

Property Ownership

A guide to purchasing a property in Queensland



A LIFETIME OF **EXTRAORDINARY**
PROPERTY EXPERIENCE IN RESIDENTIAL MARKETS

OVER 28

YEARS IN
REAL ESTATE

OVER 30

YEARS IN PROPERTY
DEVELOPMENT

INVESTMENT PACKAGES IN **OVER 60**
LOCATIONS THROUGHOUT QLD & NSW

AN
EXPERT

FINANCIAL SERVICES
SUPPORT NETWORK
AT YOUR DISPOSAL

OVER
\$900
MILLION

OF PROPERTY SALES

HUNDREDS OF PROPERTIES
UNDER MANAGEMENT




@ap-realty
Property Sales & Management

For almost 30 years we
have specialised in crafting
authentic tailor-made
solutions for buyers, sellers
and property developers.



This guide has been prepared to assist you to understand the buying process.

Buying a property is one of the biggest financial steps that you will take so it is absolutely critical for you to understand your rights as a buyer and just how the buying process works.

Conversely, you may have purchased before but in another state or country so this guide might be just the refresher that you need.

The process of buying a house will differ depending on whether the house is sold by private treaty or at auction and the rules do vary in each state or territory however the following chronological, step-by-step explanation of the property buying process will help you understand each step along the way and put you on track as to what action you should be taking and at what time.

Our team of qualified professionals are here to assist you where required so don't hesitate to call – property is our business!

Chris Hayter
Principal @ap-realty

Contents

Property Fundamentals	4
The Borrowing Process – checklist	5
Role of a Mortgage Broker	6
Mortgage Loans – how much can I borrow?	7
New House & Land Packages	8
Full Turn Key Package	11
First Home Buyers	12
Valuations	18
Stamp Duty	19
The Conveyancing Process	20
Settlement	24
Auctions	25
Property Investment Service	26
Median House Prices	27
The Purchase of Australian Property by Foreign Residents	28
Capital Gains Withholding: Impacts on Foreign and Australian Residents	31

Property Fundamentals

It is an established fact that most Australians have a fascination with “bricks & mortar”, so much so that many would prefer to invest in a second house or apartment rather than to invest in shares or other forms of investment. However most first home buyers don’t treat their home as an “investment” and they should... because if you get the basics right with your first property purchase it will set you up for the future.

Good quality property (whether you live in it or not) goes up in value (equity) and as time goes on you can use that equity to purchase additional properties. So, having a good understanding of the property investment fundamentals and market cycles is important from day one.

Think about becoming a “value investor”– it’s always far better to buy the right property at a fair price than a fair property at a cheap price. You will underpin the success of your investment by purchasing the right property and not by purchasing a bargain.

You can lock in your future profits by buying one that will outperform the market average in the long term because of its qualities or its potential to add value. In today’s strong property market don’t look for a bargain. Remember, the price you pay for a property isn’t the same as the value you get.

Successful investors know the difference. The Swiss people have a very wise saying... they say that “*buying cheap*” is actually “*buying expensive*” in the long run.



The Borrowing Process – check list

- 1 Understand the lending process
- 2 Understand the valuation process
- 3 Evaluate and select the correct type of loan
- 4 Consider the loan structuring options
- 5 Consider the taxation options
- 6 Be aware of the potential problems
- 7 Consider the ownership options



Role of a Mortgage Broker

Understand your needs

The Broker will find out as much as possible about your circumstances and goals.

Work out your borrowing power

Your Broker will calculate how much you can borrow and how much you can comfortably afford to repay.

Compare loans to find the right one

Your Broker can compare hundreds of home loans from over 20 lenders, including the big four banks, to quickly narrow down your choices to the ones that best suit you.

Answer your questions

Brokers have a wealth of knowledge that they're only too happy to share.

Do all the legwork

The Broker will prepare all of the paperwork and support you through the entire process.

Help you with pre-approval

The Broker could help you get pre-approval for your home loan so you can buy with confidence.

Loan Pre-Approval

You don't need to find your new home before you can apply for a loan.

Some lenders provide a loan pre-approval – subject to meeting required terms and conditions. This is where your loan limit is approved for a certain time (usually around six months), and providing your circumstances have not changed you'll know *exactly* how much you can afford to pay for a property.

Mortgage Loans – how much can I borrow?

The three “C”s of Credit

Your lender will examine all of the following areas to determine your loan eligibility.

