

The Property Buyer's Handbook

Sargeants Conveyancing

The conveyancer you can rely on

Phone 03 5610 2010 mail@sargeantsvic.com.au for free no obligation advice

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Section 1 - Introduction

You've found the property you love. The price is right. You put in an offer and it's accepted. Next step: transferring everything from the seller to you.

Leave it to the experts

Conveyancing covers all the legal aspects of buying your home and transferring the property out of the vendor's name and into your own. You should call in the experts – a dedicated conveyancer.

Conveyancing can be both complex and time-consuming. It involves

- examining the sale contract for any hidden problems
- title ????????????
- checking for unpaid rates or land tax owing on the property
- researching local government records for any planned developments, illegal building work or unresolved disputes that could affect you and your property
- calculating the council and water rates owing on the date of settlement
- overseeing the change of title with the Land Titles Office

Don't be fooled by those cheap-as-chips online conveyancing firms, some even send your confidential information to other countries with lowly paid workers.

Conveyancers can be better for your budget

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Conveyancing was traditionally a nice little earner for solicitors but using a specialist conveyancer can save you big money. Fees vary widely but you should allow about \$1,000 for a conveyancer and closer to \$1,800 for a solicitor.

Both conveyancers and solicitors are able to prepare the legal paperwork and offer advice relating to your property purchase. Try and find a conveyancing firm with their own in-house legal department in case things get complicated.

Don't be too quick to take the first referral

There's a wide variety of expertise and a lot of backyard firms that don't even hold a full conveyancing license.

Sargeants Conveyancing was formed in 1978 and has its own in-house legal department. We service the whole of Victoria. Our "price-beat" guarantee , means you can obtain the best advice at the best available price.

Section 2 - Helping you to understand the Buying process

Preparing to choose a home

Consider checking your finance options and whether you are entitled to a First Home Owners Grant or other Land Transfer Duty concessions as this may

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change the limits to which you should purchase. Don't hesitate to ring us for free no obligation advice before you get started.

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Choosing the right home loan

Make sure you either hire a mortgage broker or do some research on the options available. The independent ratings agency Canstar www.canstar.com.au/home-loans/ compares all the major lenders and provides advice as to the best deals available.

Here are some important tips to consider:

Tip #1: Budget

First up, get to grips with your monthly incomings and outgoings - if you can develop and stick to a budget you'll be best placed for factoring a home loan into your life.

Consider if, and where you need to cut back to cater for mortgage repayments and consider what impact this may have on your lifestyle.

Tip #2: Save

Aside from a deposit, home buyers are faced with a string of costs including conveyancing fees, Land Transfer Duty (formerly stamp duty), rates and moving bills

Contract of Sale

If the Vendor is using a Real Estate Agent to sell the property, the Agent will usually draft the Contract of Sale.

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You should never sign a contract without asking us to review its contents.

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Depending on your circumstances you should include Special Conditions in the contract that:-

- Provide a subject to finance clause
- Building and Pest Inspections
- Make the contract subject to sale of your existing property
- Any other stuff that we can think of

Understand exactly what is sold with the place.

Misunderstandings about what exactly you're buying are a common cause of settlement headaches.

It can be extremely upsetting to discover the Miele dishwasher you loved was actually a roll-away that's moved on with the vendor. If you're unsure about whether something is included in the sale, you can ask the agent to confirm – or negotiate to have it included – and get the response put in writing.

Cooling off period

A purchaser who signs a contract for the purchase of real estate may be able to terminate the contract within 3 clear business days from the day the purchaser signed it. There are several provisos here, so the best answer is to obtain advice from us before signing a contract.

Deposit

Usually, the Purchaser will pay a deposit of 10% of the purchase price upon signing of the Contracts. The deposits will be held in a trust account by the Real

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Estate Agent until the completion of settlement or earlier by way of Section 27 early release to the Vendor.

Finance Approval

If you are relying on finance to purchase, you should include a finance condition in the contract. If you don't do this you are exposed to serious risk, and may be forced to proceed with the purchase, or forfeit the deposit or 10% of the purchase price, as well as being sued for the vendor's loss and costs.

If the matter is conditional upon you obtaining finance, we ask that you contact us as soon as loan approval has been granted.

