



TOOLKIT:
BUYING AN
ESTABLISHED
PROPERTY

Morris
LEGAL GROUP

Property is for everyone.

Your guide to buying a property

The Morris Legal Group Team are property tragnics 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 property 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 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:

- [Get in touch with us](#) so we can review the Contract, or get an [instant quote](#)
- Once a price is agreed, advise your broker or bank know so that they can arrange the valuation and unconditional approval

- 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 **8**)
 - > Whether you need a new or updated Binding Financial Agreement, especially if you're moving in with your partner for the first time
- Plan ahead for your pre-exchange inspection (see page **5**)
- 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 A PROPERTY



GET EXCITED

Start looking



FALL IN LOVE

Make an offer



GET YOUR DUCKS IN A ROW

Offer accepted



EXCHANGE OF CONTRACTS

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
- > **Are you eligible for a NSW First Home Owner Grant**
Go to: revenue.nsw.gov.au

- Request a Contract from the Agent
- Send us the Contract for review and advice
- Renovator's dream? Inspect the property with a Builder.

- Seek valuation and unconditional finance approval with your Bank or broker

Come and see us to:

- Discuss the deal
- Sign the Contract
- Verify your ID
- Sign a Client Authorisation Form
- Pay the Deposit to the Agent or Seller's solicitor

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!

- Collect the keys to your new home!
- > All the Seller's outstanding rates, land tax and other charges are paid on settlement

- 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 making an offer**. It will take around 2-4 weeks for pre-approval to be issued after your initial appointment with your broker. Pre-approvals are valid 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.

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.

Adulterating

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.

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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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