- **Character** – do you pay your bills on time? The lender will review credit reports, loan statements, etc.
- **Capacity** – can you repay your debts? All lenders conduct serviceability assessments.
- **Collateral** – what security do you have? A lender will instruct a licensed valuer to provide them with a market report for the property.

Unless you qualify in all areas, finance may be declined.

The lending market is more complex today than at any other time in our history. An experienced mortgage broker will have over 30 lenders on their lending panel, and there are literally hundreds of options for borrowers to choose from.

These options include:

- Major Banks
- Building Societies
- Mortgage Managers
- Solicitor Trust Funds / Private Lenders
- Regional Banks
- Credit Unions
- Finance Companies

The lending criteria for these lenders differs enormously and is subject to constant change depending upon the lenders appetite for “market share”.

In the past, the typical loan was a 20 Year Principal and Interest Reducing Loan. **Today, there are hundreds of lending options available in the market, including:**

- Standard Variable Loan
- Basic Variable Loan
- Introductory (Honeymoon) Rate Loan
- Fixed Rate Loan
- Combination Loan
- Offset Account Loan
- No Doc or Low Doc Loans
- Revolving Line of Credit Loan
- Reverse Mortgages

Which one is right for you?

It just makes sense to talk to a professional before you start the property hunting process – then you will know what boundaries or limitations you may have on your borrowing capability.

New House & Land Packages

Building a house is not as straight forward as choosing a design and signing a contract, there may be a number of 'hidden' costs which can quickly send your budget spiralling out of control if you are not aware of them. Prepare a due diligence check list to ensure that you are aware of these 'hidden' costs before you sign a contract.

The check list should include:

1 If your block of land is not completely flat and your soil not right then again there are going to be more costs. If your block needs cutting, filling, retaining or your land is in a flood or bushfire zone, yep you guessed it – more costs! These are just some of the hidden extra costs you may come across when building a house. If you haven't done due diligence concerning your site you may find your budget beginning to blow out.

2 Site Costs: This will likely be the biggest hidden cost that you will incur when you build your new home, and unfortunately it has the largest variable which could come in at tens of thousands of dollars. It is largely based on the soil and contour reports. The worse the soil results and the larger the slope, the higher the site costs.

The more difficult the access to your site is will also mean you are likely to incur higher costs. Are there lots of trees

that will need to be removed? And make note: in most cases all of the roots need to be removed as well as the tree! Do you need to build retaining walls? These will also incur excess costs.

Talk to your builder about these because this is where you can blow the budget before you even start the build.

3 Soil: Before any builder or building company can give you a fixed quote for a build they will need to have a surveyor do a soil test and provide a contour report – If the builder doesn't do this, how are they able to accurately price your contract! Soil is rated depending on what type it is – H and M classifications are generally classed as good but other soil classifications can cost thousands of dollars and this may vary depending on your builder and the type of property you are trying to build. Soil and Contour reports can be cost upwards of \$750.00.

New House & Land Packages continued...

4 Slope: Contour report – Surveyors map the land to show the slope of the property. Your plans may need to be adjusted based on the slope of the land and the way the block slopes e.g. sloping from the front of the block down to the back etc. so if your block of land has a slope then you will incur extra costs. Generally speaking the larger the slope the greater the cost. Builders generally estimate an average cost of approximately \$8,000 (this varies between builders) for every 1 metre of fall on the property depending on which way the slope falls e.g. a 3 metre slope falling from the back of the block to the road could cost you around \$30,000 because of the way the slope falls.

The steepness of your slope can also affect your decision on which builder you chose as some of the cheaper home

builders won't be able to build on your land as you may need a custom design.

A detailed land survey will more than likely be needed and a structural engineer may be required to assist with the design and construction of the house as sloping blocks can pose difficult engineering problems. Severely sloping blocks can be difficult to access and cause issues with transporting materials to the site and in some cases extra costs will need to be allowed for crane hire.

Excavation work, retaining walls and cut and fill are almost always required on sloping blocks. Sloping blocks also often require extra foundation work to ensure the building surface is level – all of which come at an extra cost.



New House & Land Packages continued...

5 Bushfire & Flood Zones, Acoustics: The location of your land may also have an impact on your budget. If you live in an area that is close to the bush your property may have a Bushfire Attack Level (BAL) rating so you may require a bushfire assessment report. If this is the case then there are changes that may need to be made to the building of your home to make it as safe as possible in the event of a bushfire.

