage or otherwise deal with the unit as any other owner of property.

The individual owners in a block of Strata Title units are compelled by law to form an owners corporation or body corporate, which controls the general administration and necessary funding of common property. An executive committee of the owners' corporation is elected annually from the current unit owners. The owners' corporation has the power and duty to establish two funds (an Administrative and a Sinking Fund) made up of their own contributions.

All unit owners are required to contribute towards the costs associated with the common property areas eg lighting of entrances and hallways, gardening, maintenance. Facilities such as lifts, swimming pools and saunas will increase the contributions markedly.

As a unit owner, your involvement can vary from paying the levy and abiding by the rules to participating in the executive committee of the owners' corporation. A prospective buyer should carefully read the standard by-laws and any alterations and additions which may have been made by the owners corporation. For example, they may have altered the by-laws on keeping pets.

Common Law Title

Also known as Old System Title, this consists of a series of title documents called 'a chain of title'. Following a sale, Common Law Title will be converted to a qualified Torrens Title. Action may be taken at a later date to convert that to a full Torrens Title.

Community Title

Community Title is a form of subdivision which allows common property areas to be incorporated into a land subdivision. On registration of a community-style plan, an association will be established similar to an owners' corporation under strata schemes legislation. People purchasing into such a scheme will receive a Torrens Title for the lot they own and membership of the association. They will also share ownership of the common facilities.

Company Title

Company Title is where unit owners are actually shareholders in a private company. Buying a certain number of shares entitles the shareholder to exclusive possession of a particular unit, and perhaps space for a car. Shareholders vote to decide company rules governing occupation, such as rights to lease, sell or transfer shareholdings. You must have the company's approval to alter in any way the occupancy of a Company Title unit. Because you do not actually gain a title to the property but shares in a company, lending bodies are more reluctant to lend for this sort of property.

Common Home Purchase Terms

AGENT: A person authorised to act on behalf of another person in the sale, purchase, letting or management of property. A real estate agent must be licensed by the Office of Fair Trading.

AMENITY: Denotes a characteristic or feature of a neighbourhood.

ALLOTMENT: When a larger area of land is subdivided into smaller pieces, these smaller parcels of land are known as allotments. Also referred to as 'lot', 'building block' or 'block of land'.

APARTMENT: See 'Home Unit'.

APPRECIATION: The increase in the value of property caused by economic factors such as inflation, supply and demand, etc.

AUCTION: A public sale in which a property (or an article) is sold to the highest bidder.

ARCHITRAVE: A moulding surrounding a door or window opening.

BEAM: A horizontal load bearing structural member.

BEARER: A sub-floor timber supporting the floor joists.

BOUNDARY: A line separating adjoining properties.

BREACH OF CONTRACT: Breaking the conditions of a contract.

BRICK VENEER CONSTRUCTION: In housing, a system in which a structural timber frame is tied to a single brick external wall.

BRIDGING FINANCE: Finance obtained over a short period as a prelude to long term funding. Higher interest rates are usually charged for this form of finance.

BUILDING REGULATIONS: Rules of a legal or statutory nature by which local councils control the manner and quality of the building. They are designed to ensure public safety, health and minimum acceptable standards of construction.

CAVEAT: If a caveat is lodged upon a title to land, it indicates to the person buying the property that a third person (the person who lodged the caveat) has some right or interest in the property.

CAVEAT EMPTOR: 'Let the buyer beware'. This principle of law puts onus on the buyer to be satisfied with the item before buying.

CERTIFICATE OF TITLE: A document identifying the ownership of land; it shows who owns the land and whether there are any mortgages or other encumbrances on it, etc. This document is usually held by the lender as security for a loan. Details can be obtained through a search of records at the Land and Property Information NSW.

CHATTELS: Property other than real estate which may be included in a sale, ie movable possessions, furniture etc.

CLEAR TITLE: A seller has a clear title when there are no restrictions (such as an outstanding mortgage) preventing a sale, and title of the seller is established.

CLUSTER HOUSING: Detached group of houses which shares open space.

COMMISSION: The fee or payment made to a real estate agent for services rendered. For example someone who engages an agent to sell their home pays the agent a commission.

COMMON PROPERTY: An area which is available for use by more than one person (eg home units have common areas such as stairs, driveways and storerooms).