If you have not obtained finance by the due date, the vendor **MUST** be notified by this date in order for you to avoid the contract. The consequences of not providing notification is that the contract will proceed unconditionally, **and this means**

Further finance extensions can be requested if there are delays in obtaining the finance approval. Please urgently contact our office if you require an extension.

If the vendor is not agreeable to any extension the contract of sale can either be terminated or you can decide to proceed unconditionally without securing the finance.

To terminate the contract of sale, the purchaser must have used their best endeavours to obtain the finance. You must obtain a refusal letter from your financier stating that finance has been declined.

If the finance has been declined or you have not obtained finance by the due date, we must provide written notification to the Vendor's conveyancer. We

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would notify them the finance has not been approved and include the refusal letter from your financier and request a full deposit refund.

Organise a pest and building inspection.

The expression 'let the buyer beware' applies in spades to real estate and arranging a pre-purchase pest and building report means you won't get stung by a termite-infested dump with dodgy wiring and an illegal extension.

Please note, that you will only be able to end the contract under these clauses if the building report shows MAJOR structural defect and/or indicates a MAJOR pest infestation.

Settlement

Settlement is the date that the property is legally transferred to the Purchaser. This is also the day the purchaser takes possession of the property, and the balance of the purchase price is paid

Normally settlement periods are around four to six weeks. You are not required to attend settlement as its now done online through an electronic workspace called PEXA.

Condition of Property

We also suggest at the next inspection you check that all fixtures are in good working order (oven, stove top, dishwasher, heating & cooling etc). The vendor is obliged to handover the property at settlement in the same condition as it was on the day of sale allowing for normal wear & tear. In reality some vendors do not hand over the property in an appropriate condition.

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Purchasers do not have a great deal of leverage to delay settlement should the property not be in the same condition as it was on the day of sale, and it is difficult to prove the condition of the property on the day of sale. In order to protect your interests, we recommend you take photographs of the property at the time of inspection as a record of the condition of the property at the time of sale.

What is “fair wear & tear”? This means that a deterioration is just part of the normal pattern of property ownership and a purchaser must accept the property in the deteriorated condition.

Foreign Investment

If you are NOT an Australian Citizen or if you are a foreign person who DOES NOT hold a permanent resident visa or a special category visa (eg NZ citizen) approval must be obtained to enter into the contract or the contract must be made conditional upon receiving approval.

Services

It is the purchaser’s responsibility to connect the services to the land, and the purchaser will be responsible for the costs of connection (of those services).

Please note that the vendor statement may disclose the vendors paying a service charge rather than a connected fee. In the event that a section 32 statement indicates services are ‘available’, this may not mean connected and you should make further enquiries to determine which services are connected

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The Property

We recommend measuring the boundaries of the property to ensure they are consistent with the boundaries as identified in the plan attached to the vendor's statement.

It is important to check with local authorities that your intended use of the property is permitted. It may be that your intended use is prohibited and/or the current use is in breach of the planning scheme.

The Property is sold subject to any restriction regarding the control or use of the land, and any such restriction will not constitute a defect in title or effect the validity of the contract. If you are intending on developing the property, you will be required to obtain all requisite permits and comply with the planning scheme and various overlays.

First Home Owner grant/concession etc

When it comes to securing a First Home Owner Grant, the stakes are pretty high. State revenue offices, which administer them, have access to everything and they're not mucking about. They can trawl your car rego details, electoral rolls and even phone records to make sure you're genuine.

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It's better to ask questions now than to get in strife later.

You want to do the right thing, but the application process can feel complex and there can be implications for getting it wrong. In some cases, First Home Grant Owner recipients have failed to declare that their spouse has previously owned a home (a big no-no). Others buy as investors, not owner-occupiers (another mistake).

The bottom line is to stick to the facts when applying for a FHOG. If you're not a genuine contender, you could be asked to repay the grant plus penalties.

Your Sargeants Conveyancer can help you understand your eligibility and provide links to the application processes.

The bottom line

Buying a home can be a stressful difficult process. For most people it will be the biggest investment you ever make and so you need to get it right.

Consumer Affairs Victoria [click here for their website](#) provides a comprehensive guide to the process and there are numerous industry websites which will help you with background information.

The most important advice we can give you is to hire the best conveyancer you can find, as this person will act solely in your interests and guide you through the maze of legal pitfalls to a successful and stress free purchase.

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