This is also the case for flood zones as the building will need to be redesigned to adhere to council planning department requirements to aid in the prevention of injury or loss of life and all these changes will incur extra costs. An Acoustic assessment will also be required should your property be in a 'noise' zone such as under an air plane route, near train lines or a major highway to reduce the noise levels inside your new home. Based on the Acoustic report you may need to add extra insulation and/or double glazing to your windows which again will increase your costs to your base house price.

6 Block retaining / Fill / Cutting: You can assume you will need to employ a structural engineer if your retaining wall is over a metre in height and in some areas as low as 600mm, this a requirement by law in Australia. But before you start getting quotes, have another look at the area where your retaining wall is required. Is there any excavation necessary? Will there be any access problems for this work? Are there any trees that will need to be removed? What materials will you use for the retaining? The choices for your retaining wall include: boulders, timber, blockwork, concrete etc. at varied costs. All of these again will add extra costs to the retaining wall so have a good look around first.

7 Council Costs: Each council has different fee structures depending on what your application is for. They will include a lodgement fee and then the fees depending on the application to be processed. These may cost you a few thousand dollars.

Full Turn Key Package

@ap-realty full turn key means full turn key – ***you pack up your belongings and move right in!***

@ap-realty have specially designed packages that are perfectly tailored for a range of owner occupiers or savvy investors.

We offer fixed price, full turn key multi-residential and single dwelling packages. Our professional and experienced team guide you through every step of your build.

Full turn key means that everything is ready for you to move straight in once the keys are handed over. The home is complete including all flooring, window coverings, fly screens, clothes line, driveway, turf and even the letterbox.



Electrical

Energy efficient lights & ceiling
fan light combinations
Reverse cycle split system
inverter air conditioner



Data

Telephone points
TV antenna
NBN termination box
Data point



Windows & Flooring

Roller blinds to windows & sliding doors
Security screens to front & alfresco doors
Fly screens to openable windows
Ceramic tiles & carpet throughout



Fittings

Chrome tapware & towel rails
Quality doors & hardware
Satin or chrome front door lockset



Landscaping

Turf to yard (up to 405m²)
Concrete driveway
Metal letterbox
Clothesline • Fencing



Kitchen

20mm stone benchtops
600mm stainless steel oven
Rangehood & Cooktop
Dishwasher

First Home Buyers

First Time Buyer New Special Conditions...



- ✓ Genuine savings evidence at 2% of the property value (most lenders require 5%).
- ✓ Private lease agreements acceptable for proof of savings.
- ✓ First Home Owners' Grant can be used as part deposit.
- ✓ Gifts, sale of an asset and inheritance can also be used as part deposit.
- ✓ Low interest rates for first home buyers with a 5% deposit.
- ✓ Mortgage Insurance can be added to the loan to make a total lend of 98%.

First Home Buyers continued...

The First Home Owner Grant

The First Home Owner Grant (FHOG) is a source of financial support for first home buyers. It's a one-off, tax-free payment to people buying their first home. State and territory governments hand out the FHOG on behalf of the Federal Government.

So what is the current situation in Queensland?

Broadly speaking, the main conditions that determine eligibility follow...

First Home Owners' Grant Eligibility

- 1** You must be an Australian citizen or permanent resident buying or building your first home in Australia.
- 2** The property you buy must be a recognised house or unit specifically designed for people to live in.
- 3** You or your partner must not have purchased a home in Australia before.
- 4** You must occupy the home for a period of at least 6 months within 12 months of settlement or within 12 months of building completion if it's a newly built home.
- 5** You must apply for the grant within 12 months of settlement or building completion.
- 6** The grant will be paid at the time of settlement or building completion.
- 7** Contracts must be exchanged between the buyer and seller before any cut-off dates.
- 8** You must be at least 18 years of age.
- 9** You must be buying or building a brand new home, valued under \$750,000.

First Home Buyers continued...

First Home Concession Duty

When you buy land in Queensland that you'll use for your first home, you may be able to claim a concession that reduces the amount of duty you have to pay.

Purchase Price/Value	Concession Amount
Up to \$504,999.99	\$8,750
\$505,000 to \$509,999.99	\$7,875
\$510,000 to \$514,999.99	\$7,000
\$515,000 to \$519,999.99	\$6,125
\$520,000 to \$524,999.99	\$5,250
\$525,000 to \$529,999.99	\$4,375
\$530,000 to \$534,999.99	\$3,500
\$535,000 to \$539,999.99	\$2,625
\$540,000 to \$544,999.99	\$1,750
\$545,000 to \$549,999.99	\$875
\$550,000 or more	Nil

Single Buyers

The biggest challenge facing single buyers is meeting lenders' qualification ratios with one income.

