



# TOOLKIT: BUYING A PROPERTY AT AUCTION



# Property is for everyone.

## Your guide to buying a property at auction

The Morris Legal Group Team are property tragiics and have lived the journey of buying our next home or investment, so we know that it can be overwhelming.

This Toolkit is your winner's guide to buying a property at auction and will be with you throughout the conveyancing process.

### Prepare to succeed

When the market is competitive, it pays to take steps to prepare for your purchase, whether or not you have found the perfect property.

- Check in with your bank or broker to obtain pre-approval.
- Calculate transfer duty on your property based on your proposed purchase price and factor it into your budget:
  - > [ACT Stamp Duty Calculator](#)
  - > [NSW Stamp Duty Calculator](#)
- Check out what stamp duty concessions or boosts you may be eligible to receive, including first home owner support. Start here:
  - > [ACT Stamp Duty Details](#)
  - > [NSW Conveyance Duty Details](#)

Once you have found the perfect place, well before auction day:

- [Get in touch with us](#) so we can review the Contract, or get an [instant quote](#)
- Ask the Agent for a price guide on the Property to ensure that it is within your budget.
- Speak to your broker to confirm your bidding limit and how long your bank would need to complete, if you're successful.
- Go to some other home auctions – or even an art or a car auction – to get a feel for the process (around here that's called "Auction Practice"!)
- Get ready for auction day (see page **4**)
- Plan your to-do list for each step of the conveyancing process (see page **3**)
- Think about your other life admin, including:
  - > Getting your will sorted, or having your existing will reviewed (see page **10**)
  - > Whether you need a new or updated Binding Financial Agreement, especially if you're moving in with your partner for the first time (see page **10**)

- Plan ahead for your pre-settlement inspection (see page **8**)
- Get your Pinterest or old-school scrap book and glue stick fired up and start seeing yourself in your new place!

### Welcome to your property adventure!

If you need help at any point throughout the process, just reach out to us. We're thrilled to be on the journey with you and are only too happy to help.

#### ► Want to know more?

We believe in sharing knowledge, experience and ambitions so that together we can build something bigger than ourselves and better than what came before.

**Sound good?** Let's chat.

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# WHAT TO EXPECT WHEN YOU'RE BUYING AT AUCTION



## GET EXCITED

Start looking



## FALL IN LOVE

Prepare for auction



## AUCTION DAY

The point of no return



## PRE-SETTLEMENT

Leave it with us



## SETTLEMENT DAY

It's yours



## POST-SETTLEMENT

The first day of the  
rest of your life

- ☐ Make a budget
- ☐ Get finance pre-approval
- ☐ Allow for stamp duty

> **Are you eligible for ACT stamp duty concessions?** Go to: [revenue.act.gov.au](http://revenue.act.gov.au)

> **Are you eligible for a NSW First Home Owner Grant** Go to: [revenue.nsw.gov.au](http://revenue.nsw.gov.au)

- ☐ Request a Contract from the Agent
- ☐ Renovator's dream? Inspect the property with a Builder
- ☐ Discuss unconditional approval with your Bank or broker

### Ask us to:

- ☐ Review the contract
- ☐ Verify your ID
- ☐ Prepare a Client Authorisation Form for you to sign

- ☐ Register as a Bidder and bid
- ☐ If you're the highest bidder at the fall of the hammer, sign the Contract and pay the Deposit

### It's official!

- > You have committed to the Contract until the end, which is called "completion" or "settlement".
- ☐ Arrange building insurance (unless you've bought a unit)

- ☐ Sign your loan documents.

### We then organise your Bank to settle.

- ☐ Arrange pre-settlement inspections with the agent
- ☐ Arrange a removalist (or some willing friends!)

### Congratulations!

- > Your Bank advances money to pay the Seller to settle
- > Your mortgage is established
- > The Seller receives the Deposit
- > All the Seller's outstanding rates, land tax and other charges are paid on settlement
- ☐ Collect the keys to your new home!

- ☐ Connect electricity and gas accounts in your name
- ☐ Arrange contents insurance
- ☐ Pay Stamp Duty when your Notice of Assessment arrives
- ☐ Plan a housewarming party!
- > Rates, land tax and water transfer to you automatically.

