

NSW PROPERTY LAW GUIDE

GUIDE FOR BUYERS & SELLERS
OF NSW PROPERTIES

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Disclaimer

This guide does not replace proper legal advice rendered by a qualified legal practitioner. This guide serves to be of a general informative guide only. Please note that each matter is unique and this guide should not be used as providing any specific form of legal advice. Please contact us to cater to your specific needs.



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About Us

At Lincoln Legal Pty Ltd, we are a unique law firm keen on upholding *justice*, maintaining *honesty* in all our interactions and supporting a high standard of *integrity*. We are dedicated to providing the professional and bespoke legal services that each of our clients deserve. An integral part of our philosophy is to work closely with our clients, providing them all the important and crucial information in order to meet each client's diverse legal needs, with the goal to achieve an *exceptional result* for our clients.

Our Service

Our *dedicated* team of lawyers possess the determination to ensure your legal needs are met. Coupled with the necessary experience and representing a diverse background of practice areas, Lincoln Legal Pty Ltd can ensure that your legal needs are met with utmost care and professionalism. Please see our areas of practice and call us today.



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Do you need a solicitor?

Buying and selling a home is often one of the most monumental decisions a person can make, especially when property prices are constantly on a rise.

For a buyer, it is crucial to have an ***experienced and professionally qualified solicitor from Lincoln Legal Pty Ltd*** to review a contract to ascertain your legal rights and obligation before you sign a contract or commit to a purchase by paying a deposit. Often a buyer will be faced with a contract which is filled with complexities and legalities that it would be prudent and beneficial to have our solicitors assist you with your purchase every step of the way.

For a seller, it is vital to have a solicitor to prepare a ***proper contract*** to ensure that you fulfil your obligation of disclosure under the laws. The last thing you want is the purchaser backing out of a purchase from a poorly drafted contract.



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Contract Review and Preparation

Contract Review

A contract outlines the obligation between both the buyer and seller. It is an important legal document and severe consequences can arise from accidental breaches of a contract or onerous clauses. As the contract is prepared by the seller's legal representative it is highly recommended for buyers to have the ***contract reviewed in detail***.

We spend much time to review clauses in the contract to ensure the following:

- that the buyer's rights and interests are protected.
- conduct external checks to ensure that the seller and the agents are legitimate.
- confirm that the contract is complete and accurate.
- carry out all the necessary processes to ensure that the property is transferred to the buyer on settlement of the purchase.

Contract Preparation

The function of a contract is to ensure the seller satisfies their disclosure requirements. If a contract is poor drafted and fails to comply with disclosure requirements, the buyer may cancel the contract of sale, resulting in you needing to return the deposit paid. This can be a real issue if you are planning to sell a property while buying another at the same time.

Inspection Reports

Buyers are strongly encouraged to order quality inspection reports for houses or apartments they intend to purchase to ensure that they are satisfied with the quality and the condition the property is in. The contract will often stipulate that the buyers are purchasing the property in the existing condition that it is in and includes all latent and patent defects. The buyer should therefore ensure that they perform a thorough inspection of the property and the inspection should be carried out by qualified professionals.

It is best to hire a qualified professional to conduct the inspection and prepare a report so that you are adequately informed about property to avoid unexpected costs that may arise later. Potential issues which may arise due to building quality issues or pest issues that are discoverable by the inspector.

The recommended reports that you should obtain are:

- Building report
- Pest report
- Strata report
- Thermal report



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Mortgage

If you are a buyer, it is important that you consult your bank to see how much they are willing to lend before you commit to the purchase and it is recommended you obtain a loan pre-approval before you sign a contract unless you have a cooling off period to fall back on.

Another important point worth considering is how quick your lender or mortgage broker can get your loan ready in time for settlement. Often buyers are under the impression that their money is ready once their loan is approved or when they sign the loan documents however this is not the case and the lender often requires a few business days to finalise the loan before the funds are ready to be used on settlement.

As for the seller, they do not normally experience problems from the lender however, it is best to be mindful that the application to discharge the loan be processed early on so that they do not delay settlement unnecessarily.



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Settlement

Settlement usually takes place 42 days after the contract is exchanged unless agreed otherwise. For off the plan purchases it can potentially be one to three years before settlement takes place depending on when the sunset date falls.

At settlement, the buyer will need to pay everything that is owed to the seller which includes the balance of the purchase price and the adjustment of rates and other government charges.

If the buyer is unable to settle as scheduled under the contract, the buyer is normally required to pay interest and costs for the delay. If the contract is breached, the seller may be able to terminate the contract, appropriate the deposit and claim damages from the buyer due to the breach.

Whether you are the buyer or seller, it is best to notify your solicitor when you know or when it seems that you are unable settle as per the scheduled time under the contract.

We endeavor to assist the parties to negotiate a settlement in the event of any disputes which may arise from the contract.

Jurisdiction

Our team at Lincoln Legal Pty Ltd is capable of taking care of your purchase and sale of property needs throughout different states in Australia.

We are experienced in conveyancing and property settlements and have acted for purchasers and vendors in the following States:

- New South Wales
- Victoria
- Queensland
- South Australia
- Tasmania



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Litigation and Dispute Resolution

Our lawyers are experienced in litigation and dispute resolution and it is essential that you have a good team of experienced lawyers to assist you in the contracts for the sale and purchase of properties.

Purchasing a property is a major financial investment and you should be best positioned to use the services of experienced lawyers to assist you all the way throughout the process.

Often, contract disputes may arise mid-way in the transaction and our team will work effortlessly to attempt to resolve any disputes which may arise in the transaction.



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Legal Practice Areas

Business

- Business Partnership
- Business Sale & Purchase
- Franchise
- Commercial Leases
- Corporate Liquidation
- Defamation
- Employment Law
- Debt Recovery

Disputes

- Tribunal
- Litigation

Estate

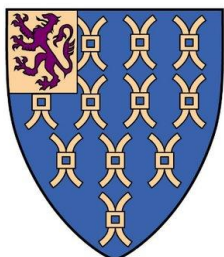
- Will, Power of Attorney
- Enduring Guardian
- Probate & Administration

Property

- Conveyancing NSW, QLD, VIC, SA and TAS
- Off the plan and resale
- Building Dispute
- Building Contract
- Environment and Planning

Other areas

- Immigration
- Criminal
- Traffic Offences
- Superannuation
- Personal injury



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