Unmarried couples are encouraged to document a partnership that stipulates their shares of the deposit and mortgage payments, home maintenance costs, and rights and share of ownership.

Rentvesting

Many young people (approx. 15%) are choosing to make their first property purchase an investment property.

The practice is known as "rentvesting" and involves purchasing a rental property as an investment while renting another property in which to live.

According to many experts, rentvesting is a great way for first-home buyers to enter the property market.

First Home Buyers continued...

Co-borrowing

Co-borrowing is a growing trend in the property market:

- By combining your resources, you and your co-borrower(s) are likely to have greater 'buying power'.
- It can be quicker to raise a deposit, and you may be able to put down a larger buying deposit.
- It may be easier to meet the repayments with two salaries, which gives you both a bit more flexibility.
- It's important to note that even if both parties are eligible for the First Home Owner Grant, only one Grant will be received.

Co-borrowing – the Contract

This contract needs to cover things like:

- Maintenance
- Payment for damage or renovations.
- What happens if one co-owner wants to sell up further down the track?
- A contract is also essential because if one person defaults on a loan payment, the other person is often liable.
- A contract also becomes critical if there is a breakdown in the relationship and one of the parties decides to opt out.



First Home Buyers continued...

Guarantor Home Loans

These loans are now the *only way* to borrow between 100% and 110% of the purchase price of a property.

How much you can borrow using a guarantor loan may depend on what type of borrower you are:

- **First home buyers:** 105% of the property value.
- **Construction:** 105% of the total land value and cost of construction.



How do guarantor loans work?

Your guarantor will provide a guarantee for your home loan which is secured on their property. In most cases, this is your parents assisting you to buy a home.

The idea is for you to get into the property market sooner. Once you have paid off part of your loan or your property has increased in value, then you can apply to remove the guarantee.

What are the benefits of a guarantor loan?

Recently, no deposit home loans have been withdrawn from the market which makes guarantor loans the only way to borrow 100% or more of the purchase price. The benefits are:

- You don't need a deposit, allowing you to buy a home now.
- Save money by not paying an LMI premium
- Discounted interest rates are available from some lenders.
- You can consolidate some minor debts, such as credit cards, when you buy your home.
- You can limit the size of the guarantee.

First Home Buyers continued...

Paying your mortgage off quickly

Mortgage products known as all-in-one loans or 100 percent offset loans allow you to use your mortgage as your key financial product. This means you have one account into which you can pay all of your income and draw from for your living expenses by using a credit card, EFTPOS or a chequebook, as well as making your mortgage repayments. These types of accounts can make a huge difference to the speed at which you pay off your loan.

Because your whole pay goes into your mortgage account you are reducing the principal on which interest is charged. Careful use of this sort of product can get you thousands of dollars ahead of where you'd be with a "plain vanilla, pay once a month" home loan.

However, it's not unusual for dedicated borrowers using these types of loans to cut the term of a 25 year-old loan to less than ten.



Valuations

Don't confuse a market appraisal with a formal property valuation.

An appraisal is conducted by a real estate agent through the use of their local market knowledge to arrive at a sales figure the property should be placed on the market at. However, a valuation is conducted by a qualified property valuer for a variety of purposes such as obtaining finance from a lending institution, building progress draws, rental review, land acquisition and family law. A valuation will take into consideration factors that an appraisal may not, such as location/aspect, building structure and condition, building/structural faults, features of the home and local council zoning.

A bank will engage an external licensed valuer to provide an unbiased valuation on the property.

A valuation report can be challenged in court and must be backed by comparative market data, therefore a valuer must be able to justify their valuation figure by providing evidence of comparable sales in an area.

Banks will lend on the LOWER of the valuation figure or the contract purchase price.

Bank valuations are always conservative so **the valuation figure produced for the bank on your purchase will rarely be at the purchase price.** Expect the bank valuation to be between 5-7% less than your purchase price.

A variance of more than 10% should be critically examined.

Remember that the banks will lend on the LOWER of the valuation figure or the contract purchase price, e.g. 80% of valuation, not 80% of the purchase price.