COMMON LAW TITLE: See page 15

COMMUNITY TITLE: See page 15

COMPANYTITLE: See page 15

COMPULSORY ACQUISITION (resumption): The power of a government authority to purchase property from an owner who does not wish to sell.

CONTRACT OF SALE:(referred to as the Contract): A legal document which sets out the terms and conditions the seller and the buyer enter into when a sale is to take place. The contract contains a description of the property.

CONVEYANCE: The transfer of property ownership from the seller's name to the buyer's name.

COOLING-OFF: The period of five business days allowed after exchange of contracts during which time the contract may be cancelled or rescinded.

COVENANT: An agreement by one party to adhere to certain terms, conditions or restrictions regarding a property. A covenant is not usually valid unless noted on the title to the land. The nature of the covenant should always be established and the question asked: What effect will this covenant have upon the future plans for the property?

DEPOSIT: A deposit is normally paid by the buyer at the time of exchanging contracts; normally 10% of the total purchase price. Any amount paid earlier as an initial or part deposit will usually form part of the 10%.

DEPOSIT GUARANTEE BOND: A written guarantee from an insurance company to the seller for payment of all or part of the deposit. This can be obtained once the loan for the purchase of the property is approved by the lending body.

DISBURSEMENTS: Miscellaneous fees and charges incurred during the conveyancing process, including search fees charged by government authorities.

DUTY: A state government tax on financial transactions. For the sale of real estate, it is calculated according to the sale value.

FITTINGS: Goods or articles that can be removed from a property without causing damage to it.

FIXTURES: Items such as built-in cupboards, bath, toilet, and stove, that cannot be removed from a property without causing damage.

FREE STANDING: A dwelling which stands independently of others.

HOME UNIT: A residential dwelling grouped with others, sharing common property and registered under Strata Title or Company Title.

INVENTORY: A list of items included with a property, usually furniture, furnishings, movable items, etc.

JOINT TENANTS: Joint tenancy is the holding of property by two or more persons in equal shares. If one person dies, his/her share passes to the survivor.

MORTGAGE: A legal document which expresses the terms and conditions applying to the lending of money secured over real estate.

MORTGAGEE: The person(s) who lend(s) the money

MORTGAGOR: The person(s) who borrow(s) the money.

OLD SYSTEM TITLE: See 'Common Law Title', page 15.

OPTION TO BUY: A legal document giving a person the right to buy. In the document, the price and period are specified. A fee is paid and if the person proceeds to buy the property, the amount comes off the purchase price. When the person does not proceed to buy the property the fee is forfeited.

OWNERS' CORPORATION: All the collective owners of a block of units. The executive committee of the owners' corporation, which is elected by the members, meets regularly to discuss various matters relating to the administration of the building (eg upkeep of common property).

PRINCIPAL: The amount of money owed to a lending authority.

PRIVATE SALE: The seller does not engage an estate agent but acts for himself or herself. The seller deals directly with the buyer.

PRIVATE TREATY SALE: Sale of property through an estate agent by private negotiation and contract.

REALPROPERTY: Land with or without improvements thereon.

RESERVE PRICE: The minimum a seller has specified he/she will accept at auction.

RIGHT OF WAY: A right which gives a person access across certain land.

SEARCH (TITLE): The process of investigating or examining title to land to ascertain if the vendor has the right to transfer ownership. A title search reveals the names of the owners and the other precise details of the property such as the existence of any restrictive covenant, mortgage or caveat on the title.

SEMI-DETACHED: Two houses joined together with a common wall or walls; usually registered under Torrens Title.

STRATA TITLE: See page 15

TENANTS IN COMMON: This is the holding of property by two or more persons in equal or unequal shares. If one person dies, his/her share passes to the person named in his/her Will.

TERRACE: One row of houses joined together with common walls, usually registered under Torrens Title.

TORRENS TITLE: See page 15

TOWN HOUSE: Multi-storey attached dwelling registered under Strata Title.

TRANSFER: A document registered in the Land and Property Information NSW acknowledging the change of ownership of a property, to be noted on the Certificate of Title.

UNENCUMBERED: Describes a property free of mortgages, covenants, restrictions, etc.

VENDOR: A person who offers a property for sale – the seller.

VILLA: Single-storey attached dwelling registered under Strata Title.

ZONING: Statutory description of the allowable uses of land as set out by local councils or planning authorities.

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