! We strongly recommend you get finance pre-approval **before bidding at auction**. It will take around 2-4 weeks for pre-approval to be issued from the initial appointment with your broker. Pre-approvals last for **3 months**. Your mortgage broker can project manage the entire finance approval process for you.

! If settlement is delayed because of you or your Bank, you may be liable to pay interest to the Seller.



## HOW TO SURVIVE AUCTION DAY

Auctions can be exhilarating or stressful.

However you feel about them, so many properties go to auction that you'll likely find yourself with a paddle in your hand at some point.

Arm yourself with this Guide to Auction Day, and you'll be walking away with the home of your dreams (or at least the first bidder's chocolate box!)

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### Before the day

- **Get in some Auction Practice.** Go to other auctions to get a feel for how the auction process will work, and especially how it makes you feel.
- **Check your finance:**
  - Ask the Agent for a price guide on the property so that you can assess whether it's likely to be within budget
  - Speak to your mortgage broker to confirm your bidding limit and when your lender could settle if you're successful.
- **Inspect the property.** If you are successful at the auction you will be purchasing the property as is on auction day. Ask the Agent to assist you with a private viewing so that you can be sure that:
  - all appliances work
  - plumbing is in working order and draining well
  - the items/goods you inspect at the property are included in the Contract
- **Speak to the Agent about paying the Deposit.** Different Agents will accept or facilitate deposit payment with different methods, including:
  - bank cheque
  - personal/business cheque
  - cash
  - BPay
  - DEFT payment
  - EFT or direct deposit
- **Organise your Deposit.** You will need to pay this at the auction if you are the successful bidder.
- **Appoint your bidder.** If you want to bid but cannot be physically present on auction day, speak with the Agent to see if they can bid on your behalf, ask a friend or engage a professional buyer's Agent.

- **Talk to us** about your situation so that we can negotiate special terms for you if you need them, such as:
  - inclusions for the Contract or repairs to the property
  - a longer settlement period than is in the Contract
  - a 5% deposit arrangement or other deposit payment terms
  - appointing a bidder or arranging a Power of Attorney to have someone bid on your behalf

### Pre-Auction Offers

- **Get in early.** While some say it's inadvisable to make pre-auction offers, Sellers will often consider them and sometimes a property will be so popular that the Agent will call for offers and attempt to sell the property before auction.
- **Be ready to go unconditional.** Ensure your finance is in order and that you're happy with the condition of the property before submitting an offer.
- **Make a strong offer.** Use our handy **Offer Form** to make sure you have provided all the important terms and conditions, including any of your special requirements.

! Sometimes the Agent will require you to make an offer by delivering a fully signed Contract, a Section 17 Certificate and your Deposit before a due date.

- **Get accepted!** If the offer is accepted the Agent will proceed with exchange and you will need to pay the Deposit if you haven't already. The process from there is set out in our **Guide to Buying Property by Private Treaty**.
- **Waive your cooling off.** You will need to have us provide a Section 17 Certificate to waive your cooling off period. This means that the Contract, once exchanged, is unconditional and you must complete. (See our **Cooling Off Fact Sheet**).

*Continues >*





## ATTENTION! AUCTIONS ARE NOT PRICE-GUESSING COMPETITIONS

If you are the successful bidder:

- You must enter into the Contract to buy the property; and
- You must complete the purchase.

When you buy at auction you will be unable to obtain unconditional finance approval beforehand, so it is important to speak with your broker to know your bidding limit on the day.

The Contract will not be subject to finance.

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*Continued >*

### On Auction Day!

- **Dress for the weather.** Many auctions are held outdoors.
- **Bring your ID.** The Agent will verify your identity when you register to bid.
- **Register to bid.** You cannot bid at an auction unless you've let the Agent know that you want to do so.
- **Start the bidding!** The Agent will guide you through the event, and the auctioneer will accept bids from registered bidders.
- **Hands in the air.** If you want to buy it, you have to bid for it, but remember your limit.
- **It's OK to walk away.** Remember, if the price goes above your limit, as long as the bid is not with you, you can walk away. Sometimes you have to let a beautiful house go.

### Going once? Going twice... Sold!

- **Highest bidder.** If you are successful at auction, you will be asked to exchange the Contract on the spot.
- **Time to sign.** The Agent will ask you to sign the Contract and pay the Deposit.
- **Celebrate!** Congratulations, you have now exchanged unconditionally on your dream home.