Stamp Duty

\$ Price	1st Home	Home	Investment
300,000	0	3,000	8,925
350,000	0	3,500	10,675
400,000	0	5,250	12,425
450,000	0	7,000	14,175
500,000	0	8,750	15,925
600,000	12,850	12,850	20,025
700,000	17,350	17,350	24,525
800,000	21,850	21,850	29,025
900,000	26,350	26,350	33,525
1,000,000	30,850	30,850	38,025



The Conveyancing Process

The conveyancing process involves the steps necessary to properly transfer a house or land's ownership from the seller to the buyer. It is important that buyers and sellers consider who they want to use when they are buying and selling land as your relationship with the solicitor acting for you can have a dramatic effect on the ease of your transaction and your levels of stress. Good communications and professionalism are important starting points.

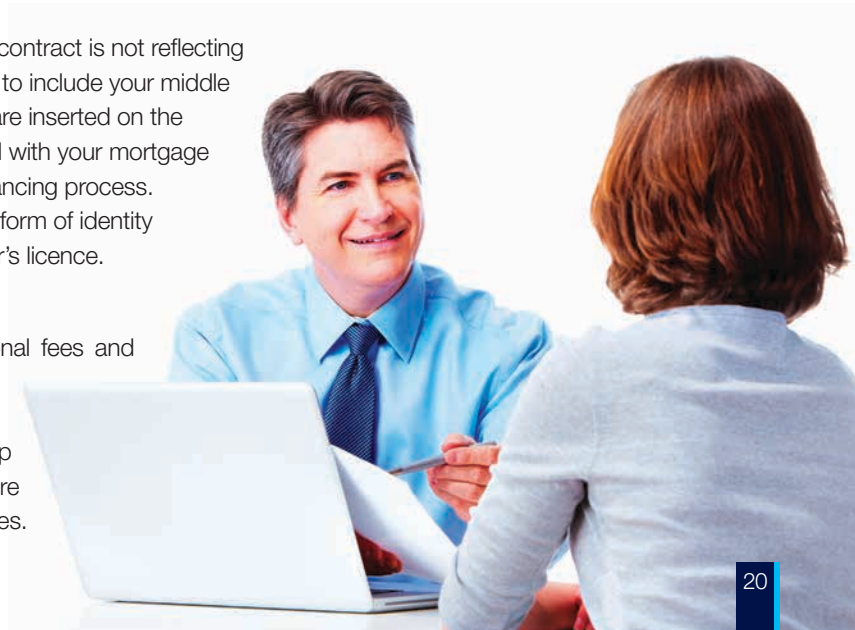
For The Buyer

Seller and buyer details

A common mistake when entering into a sale or purchase contract is not reflecting your full legal names on the contract. It is so easy to forget to include your middle names. It is important to ensure that your full legal names are inserted on the contract to ensure that the transfer documents correspond with your mortgage documents to eliminate unnecessary delays in the conveyancing process. Although a driver's licence in Queensland is an acceptable form of identity some states do not reflect the holder's full name on a driver's licence.

Conveyancing costs

Conveyancing costs are made up of solicitor's professional fees and outlays. Outlays can include a variety of costs including council and other government searches, bank costs, registration fees and transfer duty (also referred to as stamp duty). Search costs vary depending on the council the where the property is located and what searches the buyer requires.



The Conveyancing Process continued...

Your solicitor should conduct the following standard searches but there are many more you may want:

- Council Rates
- Special Water Meter Reading
- Land Tax
- Queensland Transport
- QCAT
- Bankruptcy, or if the seller is a company, ASIC search
- If a unit, Body Corporate Information Certificate

Your bank may require extra searches to be carried out.

Time of the essence

Time is of the essence of the contract. This is a legal term that means you must perform your obligations strictly by 5.00pm (or other specified time) on the due date. For example, you must be able to settle on the settlement date; otherwise the seller may either charge default interest, terminate or seek to enforce the contract and may claim compensation from you.

Building approvals

The major problem with the standard contract is that it is not subject to satisfactory council building approvals for additions or structures built on in the property. It is important if you think there have been additions or significant renovations to the property to consider a special condition that makes the contract subject to a satisfactory building record search.

Building and pest inspections

If the contract is subject to satisfactory building and pest inspections the buyer must take all reasonable steps to obtain the reports. A buyer must use licensed inspectors for the reports and the reports must be in writing, otherwise termination of the contract on the grounds of an unsatisfactory building and pest report will be difficult.

Building and pest reports must be read carefully and if any material issues are revealed this can be discussed with the inspector or with your solicitor or the agent. It is prudent to note that there are usually a number of recommendations contained in the building and pest report which should be taken into consideration but should not be confused with actual serious defects to the property. Frequently many of the issues noted in the report are to cover the inspector and are not necessarily defects that must be fixed by the seller.

