

Welcome to Statewide Conveyancing

Thank you for choosing us to do your conveyancing. We appreciate the opportunity to act for you and trust our service will live up to your expectations.

Owner Builder

If building work is carried out on land by a person who is not licensed to carry out that building work (an owner-builder) and the land is offered for sale within six years after completion of the building work, you must give the buyer a notice under the *Queensland Building Services Authority Act 1991* (the “Act”). This notice must contain details of the building work and a warning in the form required by the Act. The Act also requires the notice to be given to the buyer before the buyer signs the contract to buy the house.

The effect of not complying with the Act is that you will be understood to have given the buyer a warranty that the building work was properly carried out and the buyer may be able to terminate the contract prior to settlement.

Renovations and extensions to the house where the value of labour and materials is less than \$6,000 or where the building work does not require council approval is exempt from the Act. Renovations and extensions of a value greater than \$6,000 for labour and materials require an owner-builder permit.

Please note that the Act applies not only to the original owner-builder but also to anyone who has owned the property within six years after the work was completed.

That means if you own a property where owner-builder work was done to the property within the

last six years then it is your obligation to warn a prospective buyer.

Should you feel that this may apply to you then please contact our office so that we can provide you with the necessary documents to be given to the prospective buyer.

Unauthorised Structures

Please note that pursuant to the standard conditions of sale, if it can be established that prior to you signing the contract, you have been given a notice in writing to attend to any of the following under the Building Act:

- unauthorised structures (section 22(1a));
- dangerous building or structure (section 22(1b));
- dilapidated conditions (section 22(1c));
- unfit use for occupation (section 22 (1d));
- filthy, infected with disease or infested with vermin (section 22(1e));
- enforcement notice given by a Local Government, or private certifier under section 22 (3), for failure to comply with a particular matter (section 22(2));
- notice to show cause (section 21);

and the notice is current at the date of contract for completion, then the buyer may terminate the contract.

Further, if any notice was received by you prior to signing the contract requiring work to be done or money spent in relation to the property, such notice must be complied with by you prior to the date for completion.

Building Covenants

If there were building covenants attached to the contract when you purchased the property you are obliged to arrange for the buyer to be bound by those building covenants. It is important that if

Important issues...

Selling a house/land...

- Owner-Builder
- Unauthorised Structures
- Building Covenants
- Easements
- Unregistered Dealings

Selling a unit...

- Statements by the Owner
- Implied Warranties
- Disclosure Statement

you have not already signed the contract that you arrange to insert the necessary special conditions to protect yourself.

Easements

Details of any registered easements over the title must be inserted in the contract prior to it being signed by the buyer. If they are not, the buyer may have a right to terminate the contract should the buyer wish to do so.

Unregistered Dealings

Pursuant to the standard conditions of sale, you are to provide the buyer with the following (if any) within 14 days:

- details of any unregistered documents and proper particulars of all unregistered dealings that relate to the property; and
- photocopies of such documents or dealings (if the dealings are in writing) certified by you as being true copies.

Statements by the Owner – Unit

Pursuant to the standard conditions of sale there are certain statements made by you which are implied into the contract as being accurate at the date of the contract. If the buyer can establish that any of these statements are inaccurate, the buyer may terminate the contract if they are materially prejudiced by such inaccuracies. The buyer however has only 14 days from the contract date, unless you have agreed to another date, to check the accuracy of the statements.

Amongst other things, as the seller you state that at the contract date:

- there are no unsatisfied judgements, orders or writs affecting the body corporate;
- there are no current court proceedings or applications involving the body corporate or the property;
- there are no special contributions other than as disclosed in the disclosure statement;
- the by-laws for the scheme are those recorded already in the Community Management Statement or as disclosed to the buyer in the contract;
- the body corporate has not mortgaged or charged any of its assets other than as permitted by the regulation module and disclosed in the disclosure statement;

- you have not received a notice of a meeting of the body corporate which will be held after the contract date or notice of any proposed resolution or decision of the body corporate to the recording of a new Community Management Statement.

Implied Warranties – Unit

The *Body Corporate and Community Management Act 1997* (“the Act”) which governs the administration of community title schemes also implies certain warranties into the contract. These are contained in Section 180 of the Act. In effect it is implied into the contract that as at the date of the completion you warrant that:

- There are no latent or patent defects in the common property or body corporate assets other than defects which have arisen through fair wear and tear or defects disclosed in the contract;
- There are no actual, contingent or expectant liabilities of the body corporate other than liabilities that can be reasonably regarded as normal operating expenses, or liabilities that have been disclosed in the contract;
- There are no circumstances other than as disclosed in the contract in relation to the affairs of the body corporate which are likely to materially prejudice the buyer.

Once again the buyer may terminate the contract if it is established that there is a breach of the warranty.

Disclosure Statement – Unit

Before the contract was entered into the buyer should have been given a disclosure statement which sets out certain information such as:

- the name and address of the secretary of the body corporate;
- the annual contributions paid to the body corporate by the owner;
- any improvements on the common property for which the owner is responsible;
- a list of the body corporate assets.

The buyer has 14 days from the date of the contract, unless another date is agreed to, to determine whether the information in the statement is accurate. If it is not accurate then the buyer may be able to terminate the contract.

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