### Let the fun begin!

- **Spread the news!** After the auction, let us know you have been successful.
- **Connect your team.** We will liaise with your broker/bank to ensure unconditional finance approval is in place as soon as possible so you are ready to settle on time.
- **Plan the fun stuff.** Leave the rest to us while you plan your move and the housewarming party. A full to-do list is available on our **Guide to Buying Property at Auction**.

### Glossary of Auction Terms

**Auction Conditions:** These are the special conditions of a Contract at auction, that determine the powers of the auctioneer to receive or reject bids and sell the property, and the obligations of bidders and buyers.

**Unconditional Contract:** Contracts entered into under auction conditions are unconditional and the Buyer doesn't have a right to cool off. Buyers must complete the purchase.

**Vendor Bid:** Sometimes, Sellers will authorise the auctioneer to make a bid on their behalf, to send a signal to registered bidders or to assist bidding.

**Reserve:** The price above which the Seller will certainly sell the property. The Seller doesn't have to sell the property under auction conditions below the reserve. You may hear the auctioneer say, "this property is now on the market!" which signals that the reserve has been passed.

**Passed in:** If the bidding ends before it passes the Seller's reserve price, the property will not sell at the auction and is "passed in". Usually, the highest bidder has the right to negotiate with the Seller exclusively on auction day to purchase the property, but any sale that day is under auction conditions.

**Underbidder:** A person who is the second-highest bidder.

**Fall of the hammer:** The point at which the property is sold, when the auctioneer declares the success of the highest bidder and ends the auction (usually by banging their auctioneer's gavel). The Contract is actually formed at the fall of the hammer, despite that the successful bidder signs the paperwork afterwards.

# Offer form



## The property

Address: \_\_\_\_\_

Agency: \_\_\_\_\_

Selling agent: \_\_\_\_\_

## About me/us

Name(s): \_\_\_\_\_

Address: \_\_\_\_\_

You can reach me/us at: *Email* \_\_\_\_\_

*Mobile* \_\_\_\_\_

My/our solicitor is:

**Morris Legal Group**

Suite 5, "The Kennedy", 28 Eyre Street, Kingston ACT 2604

PO Box 6123, Kingston ACT 2604

conveyancing@morrislegalgroup.com.au

1300 047 227

My/our contact there is: ☐ Holly Boyd ☐ Erin Taylor ☐ Louise Morris ☐ I/we will let you know their details shortly

## My/our offer

My/our offer is \$ \_\_\_\_\_

I/we will pay on exchange: ☐ 5% ☐ 10% ☐ Deposit Bond

Settlement terms (days): ☐ 30 ☐ 45 ☐ 60 ☐ 90 ☐ 120 ☐ Other \_\_\_\_\_

My/our finance status is: ☐ I need to see a broker ☐ I have pre-approval ☐ I don't need finance approval

*I/we'd like to make the following requests of the Seller:* \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Please present this offer to the Seller of the property in accordance with the *Agents Act 2003* (ACT) and let us know their response.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*



## WHAT IS A SECTION 17 CERTIFICATE ALL ABOUT?

When buying a property, the Buyer can agree to waive their right to a Cooling Off Period by providing the Seller with a **Section 17 Certificate** (in the ACT) or a **Section 66W Certificate** (in NSW).

This is a certificate issued by a solicitor who does not act for the Seller, after they explain to the Buyer that the certificate waives their right to the Cooling Off Period.

This has the effect of making the Contract for Sale unconditional at the time of exchange, locking the parties into the deal.

Remember, an auction contract is **ALWAYS** unconditional. Buyers **DO NOT** receive a Cooling Off Period when they are successful at auction.

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**When purchasing a property in the ACT, every Buyer is entitled to a "Cooling Off Period". A Cooling Off Period is exactly what it says on the box: a time for the Buyer to cool off and think about whether they want to (and can) proceed with the purchase of a property, once Contracts for Sale have exchanged.**

A Cooling Off Period lasts for 5 Business Days. It starts on the day that a Contract for Sale is exchanged, and ends at 5pm on the 5th Business Days following exchange.

A Buyer can get out of the Contract for Sale during the Cooling Off Period by giving the Seller a notice that the Contract is rescinded. The Buyer will forfeit a small amount of the price of the property (usually 0.25% of the purchase price) if they do this.