The Conveyancing Process continued...

Finance

If you need finance to complete the contract, you should complete the finance clause. Normally your agent will include the words “sufficient to complete” and either a bank or building society or the name of your bank. The finance clause is normally gives 14 or 21 days, but can be any period that you need to obtain finance. If you don’t obtain finance or the finance is not on satisfactory terms you are entitled to terminate the contract under the standard conditions and get a refund of your deposit.

Insure the property

You need to insure the property after the buyer and seller sign the contract, as the property is at the buyer’s risk from the next day after the date of contract. You can do this online or by telephone.

FIRB approvals

If you’re not a permanent resident it is most likely you will need FIRB approval. Speak to your agent or solicitor who can assist you with this.

For The Seller

Tell your agent

If this sale will be completed in conjunction with a purchase, it is important that the contract have conditions inserted to assure they happen at the same time, and any subsequent purchase contracts will need to be conditional upon your sale;

Disclose any notices issued for the property, QCAT disputes, encumbrances or other issues you feel may need to be disclosed.

Pools

If you have a pool, you must either provide a pool safety certificate before settlement, or give the buyer a “Notice – No Pool Safety Certificate”.

Release of mortgage

If you have a mortgage on your property it is important to advise the bank of the sale and to sign a request to release mortgage notice to the bank so it can be ready for the settlement date. It is very common for people to speak to their local branch but then not complete the request to release mortgage delaying settlement.

The Conveyancing Process continued...

Certificate of title

If you have a paper certificate of title issued for the property, you will need to ensure it is delivered to your solicitor prior to settlement. We suggest when you decide to sell you find the certificate of title, sometimes these are held at the bank or by another solicitor and you will need to provide one before settlement.

Settlement

Your conveyancer or solicitor will arrange a payout figure with your bank and advise the buyers of the cheque directions for settlement day. You will need to advise your solicitor if your bank will be collecting all funds (after payment of fees, outlays and agents commission if applicable) or if you will require a cheque to be drawn in your favour and banked into your account.

Settlement can occur anytime from 9am to 5pm on the day of settlement, but is usually scheduled for an afternoon time which is suitable to all parties. It is important to remember that if needed (by any party) it can be delayed up to 5pm. The buyer will usually conduct a pre-settlement inspection of the property on the day of settlement or the day before. It is your responsibility to ensure the

property is in the same condition that it was when the contract was signed. You will need to ensure that prior to settlement all keys, remotes etc. are delivered to the agent in preparation for handover to the buyer.



- CONTRACT**
1. Object of this Contract
 - 1.1. The Customer shall order and the Executor shall undertake to provide services in respect of the performance of the Technical Assignment (Appendix No.2) which is an inalienable part of the Contract.
 - 1.2. Periods (stages) of the performance of work (provision of services) shall be determined by the Technical Assignment.
 2. Obligations of the Parties
 - 2.1. The Customer shall be obliged to pay for the work...

Settlement

Once a contract has become **unconditional** it is time to start packing! It is important for a buyer to **keep in touch with their solicitor** through this time with regards to any issues that may arise approaching the settlement date.

Buyers are encouraged to arrange a pre-settlement inspection with the agent to ensure that everything is per the contract conditions, noting any **included chattels or excluded fittings**. Pre-settlement inspections should be conducted once the property has been vacated by the seller or its occupants.

Commonly, **the solicitor or settlement agent will attend the actual settlement** on the buyer's behalf and both the seller's and buyer's solicitors will notify the agent once settlement has occurred. Only after an agent has received notification from both parties, can keys be released to the new property owner.

Your quest of buying a house, unit, townhouse or any other property is now complete – enjoy!

Now that you know the process of buying a house, view our current new home packages via www.ap-realty.com.au



Auctions

The standard contract conditions are pest, building and finance. However, it's important to know that none of these conditions apply to auctions but here is what you can do when it comes to buying a property at an auction:

- Prior to auction you can pay for a building and pest report to be done on the property, but be careful as it's lost money if you lose the auction.
- You can get pre-approval for your finance, but check with your bank that the property is a suitable security before you attend the auction.
- Don't pay too much at auction because if the bank values the property below what you paid, you may not get the loan, even if you have pre-approval (the bank usually takes the auction price as the market to set the value.)



Investors... are you ready to take an **ACTIVE ROLE** in your investments and ready to **LEARN STRATEGIES** that will get you ahead of the pack?

