



Local people. Local knowledge.

Incorporating:

Clements Hutchins & Co.

Peter Boyle & Associates

Perillo Adami & Frank

Victor Borg & Co.

23 Lobelia Drive

Altona North VIC 3025

P.O Box 97 Altona 3018

T: 9398 2377

T: 9399 9922

reception@locallawyers.com.au

www.locallawyers.com.au

PURCHASE INFORMATION BOOKLET

The information contained in this booklet is extremely important. We recommend that you read it carefully.

Introduction

We thank you for engaging us to assist you in your conveyancing transaction. Please feel free to contact our office at any time by phone or email if you have any queries.

Purchasing a property is more often than not the most expensive, and therefore daunting, process most of our clients undertake. We will do our best to simplify the process to ensure that it causes you as little stress as possible. By retaining a lawyer you are assured that whatever happens with your transaction, we will be there to support you.

The purpose of this information booklet is to provide you with an outline of what is involved in the conveyancing process.

Verification of Identity (Vol)

We are obliged to verify the identity of our clients. This requires us to sight, in a face to face interview, a Passport and a Driver's Licence. If you do not have either of these documents, other documents such as an original Birth Certificate or Citizenship Certificate may be satisfactory. If you have a Driver's Licence and Passport, please call into our office at any time at your convenience and we will take copies of the documents to complete the verification process.

Costs

Our standard costs are based on the transaction proceeding in the normal manner. These costs are set out at the end of this booklet.

The Contract of Sale

The contract of sale is the most important document in the conveyancing process. It records the terms of your agreement with the vendor regarding the purchase of the property. No binding agreement exists until BOTH purchaser AND vendor have signed.

The contract is a legally binding document and breaches of contracts of sale can have serious legal consequences. We assist you to make sure that you comply with your contractual obligations.

As the contract is designed to record your whole agreement with the vendor anything which was agreed orally does not form part of the contract and you should not rely on any such agreements. If you are concerned that aspects of your agreement with the vendor are not in the contract of sale then you should advise our office.

Insurance

Whilst the standard contract does provide that the property remains at the risk of the vendor, we recommend that purchasers insure the property at an early stage after signing the contract of sale.

A lender will insist that the property be insured and it is better to have too much insurance than not enough.

Cooling Off

In limited circumstances, a purchaser may cool off (end) a purchase, although this does not apply to a purchase made at auction or three business days either side of an auction. Contact us IMMEDIATELY if you wish to cool off.

Nomination

Most contracts allow a named purchaser to nominate an additional or substitute purchaser. This involves additional paperwork and if you are contemplating nominating another purchaser you should advise our office at the earliest possible time. Usually we do not charge additional costs for a nomination.

Off the Plan

Off the Plan contracts relate to properties that are not separately titled or not fully constructed at the time of purchase. These transactions are more complex and may not be completed for many months, even years. Please refer to our **Off the Plan Supplement**.

Electronic Conveyancing - PEXA

Some transactions can be conducted electronically. Where possible we use PEXA (Property Exchange Australia) to settle the transactions. There are fees for using PEXA but also some savings in relation to settlement agents & bank cheques.

Release of Deposit

Purchasers usually pay a 10% deposit at the time the contract is signed and this amount must be held by a stakeholder (agent or solicitor) until settlement. It is possible for the deposit to be released prior to settlement, but the purchaser is entitled to have full details of any amounts owed pursuant to any mortgage over the property before being asked to consent to release of the deposit.

If the relevant information is provided, it is usual for the purchaser, after seeking legal advice, to consent to release of the deposit, but there is no obligation to do so.

If there is no mortgage over the property, the vendor is ordinarily entitled to release of the deposit 28 days after the date of the contract. The agent is entitled to take the commission from the deposit once it is released.

Financing your Purchase

Given the large sums of money required to purchase properties, the vast majority of purchasers obtain finance from a bank or financial institution to help fund the purchase. Ensuring that your finance is approved and the relevant loan documents signed well in advance of the settlement date is critical.

In our experience too many purchasers assume that engaging the services of a mortgage broker means that they do not need to do anything to obtain their loan; they take the view that the mortgage broker will sort it out. This is a dangerous mistake to make as unfortunately all too often we find that brokers, mobile lenders and home finance managers fail to ensure that mortgage documents are prepared and signed correctly.

