

Buying Your Home

Welcome to Kells The Lawyers

Our team, located in Sydney and throughout the Illawarra, is at your service!

Our service commitment

Before starting your job, we will tell you:

- how long we expect it to take
- how you will be kept informed about the progress of your job
- an indication of the costs.

Services available to you

- property law
- family law
- criminal law
- wills & estate planning
- court representation
- employment law
- dealing with councils
- business transactions.

Accredited specialists

Many of our lawyers have gained accreditation from the New South Wales Law Society in their area of specialisation.

We have lawyers accredited in:

- business law
- family law
- personal injury
- property law
- local govt & planning law
- employment law & industrial law.

Contact Kells The Lawyers Residential Property Team

Steps involved

These notes explain what has to be done once you have found a property to purchase. There are four main steps:

1. **Before exchange of contracts**
You apply for finance if needed and arrange for pre-purchase pest and building inspections (and strata inspection) reports if required
2. **Meeting to discuss contract**
We meet with you to discuss your purchase and check and sign the contract
3. **Exchange of contracts**
This is a binding agreement between yourself and the vendor for you to purchase the property and the vendor to sell
4. **Finalising your purchase - settlement**
You now own the property

The service you receive

Time required

Allow 6-8 weeks for your purchase to be completed from the time we receive your instruction. Of course, this may differ depending on the circumstances of your purchase.

Fixed Price Fee

We have a guaranteed fixed price for buying your property that includes:

- Search fees.
- Enquiry fees of various Government Departments.
- GST.
- Attendances on you either personally or by telephone.
- Settlement fees.
- All general expenses including photocopying, etc.

Government Disbursements

- Stamp duty on the contract (exemptions or concessions may apply).
- Local Council and water rate adjustments.
- Strata levy adjustments, (if applicable).
- Registration fee for the deed to be changed into your name.

Keeping you informed of progress

We will notify you in writing when the various stages have been completed.

More importantly, we will contact you immediately if any delays occur or problems are encountered. If you have any questions, please contact the person who has been appointed to manage your purchase.

Signing the contract at the real estate office

The agent will have a copy of the contract you can sign in his or her office. You also pay the full deposit when you sign the contract. The agent will then send a copy to the seller's lawyer.

See us right away. You have only five business days after signing the contract for us to examine the contract and explain your rights and obligations to you. This is called the cooling-off period.

Cooling-off period

The cooling-off period is five business days after the exchange of contracts. During this period you are allowed to pull out of the contract for any reason. If you do pull out of the contract you will incur a penalty of 0.25% of the purchase price, e.g. on a house costing \$350,000 the penalty is \$875.

Smoke alarm

The owners of certain types of buildings and strata lots must have smoke alarms. It is an offence not to comply.

1. Before exchange of contracts

If you need a loan to purchase the property you will need to make a formal application, and obtain unconditional loan approval.

You may also wish to obtain pre-purchase pest and building inspections (and strata inspection) reports. This can be arranged through either your real estate agent or us.

The vendor's lawyer will send a contract to us. They will keep a copy of this contract for the vendor to sign. When we receive this contract we will contact you to arrange an appointment to discuss your purchase and sign the contract.

2. Meeting to discuss contract

This meeting will last for about 45 minutes.

Finance

We will obtain the loan details from you.

Tailor the contract to suit your needs

For example, we check that certain items remain in the house and are included as part of the purchase price. These may include curtains, blinds, light fittings, fixed floor coverings and the television antenna.

Check contract

We explain the various aspects of the contract to you including:

- *Certificate of Title* – shows the vendor is the proper owner and has the right to sell the property
- *Deposited Plan* – this is the plan of the property held at the Land & Property Information Service, it shows:
 - the dimensions of the block
 - the location of the block
 - whether it is subject to any easements for which there are statutory rights, e.g. access to pipes that run under the land
 - if there are any covenants upon the title, e.g. any restrictions on the building materials you can use or the distance the house can be set back from the front boundary
- *Strata Plan* – if the property is a town house, villa or home unit we will make sure the unit, carport or storage areas you have inspected are correctly shown on the plan
- *Section 149 Certificate* – this is issued by the local council and contains information such as the zoning of the property.

Inspections

If required we can arrange to have a:

- building inspection – to make sure the building is a sound structure
- termite and pest inspection – to ensure there are no termite or borer activities
- body corporate inspection – if your property comes under a strata title.

Inspections can normally be carried out within 48 hours.

3. Exchange of contracts

Exchange means:

- you sign a copy of the contract at our office.
- the seller signs a copy of the contract with their lawyer.
- at this stage you pay the balance of the deposit, which is held in the real estate agent's trust account. (e.g. the purchase price is \$350,000 so the deposit payable is \$35,000 or 10% of the total price. You may have paid \$500 to the real estate agent when you agreed to buy the property, so you now need to arrange for the balance of \$34,500 to be paid to the real estate agent). This can be either cheque or direct electronic transfer to the agent's trust account.
- we obtain the contract signed by the seller and hand over the contract signed by you (contracts are dated on this day).

Before contracts are exchanged, we will contact you to discuss your final instructions. After you have advised us that you wish to exchange contracts, we meet with the vendor's lawyer and swap the contract you have signed with the contract that has been signed by the vendor. Exchange is now complete. At this point both vendor and purchaser are bound to go ahead with the sale, subject to the cooling-off period. Contracts are dated this day.

We will then confirm the agreed settlement date.

Stamp duty

This is now payable on the contract and transfer:

- on a \$350,000 property, the stamp duty on the contract is \$11,244. We will advise if you are eligible for an exemption or concession of stamp duty.

Mortgage documents

Your lender will either:

- arrange with you a time to sign mortgage documents; or,
- send mortgage documents either to us or to you.

A delay in signing mortgage documents could delay your settlement date.

3. Exchange of contracts (cont.)

Contact government departments

We contact many government departments to make sure they do not have any plans that will affect the property you are purchasing. For example:

- that the Roads and Traffic Authority does not have any intended road works
- to ensure there is no land tax owing to the state government on the land
- that no outstanding council or water rates or strata fees (if applicable) are owing on the property.

Surveying the property

If required, we can arrange for a surveyor to survey the property. They will check that the building is not too close to the side boundaries and that the neighbours' buildings do not encroach or overhang your land.

Local government inspection

If required, after we have examined the surveyor's report we can make an application to the local council for a building certificate.

The council carries out an inspection of the property and makes sure the building, swimming pool (if there is one) or any building additions are legal and approved by council.

Loan documents

We gather the necessary information to satisfy the requirements of your lender.

We will provide you with a settlement statement that shows how much is needed to settle your purchase.

4. Finalising your purchase – settlement

On the day before settlement you should do a final inspection of the property to make sure it is in the condition it was when you agreed to buy it, e.g. the previous owner has not removed any items that are included such as television antenna or fly screens.

On the day of settlement, on your behalf, we meet with the lawyer for the vendor and a representative from your lender.

We inspect the documents and if they are in order your money is given to the lawyer for the vendor. In return they give us the deeds to the property, which will be kept by your lender until you pay off the loan.

Arrangements will then be made for the deeds to be registered in your name. The local council, water board and valuer general will be notified that you own the property. This can sometimes take a few months, so do not be concerned if your next rate notice has not been changed into your name.

You have now purchased your property.

Contact Kells the Lawyers Residential Property Team

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