@ap-realty property investment service is guaranteed to help you make the best possible property investment choices, and in doing so help you:

- **How to structure positive cash flow property investments**
- **How to identify emerging growth markets**
- **Current investment hot spots**
- **Where NOT to buy for investment**
- **What type of property NOT to buy for investment**
- **How to get started in property development**

Our expert property team have enjoyed a lifetime of extraordinary experience in residential markets. The principals commenced their property development and buyers agency service in 1988 and have over \$1 billion in property sales to their credit.



Hindsight...

Median Prices	1973	2019
Sydney	\$27,400	\$1,020,000
Melbourne	\$19,800	\$665,000
Brisbane	\$17,500	\$524,000
Adelaide	\$16,250	\$442,000
Perth	\$18,850	\$475,000
Canberra	\$26,850	\$591,000
Hobart	\$15,200	\$440,000
Darwin	N/A	\$455,000



**The best time to plant a tree
was 20 years ago.**

The second best time is now.

(Chinese Proverb)

The Purchase of Australian Property by Foreign Residents

The FIRB Approval & Process

The rules surrounding the purchase of Australian real estate – by anyone other than Australian citizens and Permanent Residents – are reasonably complex and have become more so since December 1, 2015 with the introduction of Foreign Investment Review Board (FIRB) application fees and a new compliance/penalty regime. No foreign investor should purchase Australian real estate without legal advice to ensure that they remain compliant with regulatory requirements.

You should also visit the website **www.firb.gov.au**

In terms of understanding the FIRB requirements it is worthwhile appreciating that no restrictions exist in relation to either Australian citizens or permanent residents (PR) purchasing property, and that foreign non-residents (FNR) may not own any share of an established property except in very limited circumstances. The most complex situations generally arise when purchases are being considered on a joint basis e.g. an Australian citizen plus foreign non-resident (FNR) citizen seeking to acquire property. We strongly recommend that foreign purchasers seek specific legal advice in **advance** of any purchase.

FIRB Process – The Purchase of Established and New Australian Property

FIRB provisions **exempt** the following individuals and entities from needing to seek approval before purchasing Australian residential real estate:

- an Australian citizen;
- a New Zealand citizen;
- the holder of an Australian permanent resident visa;
- an individual purchasing property as joint tenants with their Australian citizen spouse, New Zealand citizen spouse, or Australian permanent resident spouse;
- this exemption does not include purchasing property as tenants in common.
- an Australian corporation that would not be a foreign person if interests directly held in it by Australian citizens living abroad, Australian permanent visa holders or New Zealand citizens were disregarded;
- the trustee of a resident trust, if at the time of the acquisition, the trustee would not be a foreign person if interests directly held in it by Australian citizens living abroad, Australian permanent visa holders or New Zealand citizens were disregarded; or
- a charity operating in Australia primarily for the benefit of persons ordinarily resident in Australia.

The Purchase of Australian Property by Foreign Residents continued...

Foreign persons are normally given approval to buy:

- **Vacant land** for development, including house and land packages where construction has not commenced, subject to a condition imposed under the FATA that construction is completed within 4 years of their application being approved for residential developments, or continuous construction is commenced within 5 years for commercial developments; and
- **New dwellings** such as house and land packages, home units and townhouses purchased 'off the plan' that is under construction or newly constructed, but never occupied or previously sold. 'Off the plan' sales to foreigners are only permitted for new development projects or extensively refurbished commercial structures, which have been converted to residential, on condition that no more than half the dwellings in a development are sold to foreign persons.
- Certain categories of foreign nationals, who hold a visa that permits them to reside in Australia continuously for at least the next 12 months, may be given approval to purchase **established residential real estate** (that is, **second hand dwellings**) for use as their principal place of residence (that is, not for rental purposes)



The Purchase of Australian Property by Foreign Residents continued...

while in Australia. A condition of such purchases is that the dwelling must be sold when the foreign nationals' temporary resident visa expires, they leave Australia or the property is no longer used as their principal place of residence.

- Foreign companies, with an established substantial business in Australia, buying for named senior executives resident in Australia for periods longer than 12 months, may be eligible for approval provided the accommodation is sold when no longer required for this purpose. Whether a company is eligible, and the number of properties that may be acquired, will depend upon the extent of the foreign company's operations and assets in Australia.
- Unless there are special circumstances, foreign companies normally will not be permitted to buy more than two houses under this category. Foreign companies would not be eligible under this category where the property would represent a significant proportion of its assets in Australia.

