

At Aaron Legal, our Licenced Conveyancer and experienced Conveyancing Team will help you to negotiate those all important steps, when you are purchasing a property. We will ensure that your property purchase is a smooth process from start to completion.

Step 1 – FINANCE – Should I get a pre-approval? What other government charges will I have to pay?

Before you start looking to purchase a property, it is essential to get a pre-approval in place. This way you will know how much you can afford to spend. Don't forget to include stamp duty and legal fees when working out how much you are going to spend. A good broker, mobile lender or bank home loan lender will be able to assist you in this regard. They will also advise whether or not a valuation of the property is required. Be sure to shop around for the best home loan deal for you.

Step 2 – BUILDING REPORT, PEST REPORT & STRATA REPORT – Do I need these?

These reports are highly recommended!

Building Report

A building inspector will check for things such as loose/cracked tiles, any water leakage issues, the condition and structural soundness of the property and the state of repair for water, gas, electricity and heating services. A reputable and qualified building inspector will detail these issues in their building report and will include the areas that were inspected, i.e. the roof void, outdoor areas. Plus the inspector will advise which areas were unable to be inspected due to inaccessibility or were visually obstructed.

Pest Report

A pest inspector will inspect the property to make sure that there is no active termite activity or other activity, as well as past activity. The report will advise whether or not there is plenty of sub-structure ventilation and good drainage, to ensure that your property will not be exposed to these types of risk. As with a building inspection report, a pest inspection report will detail what areas were inspected and what areas were inaccessible.

In both reports, the inspectors will advise their recommendation(s) regarding any issues that require attention eg. further pest treatment or the need to consult a plumber.

Strata Report

When buying a unit, townhouse or villa you are, in most cases, buying into a 'strata scheme'. While a building and pest inspection determines whether or not the lot you are

purchasing is clear of any structural or pest problems, it is unable to advise on any other lots in the scheme and may be restricted in its coverage, to the common areas only.

A Strata Inspection Report is an examination of the books and records of the Owners' Corporation. While the Inspector does not physically examine the building, the inspector will check the Owner's Corporation records to ensure that current insurances are in place, what the strata levies are, if your lot is up to date in payments, the current financial position of the strata scheme including the current budget and if there are any special levies that are current or proposed in the near future to pay for any major works. The report will also confirm that minutes of all meetings by the Owners Corporation are kept.

Step 3 – SURVEY REPORT, BUILDING CERTIFICATE & TITLE INSURANCE

Other reports or certificates that may be useful are as follows:

Survey Report

An identification survey report identifies the existing buildings (i.e. house, garage) and improvements on the land (swimming pool, pergola, deck). A registered Surveyor will inspect the property and make sure that your property does not encroach (intrude) on neighbouring properties and vice versa. A Surveyor will also check for any easements, covenants and restrictions on the use of the land and will advise whether the buildings or improvements constructed are built over those easements and/or comply with such restrictions. Some Lenders will require that a Survey Report be obtained, along with a Building Certificate from the Local Council. A Building Certificate from Council cannot be obtained without a Survey Report.

A Survey Report will be accepted as valid indefinitely unless, there are changes to the property (i.e. another building is constructed, fences, extensions and so on).

Do I need to get one? If your Lender does not require you to obtain a Survey Report or Building Certificate it is purely a matter of personal choice. However, we can discuss this with you once you have found a property.

Council Building Certificate (section 149D Certificate)

A Council Building Certificate is issued by the Local Council. It cannot be obtained without a Survey Report. The Certificate confirms that everything built on the land is built in accordance with their requirements and regulations.

In circumstances where structures on the property are not approved, council may issue an order to repair or to remove the structure(s).

Title Insurance

Title Insurance is a specialised insurance policy that is purchased by purchasers or home owners. In simple terms, it protects you from risks that can be associated with a Conveyancing transaction. It is a one-time fee and covers you for as long as you own the property.

If you do not obtain a Survey Report or a Council Building Certificate and you later discover that some of the structures need to be modified, no longer comply or that building approval was never issued, Title Insurance will assist with any rectification work that may be required. It is a sure way to provide additional protection against things like fraud or illegal structures.

For further information click on this link:
<http://www.stewartau.com/PropertyPurchasers.html>

At Aaron Legal we strongly recommend that our clients purchase a Title Insurance Policy to safeguard their property.

Step 4 – What Government Grants could I be entitled to and how much will stamp duty be?