A Buyer can waive their right to a Cooling Off Period, by having their solicitor issue a certificate under:

- Section 17, *Civil Law (Sale of Residential Property) Act 2003* (ACT) for ACT properties; or
- Section 66W, *Conveyancing Act 1919* (NSW) for NSW properties.

If the Contract for Sale is exchanged with cooling off waived, then the Contract is deemed unconditional and both parties must proceed to settlement. There is no opportunity to further negotiate the terms of the Contract or rescind the Contract, if a Buyer changes their mind and does not want to proceed.

Once a Contract is exchanged unconditionally, there is no means of getting out of the Contract for Sale without the Buyer committing a breach and risking a claim against them, or both parties agreeing not to go ahead.

### Benefits of the Cooling Off Period:

- A Buyer may want to lock in their purchase and exchange Contracts with the Seller so that they cannot be gazumped – with both parties understanding that the Buyer has the option to get out of the Contract by paying a small fee.
- If a Buyer doesn't have much time to lock in a property or if their solicitor isn't immediately available (say the Buyer is exchanging on an off-the-plan property on the weekend), they can exchange Contracts for Sale immediately and have their solicitor provide advice on it in the coming days.
- The Cooling Off Period gives the Buyer additional time to complete due diligence on the property once the Contract is exchanged, and receive advice on the Contract.

### Reasons Why You Might Waive Your Right To Cooling Off:

- The provision of a Section 17 Certificate or a Section 66W Certificate is often highly valued by a Seller of property, because the Contract for Sale becomes unconditional and the Buyer cannot pull out. It indicates the deal is final on exchange and is a typical request from Sellers in both ACT and NSW.
- If a Buyer makes an offer which includes an unconditional exchange (that is, the Buyer's cooling off is waived), the Seller may agree to provide the Buyer with additional time to conduct due diligence, obtain legal advice and receive their unconditional finance approval on a 'good faith' basis.

# Pre-settlement

## INSPECTION CHECKLIST



**This is your last chance to check that the property is being handed over to you in the same condition as at exchange.**

You need to check for any new damage. You also need to check anything that the Seller said they would fix has been attended to.

### Testing time

#### Pro tips

- Use a phone charger or night light to test electrical points!
- Sometimes exhaust fans and rangehoods are quiet. Take a tissue with you and hold it against the exhaust fan when it's turned on. If it sticks, it works!
- Look for anything that you think might be expensive to fix, if you discovered that it was broken.

**Legend:** ⊖ Not applicable   ⊕ Works   ⊗ Faulty

- |   |   |
|---|---|
| <input type="radio"/> Lights            | <input type="radio"/> Dryer             |
| <input type="radio"/> Electrical points | <input type="radio"/> Ceiling fans      |
| <input type="radio"/> Air conditioning  | <input type="radio"/> Pool pump         |
| <input type="radio"/> Heating           | <input type="radio"/> Auto garage doors |
| <input type="radio"/> Exhaust fans      | <input type="radio"/> Automatic gates   |
| <input type="radio"/> Cooktop           | <input type="radio"/> Intercom          |
| <input type="radio"/> Oven              | <input type="radio"/> AV System         |
| <input type="radio"/> Microwave         | <input type="radio"/> _____             |
| <input type="radio"/> Rangehood         | <input type="radio"/> _____             |
| <input type="radio"/> Dishwasher        | <input type="radio"/> _____             |

Notes/requests for repairs: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### Check for new damage

- Broken windows
- Damaged fixtures such as light fittings, shower screens
- Water damage (look for stains on the ceiling, floors)

Notes/requests for repairs: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### Check for items agreed with Seller

Check that anything you agreed that the Seller would fix has been attended to.

- ☐ \_\_\_\_\_
- ☐ \_\_\_\_\_
- ☐ \_\_\_\_\_
- ☐ \_\_\_\_\_

### Questions for the Agent

- Will I get the keys from you at settlement, or the solicitor?
- \_\_\_\_\_
- \_\_\_\_\_

### Questions for MLG before settlement

- \_\_\_\_\_
- \_\_\_\_\_

#### ► When you've finished checking

Scan or take a photo of this checklist and sent it through to our team. We'll add it to your file.

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### WHY DO WE MAKE ADJUSTMENTS?

