

Buying a townhouse or unit

When you buy a townhouse or unit (community title) you take on a relationship with the other owners and the body corporate such as:

- sharing the ownership of common areas, eg lifts, stairwells and front entrances
- becoming a member of a body corporate which is regulated by fairly complex rules – you are jointly and severally liable for the bodies' corporate debts.

The body corporate is made up of all the owners. It decides issues about the common property, concerns of owners and maintenance of the complex.

Owners regularly contribute money to the body corporate for day-to-day ongoing expenses and anticipated long term costs.

You should ask your solicitor to explain the ramifications of buying community title.

Selling your townhouse or unit

Before listing your townhouse, unit or other community title property for sale with a real estate agent, speak to your solicitor about:

- making sure that any Warning and Disclosure Statements will be satisfactorily completed
- the need to disclose outstanding liabilities and the implied warranties which you must give as a seller
- the inclusion of fixtures and fittings
- any alterations you have made to the property
- your obligations to any existing tenant
- the date of settlement, and if relevant, the timing of any new home purchase
- any special terms which you want in the sale.

You also need to make sure you have installed a compliant fire alarm.

Once a buyer has signed a contract to purchase your property and paid a deposit, your agent will deliver the contract to you, either by hand, post, fax or email.

Before signing, speak with your solicitor about this contract to make sure that all formalities have been complied with.

During the conveyance, your solicitor will:

- ensure all outstanding government charges and body corporate contributions have been paid
- arrange repayment and legal discharge of any mortgages on your property
- check that all documents you are required to sign are in order
- ensure that you are paid in full.

The costs involved

Legal costs

Ask your solicitor for an estimate of legal and other costs and to outline the details of the processes involved in handling your conveyance.

When buying

Your solicitor will advise you on standard charges such as transfer duty (formerly known as stamp duty), council and government search costs and document registration fees.

When selling

You are obliged to give clear title to the buyer. Unless special arrangements have been made you must also give vacant possession on settlement.

Your real estate agent will charge a commission on the sale and there may also be bank or building society charges to consider.



Looking for a solicitor?
You can find one via the Queensland Law Society referral service at qls.com.au or phone 1300 367 757.

a legal guide to a
trouble-free transaction

buying or selling a residential property

public information



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Buying or selling a residential property will be one of the most important financial transactions you make.

To be confident in your decision, and to ensure that no unexpected costs arise or problems appear, seek the advice of your solicitor before you sign any contract.

Conveyancing

Conveyancing is the term used to describe the transfer of ownership of property from seller to buyer.

Solicitors and real estate agents can assist you with your conveyance.

You have the choice of doing the conveyance yourself, but you do so at your own risk.

Solicitors and real estate agents

It is important to understand the different roles solicitors and real estate agents play in conveyancing.

Solicitors are conveyancing experts who have been trained in this area of law and have the competence to guide you through a transaction to ensure your interests are protected.

As each property is different, so is each conveyance. Your solicitor can advise you on the need for special conditions and other legal matters which touch on conveyancing law – such as updating your will or making an Enduring Power of Attorney and Advance Health Directive.

Real estate agents or property agents are the sellers' representatives who receive a commission from the seller when the property is sold. The real estate agent

is responsible for obtaining the best price and contract terms 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.

Sustainability declaration

Since 1 January 2010, if you are selling a house, townhouse or unit, you are required to have a sustainability declaration prepared. You can obtain more information from the Department of Local Government and Planning (DLGP) website dlgp.qld.gov.au, or see your solicitor.

Pool fencing safety certificate

Since December 2010, if you are selling a house, townhouse or unit, you are obliged to provide a disclosure notice to a prospective buyer before they enter into a contract for sale if there is a pool and there is no pool safety certificate. There is also an obligation to provide a pool safety certificate or notice of no pool safety certificate to a buyer before settlement.

If you are a buyer and there is no pool safety certificate in place for a pool on the property at settlement, you must obtain one within 90 days.

You can obtain more information from the DLGP's website dlgp.qld.gov.au, or see your solicitor.

The contract

A standard contract for the conveyancing of residential property was developed by the Real Estate Institute of Queensland and Queensland Law Society.

When you have expressed your interest in purchasing a property, the real estate agent will prepare a standard contract for you to sign.

Seek advice before you sign – send a draft contract to your solicitor to make sure it is correct and meets your needs. A standard contract cannot deal with the individual circumstances of every transaction.

If necessary your solicitor can add special clauses to the contract, for example:

- the purchase may depend on the sale of your existing property
- the property is not subject to flooding and the sellers have obtained all necessary statutory approvals and complied with those approvals.

It is also recommended that you obtain an independent valuation of the property before you sign the contract.

There are a number of critical Warning and Disclosure Statements which must be completed and signed to ensure that the contract is properly formed. You should ask your solicitor to ensure that these are correct before you sign.

Special points for townhouse and unit buyers

If you buy a townhouse or unit you should ensure you:

- are informed of certain matters before signing the contract, for example, the annual contribution to the body corporate and how this is set
- receive a copy of the Community Management Statement for the body corporate (which includes details of the annual contributions and the body corporate by-laws) with the contract
- receive certain warranties from the seller, for example, that there are no hidden or obvious defects in the common property.

If defects and liabilities are not disclosed in the contract you may be able to cancel the contract and recover any money paid.

Cooling-off period

All residential property sales in Queensland are subject to a buyer's cooling-off period of five business days commencing on the date the buyer or their lawyer receives a copy of the contract signed by both the buyer and the seller.

If you, the buyer, decide not to proceed with the sale within that period, you must give notice to the seller in the specified way to cancel the contract; you must pay the seller 0.25 percent of the purchase price of the property. If your deposit exceeds that 0.25 percent, the balance must be refunded to you.

Auctions

No cooling-off period applies to buyers who purchase at auction on the fall of the hammer. The cooling-off period applies if a property is passed in at auction and a bidder subsequently buys the property.

Buying a house

Your solicitor will:

- check the title and plan of the land for easements, caveats, and other encumbrances
- do all the other usual searches
- inform you if these searches disclose any zoning and planning regulations or other restrictions affecting the property
- check for any disputes or other charges affecting the unit or townhouse (community title land)
- prepare all documents and make sure you gain good title to the property you are buying.

Selling a house

Before listing your property for sale with a real estate agent, speak to your solicitor about:

- making sure that any Warning and Disclosure Statements will be satisfactorily completed
- the inclusion of fixtures and fittings
- any alterations you have made to the property
- the date of settlement and, if relevant, the timing of any new home purchase
- any special terms which you want in the sale.

You also need to make sure you have installed a compliant fire alarm.

Once a buyer has signed a contract to purchase your property and paid a deposit, your agent will deliver the contract to you, either by hand, post, fax or email.

Before signing, speak with your solicitor about this contract to make sure that all formalities have been complied with.

Up to the date of settlement, your solicitor will:

- check that all documents you are required to sign are in order
- ensure all outstanding government charges such as water rates have been paid
- arrange for the repayment and legal discharge of any mortgage on your property
- ensure you are paid in full for the property.