Stamp duty is a government charge that is payable by the Purchaser. Normally, a purchaser has up to 3 months to pay stamp duty on the Contract. However, this must be paid before the property can be transferred into your name and so, is usually paid before or on settlement. Stamp duty is calculated on the sale price and is assessed on a scaled rate.

If you are first home buyer and you are purchasing a brand new home, you may be entitled to an exemption from stamp duty together with a First Home Owners Grant.

Click on the following link to access the Office of State Revenue's factsheets and stamp duty calculator.

<http://www.osr.nsw.gov.au/first-home-buyers>

Now that you have taken these important steps it's time for Exchange of Contracts.

Step 5 - What is an Exchange of Contracts?

An exchange of Contract is when the Vendor and Purchaser have agreed to the sale price, all items to be included in the sale, the length of the Contract and any other special terms of the sale. These are set out in the Contract in duplicate and each party signs one copy. The contracts are then compared to ensure that they are both identical and then they are dated and swapped or “exchanged”, so each party holds the copy signed by other party. At this time the deposit is paid in full, unless the contract specifies otherwise. (See below).

There are 2 different types of exchanges:

1. Cooling Off Period Exchange
2. 66W Exchange

1. *Cooling off Period Exchange*

This is usually carried out by the Real Estate Agent once the sale price and any other conditions of sale have been agreed to. The normal practice is for the purchaser to pay 0.25% of the purchase price (i.e. purchase price of \$700,000.00, 0.25% = \$1,750.00) with the balance to be paid before the cooling off period expires. The purchaser will then have 5 business days to carry out all their necessary pre-purchase inspections, i.e. pest & building report and obtain their unconditional loan approval (if required). If they decide that they do not wish to proceed with the purchase then they have until 5pm on the 5th business day to rescind the Contract. However, if they do rescind, they must pay (forfeit) to the Vendor the 0.25% deposit paid. An extension of the cooling off period from 5 business days can be agreed to between the parties as well.

2. *66W Certificate Exchange*

This is an exchange carried out by the Solicitor/Licensed Conveyancer (your legal representative). The agent will advise each party’s Solicitor/Licensed Conveyancer of the agreed terms of sale and the Vendor’s legal representative will issue the Contract to the Purchaser’s Solicitor/Licensed Conveyancer. The Purchaser’s legal representative will go through the Contract as well as conduct further negotiations between the parties, before the Contract is finalised. During this time the Purchaser will organise any pre-purchase inspection reports and finance. Once all parties are happy with the terms of the Contract and the Purchaser is happy with their pre-purchase inspections and unconditional finance approval has been obtained, the Contracts are exchanged. The difference in this method of exchange, is that the buyer **waives** their right to a cooling off period and the Contract becomes binding immediately upon exchange. A Certificate called a “Section 66W Certificate” is provided by the Purchaser’s legal representative. The Certificate essentially states that the Solicitor/Licensed Conveyancer has explained the Contract to the purchaser and that the Purchaser is aware that there will be no cooling off period.

STEP 6- Proceeding to Settlement

Settlement usually takes place 42 days (6 weeks) after the date of exchange. This sometimes can be extended or shortened if both parties agree. This can also vary if the contract is for the purchase of an Off-The-Plan property.

Your Solicitor/Licensed Conveyancer will obtain any necessary governmental enquiries i.e. Council rates certificate, Water rates certificate, land tax certificate and any other relevant searches.

Stamp duty is paid based on the purchase price.

A settlement is arranged between all parties i.e. the Vendor's solicitor and your incoming Bank. Your legal representative will calculate any adjustments between both parties for Council rates, Water rates, etc and advise you of the total balance of purchase money required by you to complete settlement.

Immediately prior to settlement, you will need to organise a final inspection of the property with the agent. This is to make sure that the property is still in the same condition at settlement as it was at exchange. The Vendor needs to make sure that all their furniture, rubbish and other items, not included in the sale are removed from the property. Provided you are happy with the condition of the property, settlement can now proceed.

Your legal representative will telephone you once settlement has taken place and confirm when you can collect the keys from the agent.

STEP 7 - What happens after settlement?

After settlement, your bank (if applicable) or Solicitor/Licensed Conveyancer will register of all title documents with the Land & Property Information Office. The Land & Property Information Office will notify the Local Council and Water Authority of the change in ownership. If the settlement has been able to take place electronically, the "property transfer" process (including notifying the Land & Property Information Office, council and water authority), will take place immediately.

It will also be your responsibility to organise telephone, gas, electricity and any other services to the property.

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