Without correctly signed mortgage documents your bank will not advance the money you need to settle your purchase. This can lead to delays in settlement and unnecessary cost to you in the form of penalty interest and additional legal fees.

We recommend that mortgage documents are signed AT LEAST TWO WEEKS prior to the due date for settlement. This takes into account that inadvertent mistakes can be made and ensures there is time to attend to these errors without the danger of going past the settlement date. We urge our clients to routinely follow up their lender throughout the transaction to make sure that everything proceeds on a realistic timeframe.

Signing Documents

During the conveyancing process there will be a number of documents you will have to sign. It is essential that you use the SAME SIGNATURE when signing all documents as financiers and government departments involved in this process are most pedantic in relation to signatures.

Many of these documents will also have to be witnessed as evidence that you are in fact the person who signs the document. Some documents can be witnessed by any adult person but documents known as **Statutory Declarations** must be witnessed by **authorised witnesses**. A list of those authorised witnesses is on the inside back page.

You must make sure when signing these documents that you do so in accordance with the appropriate procedures. **If a document is returned to our office not witnessed or incorrectly witnessed, we will have to send it back to you to be re-signed.**

If you receive a document and are unsure of how it is to be signed you should always contact our office rather than simply guessing and sending the document back incorrectly signed.

Stamp Duty and Related Fees

All property purchases in Victoria attract stamp duty. Stamp duty is a state government tax levied against a purchaser when they purchase a property. The amount of duty payable depends on the value of the property, with more duty being levied the more expensive a property is.

Title Office Fee

This fee is generally much less than stamp duty and is between \$500 and \$3000, depending on the value of the property.

Where you borrow money from a financial institution to fund your purchase, that financial institution will be responsible for paying the stamp duty and titles office fees on your behalf. These fees, together with any fees charged by the financial institution for their services, will generally be DEDUCTED from the amount the bank lends you. For example, if you borrow \$300,000.00 and your stamp duty, titles office fees and other fees total \$15,000.00, the bank will only provide \$285,000.00 at the settlement. If more money is required for the settlement we will then need to obtain it from you.

Too often we find that brokers fail to factor these fees into their calculations for purchasers, and when we advise the purchasers of the additional funds required for settlement they are not in a position to provide them. Regardless of who may be to blame for this oversight, it will be the purchaser who ends up suffering the most, and it is therefore in your interest to ensure that ALL EXPENSES are taken into account when ascertaining how much you need to borrow.

Various exemptions and concessions are available, such as the Principal Place of Residence concession, Pensioner exemption and Off the Plan concession. We are able to assist you in applying for these concessions and full details are available at www.sro.vic.gov.au

FRCGTW

If you are purchasing a property over \$750,000. The vendor is obliged to provide a Clearance Certificate or you must withhold and pay to the ATO 12.5 percent of the price. We look after this on your behalf.

Final Inspection

You are entitled to conduct a final inspection of the property in the week before settlement and you should contact the agent to arrange this. The purpose of the inspection is to establish that the property is in the same condition as on the day of sale, fair wear and tear excepted.

You may have to accept some minor deterioration, such as an overgrown garden or dirty swimming pool, but you should report any substantial deterioration to our office.

Services

It is your responsibility to arrange for connection of electricity, gas and telephone services and steps should be taken in advance of settlement as there are sometimes waiting periods.

Settlement

Settlement is the time when purchasers (and their lenders) pay the balance of purchase price to the vendor. Purchasers must provide us with funds required for settlement by BANK cheque or direct deposit. These funds need to be at our office TWO business days before settlement is due.

If the settlement can be conducted electronically, there is no physical settlement. If a physical settlement is required it takes place where the title to the property is held. As most vendors have a mortgage, their titles are held at their bank's head office in the Melbourne CBD. We appoint a settlement agent to attend settlement on our behalf and you do not attend. At settlement, the purchaser's representative hands over the money due to the vendor's representative and in exchange the vendor's representative hands over the relevant documents to enable the purchaser to become registered as the owner of the property.

Keys

Keys are usually collected by the purchaser from the agent after settlement. The agent will only hand over keys upon receipt of written authorisation from the vendor, which will be faxed to the agent after settlement has taken place. Other keys will normally be left in the property, along with instruction books and household information.

