

Basic Steps: Buying Unregistered Residential Land In Queensland

1

Property Found: you or your buyer's agent have found some land that you are interested in buying and as it is unregistered, you will usually sign an expression of interest (EOI) form and deposit the initial sum into the sales agent's (or lawyer's) trust account. You need to make sure your legal interests are protected throughout the buying process.

2

Receiving & Checking Contract: the seller or the sales agent will provide a Contract to you (or to lawlab if you have given them our details). Before you sign the Contract, we will review the contract terms and confirm that all compulsory forms and disclosures are attached to the Contract. Sellers of unregistered land (where the subdivision is greater than 5 parcels of land) need to provide you with a Disclosure Statement which includes a plan of the land and the conditions of subdivision approval. 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.

3

Contact Lender: if you need to borrow money to fund the purchase, we recommend you obtain written finance pre-approval from your lender prior 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 land is subdivided.

4

Contract Date: Once you are satisfied with the terms of the Contract, we or the real estate agent will arrange for you to sign the Contract (usually in duplicate) and then forward both copies to the Seller to sign. Once the Contract is signed by both the Buyer and Seller, it becomes legally binding. The Contract is normally dated by the Seller's solicitor or real estate agent on the date that the last party signs the Contract.

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Deposit: A Deposit is payable which can be up to 10% of the purchase price and it is to be paid to the sales agent's or the seller's solicitor's trust account. Often, 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 bought the land at auction or agreed to waive or shorten your cooling off rights, you have a cooling off period of 5 business days after receiving the exchanged contract. If you decide not to proceed with the purchase, you must give notice to the Seller of your intention to terminate the Contract before the expiry of the cooling off period. The Seller is entitled to charge you 0.25% of the purchase price if you terminate under the cooling off provisions.

7

Time is of the essence: make sure you comply with any obligations by the time provided in the Contract (e.g. payment of the deposit). If you fail to do so the Seller has the right to terminate the Contract (and in some cases forfeit the deposit and sue you for any damages).

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Subdivision period: during this period, unless there are changes to the subdivision affecting the land, normally, the Seller or the sales agent will communicate you directly about the progress of the subdivision. If there are changes that affect your land, the Seller will issue a variation notice setting out the changes. If the changes are significant and materially prejudice you, 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 to over a year depending on the development. Normally, an unregistered land contract will set a Sunset Date which is the last date the Seller must register a separate title for the property (normally up to 18 months) 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 land or by settlement (whichever

comes earlier). You will need to pay the stamp duty amount to us and we will pay it forward to Office of State Revenue and the Contract will be marked as stamp duty paid. If you are an eligible buyer of first home vacant land you may be able to apply for a stamp duty concession.

11

Completion of subdivision and registration: once the subdivision is completed, the relevant authority will approve the plans 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 we are notified about the settlement, we will contact you and your lender to prepare for settlement. We will carry out various searches on the property, including a search of the land titles office to check the registered plan is the same as was disclosed to you. We will also carry out enquiries of the council rates (if issued) and land tax. If there are any unfavourable replies, we will advise you immediately.

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Preparing for settlement: next we will prepare a settlement statement adjusting the outgoings (council rates, land tax) and liaise with your lender to provide the necessary funds to settle. If you are obtaining finance for your purchase then your lender will prepare the loan and mortgage documents for you to sign. If a guarantor is guaranteeing the loan then they will need to obtain independent legal and financial advice. Your lender will deduct their fees and any statutory charges from the loan amount and will advise us of the funds available for settlement. You should budget to have enough funds to cover the purchase price (less any deposit paid), transfer duty, legal costs and any adjustments for outgoings. If your loan amount does not cover the costs of these then you should contact your lender and provide them with authority to draw any extra funds needed from one of your bank accounts.

14

Final inspection: before settlement, you should contact the sales agent to organise a final inspection of the land to check that the area of the land is as was disclosed to you.

15

Settlement date: you do not need to attend settlement on the settlement date as we attend settlement on your behalf by exchanging 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. If you are 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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Settled: once it's settled, we will advise you by phone. The Titles Office will update the local authorities of the change of ownership usually within 2 months of settlement. If your builders are commencing construction of a dwelling we can send them confirmation of settlement so they can start immediately.

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.

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