

A Guide For Purchasing Off The Plan Property In Queensland

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Property Found: you or your buyer's agent have found a property you are interested in buying and, as it is 'off the plan', you will usually sign an expression of interest (EOI) form and deposit the initial sum into the sales agent's (or solicitor's) trust account.

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Conveyancing Lawyer: the next step is to find a trustworthy and experienced conveyancing lawyer to help you with the legal process. Lawlab are a national conveyancing law firm experienced in 'off the plan' purchases who will make the process easy for you.

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Receiving & Checking Contract: the seller or the sales agent will provide a contract to you (or to us if you have given them our details). Before you sign the contract, lawlab will review the contract terms and confirm that all compulsory forms and disclosures are attached to the contract. Sellers of 'off the plan' properties need to provide you with a Disclosure Statement which includes a plan of the property, a list of the property finishes and inclusions, the estimated body corporate (strata) levies you will pay, the by-laws of the community (strata) titles scheme and other strata agreements. If you wish to make any changes to the contract, we will negotiate with the seller's solicitor on your behalf until mutually agreeable terms are reached.

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Contact Lender: if you need to borrow money to fund the purchase, we recommend you obtain written finance pre-approval from your lender prior to signing the Contract. You need to be aware that the pre-approval may lapse before settlement and that most pre-approvals are conditional on a satisfactory valuation once the property is constructed.

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Contract Date & Deposit: when the contract is signed by both parties, it is dated as the Contract Date. A Deposit is payable which is usually 10% of the purchase price and it is to be paid to the sales agent's or the seller's solicitor's trust account. Normally, an initial deposit needs to be paid at the time of signing the Contract (unless already paid with the EOI) and the balance deposit is paid later (usually within 14 days).

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Cooling-off period: unless you have purchased the property at auction or have agreed to waive or shorten your cooling off rights, you have a cooling off period of 5 business days after receiving the exchanged contract. This means that if you change your mind during this time you can pull out of the contract only losing 0.25% of the purchase price and the balance of the deposit shall be refunded to you.

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Construction period: during this period, unless there are changes affecting your property, normally, the seller or the sales agent will communicate with you directly about the progress of the building. If there are changes that affect your property, the seller will issue a Further Disclosure Statement setting out the changes. If the changes are significant you may have rights to terminate the contract.

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Sunset Date: the period between the Contract Date and Settlement can be a couple of months or a few years depending on the development. Normally, an 'off the plan' contract will set a Sunset Date which is the last date the seller must register a separate title for the property (normally up to 3 ½ years but can be extended to 5 years) and if that is not done by the Sunset Date, then either party can rescind the Contract.

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Transfer (Stamp) duty: in QLD, stamp duty is payable on the purchase price within 30 days from the registration of separate title for the property or by settlement (whichever comes earlier). You will need to pay the stamp duty amount to lawlab who will pay it to the Office of State Revenue and the Contract will be marked as stamp duty paid. If you are an eligible home buyer or first home buyer you may be able to apply for a stamp duty concession.

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Building completed and registration:

after the building is completed, the relevant authority will issue an occupation certificate and the seller will register the plan at the land titles office. The seller will then send a notice calling for settlement, which is usually 2 to 3 weeks from the date of the notice.

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Informing you of settlement:

once lawlab is notified about the settlement, we will contact you and your lender to prepare for settlement. Lawlab will carry out various searches on the property, including a search of the land titles office to check the registered plans and by-laws are the same as were disclosed to you. Lawlab will also carry out enquiries of the council and water rates (if issued), land tax and strata levies. If there are any unfavourable replies, we will advise you immediately.

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Preparing for settlement:

next lawlab will prepare a settlement statement adjusting the outgoing (council and water rates,

strata levies & insurance, land tax) and liaise with your lender to provide the necessary funds to settle. If you unable to settle on the Settlement Date, you will be in breach of the Contract and the Seller may have the right to terminate the Contract, keep the deposit and sue you for damages. If the Seller agrees to give you an extension to the Settlement Date, then you may need to pay interest.

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Final inspection: before settlement, you should contact the sales agent to organise a final inspection of the property to confirm that all the measurements, finishes and inclusions are the same as were disclosed to you. If there is a problem with the finish of the property or there are defects, you should contact lawlab as soon as possible. Most of the plan contracts have a defects liability clause that requires the seller to repair any defects as long as you give the seller notice of the defects within the time period in the Contract.

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Settlement date: you do not need to attend settlement on the Settlement Date as lawlab attend settlement on your behalf and exchange the title documents and funds with the seller's solicitor and lenders. Your lender will receive the transfer of title documents, attend to registration of title (into your name) and register their mortgage.

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Settled and move-in: once it's settled, lawlab will advise you by phone and then you can collect the keys from the sales agent and move in (or arrange for your tenants to move in)!

Lawlab has more than 100 years of experience, we can offer you practical, efficient and expert legal advice on your purchase. Please call 1800 529 522 or email: conveyancing@lawlab.com.au.

Disclaimer: this information is for general understanding of the purchasing procedure for off the plan contracts in Queensland only, it does not cover all possible scenarios during the transaction. For any queries, please seek legal advice.

Phone 1800 529 522 / Email conveyancing@lawlab.com.au / www.lawlab.com.au

Level 6, 3 Spring Street, Sydney, NSW, 2000
28b St Edmonds Road, Prahran, VIC, 3181

Level 10, 15 Green Square Close, Fortitude Valley, Brisbane, QLD, 4006
Suite 3, Level 1, 40 Parap Rd, Parap NT 0820

