



Buying vacant land

If you are buying vacant land, consider these important factors

Looking for a home of your own does not necessarily mean buying an established property. Some people prefer to buy vacant land and have a home built to their plans and requirements. This often means buying a block released for sale in a new housing estate or sub-division.

The standard contract

The standard contract for the transfer of property, whether vacant land or not, has two sections. These are:

- *Contract for the Sale of Land by Offer and Acceptance* (the "O&A"); and
- *Joint Form of General Conditions for the Sale of Land* (the "General Conditions").

The General Conditions cover important contractual obligations for both the buyer and seller, and are not usually varied by sellers or buyers. The O&A is a contract that requires the parties to insert information that is specific to the transaction, such as the description of the block and the agreed purchase price. It also allows agreed special conditions that meet the needs of both the buyer and seller to be inserted.

The Consumer Protection fact sheet *Sale by offer and acceptance* contains more information about the O&A.

Plans and services

When buying newly released land, check with the local council and the Department of Planning, Lands and Heritage for details of facilities and amenities planned for the area such as schools, shops, parks, etc, as well as details of any restrictions on building on the property. Also, enquire if there are any future road works or other public works planned for the area, such as highways, power lines, transformers or other utilities.

The local council will advise you if the land is subject to a 'building envelope'. A building envelope is of particular relevance in semi-rural subdivisions where house construction may only be possible within a certain area of the block. Make enquiries with the relevant government authorities about services

connected to the block, such as electricity, gas, water, sewerage, internet access, mobile phone coverage and land line telephone and find out about the position of underground cables and pipes.

You may choose to have a licensed surveyor conduct a check on the boundaries of the property to ensure they are marked correctly.

Further information

- Department of Planning, Lands and Heritage on 08 6551 8002;
- Main Roads on 13 81 38;
- Western Power on 13 10 87;
- Alinta on 13 13 58; and
- the local council.

Site costs

Site costs are the expenses you will have to meet to have the block prepared for the foundations of the house or other buildings.

The nature of the house and the characteristics of the land determine site costs.

Before you buy your block it is a good idea to get a quote for site costs for the style and size of the house you are planning to build.

Before buying land, check with the local council for the composition of the soil e.g. if it is sand, limestone, clay, to determine whether it is suitable for building. The composition of the soil will have a significant impact on site costs as some require extra foundations which can be very expensive.

Generally the blocks of land with the lowest site costs are those that are flat and have sandy soil. Rocky land with steep slopes tends to have high site costs.

Drainage problems will also affect site costs. Contact the local council to determine whether the land is susceptible to drainage problems. If you discover that the land is in a low-lying area, prone to flooding, or on a 100 year flood plain, then the local council will also be able to inform you about any special building requirements and/or restrictions.

If possible, obtain a quote from the builder for site costs before making an offer to buy. It is also advisable to check with neighbours who may have recently built in the area.

Encumbrances

There may be restrictions, known as encumbrances, which could hamper the future use of the land.

Encumbrances on vacant land may include:

- **easements** – for example, an adjoining landowner may have a particular right to cross the land; a sewerage or drainage line may have to pass through your land; and/or
- **restrictive covenants** – for example, there may be restrictions on using the land in a certain way, including restrictions on building heights or the use of certain building materials; boundary fences to be constructed to a particular standard.

Similarly, additional planning and building requirements may apply to developments on blocks of land within areas designated as bush fire prone. You can find further information on the Department of Planning, Lands and Heritage' website at www.dplh.wa.gov.au

When considering the purchase of a block of land, check to see if there are any easements or restrictions that might affect the use or resale of the land.

Sewerage line easements may not be registered on the Certificate of Title relating to the land, but may significantly affect the developmental potential of the land. On request, the selling real estate agent should be able to get this information.

It is a good idea to check for any encumbrances through your solicitor or settlement agent. Ask the seller or their agent if a sewerage line check has been carried out and if so, what was the result. You may find the best option is to carry out your own checks.

The local water authority, Landgate, local council and land development company should be able to tell you whether any encumbrances exist on the property.

Further information

- Water Corporation on 13 13 95;
- Landgate on 08 9273 7373 or 1300 365 288 (regional);
- the local council; and
- the land development company.

Pre-release land or buying land or property off-the-plan

For detailed information regarding buying land or property off-the-plan, please refer to the Consumer Protection factsheet *Buying land or property off-the-plan*.

Off-the-plan sales include the sale of vacant land, house and land packages and purchase of units that are to be built and strata titled. In each case, a contract is signed before the development, or subdivision, is finalised.

In most cases, the buyer pays the developer a deposit on signing the contract and if they are a licensed real estate agent they will place the deposit in a Trust Account. This does not mean it is 'your land'. Ownership does not transfer to you until the Certificate of Title is issued in or transferred to your name. The sale contract is more in the nature of a 'conditional' promise by the seller to deliver a parcel of land, or land and a building, at some future time for an agreed price. The balance of the purchase price is due to be paid at settlement. Settlement can only occur when the Certificate of Title has been issued.

It is important to be aware that there are risks in buying property off-the-plan. The greatest risk is if the developer is unable to proceed with the development within the time specified in the contract. It may be that the developer is unable to obtain final subdivision approval or that investment funding in the development has not been sufficient. This means that your money might be tied up, sometimes for several years, and if the development falls through, you will have missed out on other opportunities to purchase property. This should be taken into consideration when making an offer.

The sale contract may include a clause allowing the developer to cancel the contract when there have been price increases in building materials, in the costs of establishing utility services, or if property prices have risen. Therefore, buyers of property off-the-plan should carefully read the contract to familiarise themselves with the circumstances which may allow a developer or a seller to cancel a contract.

For various reasons, off-the-plan property purchases do not provide buyers with the same level of certainty as established properties where a Certificate of Title has been issued.

As there are a number of important issues to consider when buying off-the-plan, it is important you refer to the Consumer Protection fact sheet *Buying land or property off-the-plan*.

Other useful publications

Consumer Protection

www.consumerprotection.wa.gov.au

- Sale by offer and acceptance
- Buying a home through an agent
- Real estate fees – Negotiating with an agent
- Choosing a settlement agent
- Property settlement

Further Information

General enquiries about real estate and settlement matters or ordering a free publication can be handled by phoning the Consumer Protection Contact Centre on 1300 304 054 (for the cost of a local call state-wide) 8.30 am – 4.30 pm Mon, Tue, Wed and Fri 9.00 am – 4.30 pm Thurs.

You may want to contact a solicitor for legal advice about the standard contract for the sale of property and to have a form of general conditions explained.

Disclaimer – The information contained in this fact sheet is provided as general information and a guide only. It should not be relied upon as legal advice or as an accurate statement of the relevant legislation provisions. If you are uncertain as to your legal obligations, you should obtain independent legal advice.

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