Rates, land tax, water charges and body corporate levies are land charges that remain with the property being transferred. Adjustments are made at settlement to ensure that the Buyer and Seller are both paying their share of these charges.

This means that the parties are each fairly paying the land charges that apply to the time that they owned the property, regardless of when the account is changed or the transfer is registered on the title.

In the same way, rent that a property earns for its owner is adjusted so that the Buyer and the Seller each earn their share of the rent when the property passes.

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**Adjustments refers to the 'splitting' of the costs of certain land charges on a property, such as rates, land tax, water charges and body corporate levies. The process ensures that neither the Buyer nor Seller are paying for these charges when they did not own the property.**

#### How do we know what the charges are?

Prior to settlement, the Buyer's representative will obtain various searches for land charges including:

- *Certificate of Rates, Land Tax & Other Charges*, from the ACT Revenue Office or the relevant council;
- *Request for Charges* from Icon Water or local water provider;
- *Special Water Meter Reading* from Icon Water or local water provider; and
- *an update on payment of any body corporate levies* (if the property is a unit in a units plan).

These are provided to the Seller's representative to allow them to prepare a settlement statement.

#### How does it work?

The cost for each kind of charge is calculated for the period in which settlement will take place, and that cost shared proportionally between the Buyer and Seller so that:

- if the Seller has paid land charges for a time when the Buyer will own the property, then the Buyer will reimburse the Seller their share, by adding it to the purchase price; and
- if the Buyer needs to pay land charges for a time when the Seller owned the property, then the Seller will pay their proportional amount by taking it off the purchase price.

Usually, the parties agree to work on the basis that all outstanding bills are paid in full on settlement. This means that most adjustments are by the Buyer in favour of the Seller, and any payments that are outstanding are paid by the Seller on settlement by drawing a cheque to the council or utility provider.

#### Land tax

Land tax is usually not levied on owner occupiers and so land tax is generally not be adjusted when a Buyer intends to live in the property. However, in the ACT, if the Seller is liable for land tax a Buyer be able to request the Seller's assistance to have the ACT Revenue Office recognise that the Buyer is not liable for land tax, and reduce its costs. The rules are complex and may be changed by the Contract. Ask us if you're not sure.

#### What about gas, electricity and internet?

Gas, electricity, internet and other services are 'personal' utilities, and new owners will need to arrange connection for these services individually. Adjustments are not made on settlement.

#### Does anything else get adjusted?

If the property is tenanted, rent will be adjusted proportionally much in the same way as land charges are adjusted, so that the Buyer and Seller earn income on the property during the time they owned it.

The Seller will reimburse the Buyer for the cost of discharging any mortgage on title, which needs to be removed for the Buyer to register their name on the title.

An adjustment will also be made by the Buyer to the Seller for the Section 119 Certificate, and Building, Pest & Compliance Inspection Report, if one or both of these documents were required in the Contract.



# Adulting

## DO I HAVE TO?

The honest answer is no, but if you don't have a will, some unspeakable relative could end up owning your little patch of paradise when you die.

*Yikes. Let's do something about that.*

Every conveyancing client is offered a complimentary estate planning consultation.

For a surprisingly affordable fixed fee, we can provide you with:

- an estate planning advice tailored to you
- custom wills for one, a couple or more complex family
- enduring powers of attorney

**No more excuses.** Let's get it sorted for you.



**Book your complimentary consultation here.**

Sound good? **Let's chat.**

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\*All matters are provided a fixed fee quote prior to commencement. Quote for custom wills will depend on whether the client is an individual or a couple, and on the complexity of the estate. All quotes will show you the GST-inclusive price but will exclude disbursements. Out-of-pocket expenses ('disbursements') are different for each client and are an extra cost which are passed on directly to you.





# Resources

## Helpful tools for your property adventure

### Get a quote

Need an instant quote for your upcoming conveyance? No worries!

Find them all [here](#).

### Fact sheets

We've put together some great resources on the conveyancing process, signing contracts, Crown leaseholds and settlement adjustments.

Find them all [here](#).

### Payments made easy

We've made payments easy and paperless.

You can securely pay your invoice or place money into our trust account [here](#).

### Government resources

Both the [ACT](#) and [NSW](#) Governments provide extensive information about living in each states. Check these resources for more information about housing and property.

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