Rate Adjustment

The vendor is obliged to pay the rates on the property until settlement and the purchaser thereafter. Rates are adjusted at settlement to ensure that this happens. This is done by deducting from the money paid to the vendor any amount outstanding for rates, and then adjusting those rates as paid, so that the purchaser pays back to the vendor the rates paid by the vendor for the period after settlement. A cheque is then forwarded to the rating authority for any amount owing

and rates are therefore paid until the end of the rating year.

Registration

When the title is handed over at settlement it is still in the vendor's name. If you are not borrowing from a lender, we will attend to payment of stamp duty and registration of your ownership and the transfer will usually be registered within a week. If it is an electronic settlement, this will be immediate.

When a purchaser borrows money from a financier the title will be handed over to that financier. The financier will then take the title to the State Revenue Office to pay the stamp duty and then to the Land Titles Office for registration

Given that most financial institutions have thousands of clients and hundreds of settlements every day, the lodging process can take anywhere between 1 and 8 weeks, depending on the workload of the institution at the time. The institution will write to you following settlement and registration to confirm that the title is in your name and to set out the relevant information regarding settlement.

Completion

We will provide you with full financial details relating to the settlement and we will also advise the Council, water authority and SRO of your purchase.

Legal Costs

| | | |
|--|--------|--------------------|
| Standard costs on purchases up to \$1 million | \$ 990 | plus disbursements |
| Standard costs on purchases \$1 million-\$2 million | \$1250 | plus disbursements |
| Standard costs on purchases over \$2 million | \$1500 | plus disbursements |

These costs include GST. Costs are higher for more expensive properties as our experience is that these transactions demand more time and attention than other transactions.

Disbursements are amounts that we pay on your behalf to conduct searches, obtain certificates, retain settlement agents or settle electronically. They usually total approx. \$150 - \$200.

A property affected by an Owners Corporation attracts an additional disbursement of \$150 for an Owners Corporation Certificate that must be obtained for settlement. Some properties have more than one Owners Corporation and \$150 is payable for each Certificate.

We reserve the right to charge additional costs for non-standard transactions. These include off the plan purchases, nominations, stamp duty concession applications, complex financing arrangements or transactions where settlement is delayed. Every attempt is made to settle without additional charges and we will advise you at the earliest possible time if it is likely that additional costs will be charged.

Wills and Powers of Attorney

We recommend that you review your Will regularly and when you purchase a property is a good time to do so. Considering whether to give a Power of Attorney (Personal, Financial and Legal or Medical or both) is also advisable. Our costs in this regard are:

| Single Person | | Couple | |
|----------------------|-------|------------------|-------|
| Will | \$300 | Wills | \$500 |
| One EPA | \$250 | One EPA each | \$400 |
| Both EPAs | \$400 | Both EPAs each | \$500 |
| Will + one EPA | \$500 | Wills + one EPA | \$600 |
| Will+ both EPAs | \$600 | Wills+ both EPAs | \$700 |

Wills for couples in second marriages will be more expensive as these relationships require more complex documents.

Clients with special needs may be advised to have a Testamentary Trust Will prepared. The cost is \$800 for a single and \$1200 for a couple.

Persons who can witness statutory declarations

Any of the following persons may witness the signing of a statutory declaration:

- (a) a justice of the peace or a bail justice;
- (b) a public notary;
- (c) an Australian lawyer (within the meaning of the Legal Profession Act 2004)
- (d) a clerk to an Australian lawyer;
- (e) a person registered as a patent attorney under Chapter 20 of the Patents Act 1990 of the Commonwealth;
- (f) a member of the police force;
- (g) the sheriff or a deputy sheriff;
- (h) a member or former member of either House of the Parliament of Victoria;
- (i) a member or former member of either House of the Parliament of the Commonwealth;
- (j) a councillor of a municipality;
- (k) a senior officer of a Council as defined in the Local Government Act 1989;
- (l) a person registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student);
- (m) a person registered under the Health Practitioner Regulation National Law—
 - (i) to practise in the dental profession as a dentist (other than as a student); and
 - (ii) in the dentists division of that profession;
- (n) a veterinary practitioner;
- (o) a person registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession (other than as a student);
- (p) a principal in the teaching service;
- (q) the manager of an authorised deposit-taking institution;
- (r) a member of the Institute of Chartered Accountants in Australia or the Australian Society of Accountants or the Institute of Public Accountants;
- (s) the secretary of a building society;
- (t) a minister of religion authorised to celebrate marriages;
- (u) a fellow of the Institute of Legal Executives (Victoria).



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