Proposals by foreign persons to acquire developed residential real estate that do not fall within the above categories are subject to the FATA, but are not normally approved.

All contracts by foreign persons to acquire interests in Australian urban land should be made conditional on foreign investment approval unless approval was obtained prior to entering into the contract. Contracts should allow a minimum of **40 days from date of lodgement** for such a decision. Foreign investors are in breach of the FATA if they enter an unconditional contract to acquire property before approval is granted and may be subject to significant penalties.

Capital Gains Withholding: Impacts on Foreign and Australian Residents

Foreign resident capital gains withholding first applied to vendors disposing of certain taxable Australian property under contracts entered into from 1 July 2016. A 10% non-final withholding was applied to these transactions at settlement.

New rules for foreign resident capital gains withholding (FRCGW) apply to vendors disposing of certain taxable property under contracts entered into from 1 July 2017. The changes will apply to real property disposals where the contract price is \$750,000 and above (previously \$2 million) and the FRCGW withholding tax rate will be 12.5% (previously 10%). The existing threshold and rate will apply for any contracts that are entered into from 1 July 2016 and before 1 July 2017, even if they are not due to settle until after 1 July 2017.

Background

Australian resident vendors selling real property will need to obtain a clearance certificate from the ATO prior to settlement, to ensure they don't incur the 12.5% non-final withholding.

This existing withholding legislation assists the collection of foreign residents' Australian tax liabilities. It imposes an obligation on purchasers to withhold 12.5% of the purchase price and pay it to the ATO, where a vendor enters into a contract on or after 1 July 2017 and disposes of certain asset types (or receives a lease

premium for the grant of a lease over Australian real property).

The foreign resident vendor must lodge a tax return at the end of the financial year, declaring their Australian assessable income, including any capital gain from the disposal of the asset. A tax file number (TFN) is required to lodge a tax return; they will need to apply for a TFN if they don't have one. The vendor may claim a credit for any withholding amount paid to the ATO in their tax return.

- Australian resident vendors can avoid the 12.5% withholding by providing one of the following to the purchaser prior to settlement:
 - for Australian real property, a clearance certificate obtained from the ATO;
 - for other asset types, a vendor declaration they are not a foreign resident.
- Foreign resident vendors may apply for a variation of the withholding rate or make a declaration that a membership interest is not an indirect Australian real property interest and therefore not subject to withholding.
- Purchasers must pay the amount withheld at settlement to the Commissioner of Taxation.

Queensland Transfer Duty Rates

These transfer duty rates for Queensland are effective from 21 September 2012, and also apply to corporate trustee duty and landholder duty.

See the home concession rates if you're claiming a home, first home or first home vacant land concession.

Dutiable Value	Duty Rate
Not more than \$5,000	Nil
More than \$5,000 up to \$75,000	\$1.50 for each \$100, or part of \$100, over \$5,000
\$75,000 to \$540,000	\$1,050 plus \$3.50 for each \$100, or part of \$100, over \$75,000
\$540,000 to \$1,000,000	\$17,325 plus \$4.50 for each \$100, or part of \$100, over \$540,000
More than \$1,000,000	\$38,025 plus \$5.75 for each \$100, or part of \$100, over \$1,000,000

EXAMPLE

You sign an agreement to buy a house with a dutiable value of \$365,400. The house will be an investment property, so you don't qualify for a home concession.

As the value is within the \$75,000 to \$540,000 range, duty is assessed at \$1,050 plus \$3.50 for each \$100, or part of \$100, over \$75,000.

This is how the duty is calculated:

\$1,050 (for the first \$75,000)
+ \$10,164 (\$3.50 for every \$100 in \$290,400, the balance above \$75,000)
= \$11,214 (the transfer duty payable)

Additional duty of 3% applies to acquisitions of residential land by foreign persons (including companies and trusts) from 1 October 2016.

Mortgage transfers: Mortgage duty was abolished in Queensland on 1 July 2008. However, transfer duty still applies to transfers of a mortgage. You pay \$5 duty if you transfer, or agree to transfer, a mortgage solely over land in Queensland.

Thinking about property?

We are - all the time!



Contact Rick Hayter on 0414 322 900

Shop "H", 255 Forest Lake Boulevard, Forest Lake

PO Box 4292, Forest Lake, Qld 4078

T: (07) 3372 0400

E: info@ap-realty.com.au

 **1800 99 00 11**
www.ap-realty.com.au