

Our Online Conveyancing Safety Code for Buyers

Selling has fewer risks than buying. Therefore, we will cover only the risk of a buy.

1. Treat every buy matter as if it is risky
2. Your purchase is your responsibility
3. Always rescind the contract within the cooling off period if you have doubts that your loan will NOT be formally approved in time.
4. Never believe that the property that you are buying is the best in the world and that you will never get another opportunity
5. Auction & Its inherent problems

1. Treat every buy as if it is risky.

Check all the safety points yourself. The safety checklist is all the points below. Do not take the words of another person. Study all the procedures yourself. Never believe anyone with a commission interest.

Remember: There are too many people who will give you false advice. Be wary of banks. Banks are out there to make a profit from you.

You should only trust the following authorities:

Office of State Revenue NSW (You can find them on the internet): Any matters about Tax & duties, Grants such as First Home Owner Grant, you must direct your question to them. They are there to answer all your queries. No one has better knowledge than them.

Special Care about banks: Pre-approval, approved in principle, and conditional approvals are not an approval at all.

The danger is that your loan can be rejected or disapproved at any time. The only time you know that you are safe and that your loan is guaranteed that it is approved is that you will get a letter (from the bank) saying that your loan is: 1. formally approved, or 2. approved or 3. Unconditionally approved. Look for those magic words: "Formal or unconditional".

Be very careful about the source of evidence. The evidence of approval must come from the bank itself. We have seen some brokers-under pressure-that write to buyers that their loan has been formally approved. This is on the broker's letter head. Never believe that. Insist to see evidence from the bank.

Special Care about the 5 business day cooling off Contract of sale: This is the most disturbing. You see, you have 5 business days to get your loan formally approved from the moment the salesman dates the contract of sale. If you go beyond the cooling off period the bank will reject your loan. You will lose or be sued for a minimum of 10% of the sales price. The vendor has the right to sue for more.

In this modern and complex time, it is very rare to get your loan formally approved within the 5 business days cooling off period.

This is very disturbing: the banks will never clearly tell you if your loan is 100% approved. They coached it in words that, frankly speaking, are tricks to make you believe that your loan is fully approved even when it is not. Words such as “pre”, “in principle” and “conditionally”, all mean that your loan is not yet approved and can be rejected at any time.

Another disturbing factor: The 5 business days cooling off for a residential purchase contract was written and approved by people who do not practise conveyancing. They were approved by a “select committee” and members of the NSW Parliament. These people have good intentions but they do not practise it every day. Theory and practise are totally different. The theory that you can get a loan approved in 5 business days is a dangerous myth. You cannot tell the banks how to operate their business. The banking business is independent of your conveyancing procedures.

The good news and a must do: You can and must negotiate upfront before you enter into a contract of sale for a 10 or even better 15 days cooling off period. You simply need to have the evidence in writing by the vendor via their solicitor or the agent. No evidence, it means, not agreed. Verbal is not accepted in the contract of sale of land

Remember: If a particular bank has the lowest interest rate, most people will flock and crush there like a mad mob. This will cause a major delay in approval. Most FORMAL approvals happen on the 12th working day. The bank with the highest interest rate, you most probably can get your loan formally approved within 5 business days. Unfortunately, only few people will pick the loan with the worst interest rate on the market.

The contract says that you are either a cash buyer or that you guarantee that your loan is 100% approved.

This is very absurd: all the contract of sale of land assume that you are a cash buyer. In reality, 99% of buyers are dependent on banks. They are debt ridden. The loan approval is like their oxygen supply. If the bank rejects the loan application after you have gone unconditional with the contract, it is like a death sentence. Your buy is your responsibility

2. Your purchase is your responsibility

You are both legally and morally responsible for your purchase. So an understanding of your pitfalls and responsibilities are important.

- Responsibility of buying a property
- You must have your loan formally approved within the cooling off period
- You must insist on a written agreement that the cooling off period is 15 working days before you agree to enter into an agreement.
- If you have your loan formally approved, you are 99% safe.
- Prevent yourself from being sued
- Prevent the possible damage to your financial and physical health.

If you are buying a house, you must order a pest as well as a building report yourself and not rely on reports that were given to you by the vendor. The reports that were (if given by the vendor) only meant for the vendor and no one else. You must never rely on that. Once you have the reports that you have commissioned, you must call and discuss it with the inspector (not your conveyancers as they have no training on inspections).

If you are buying a strata unit, you must order strata inspection report and speak to the inspector about any problems. You must speak to the inspector directly. First-hand information is best.

If you are buying a land, you must make an appointment to speak with the local town planner and ask them what you can or cannot build. If you rely on information from any other source, it might not be accurate. You can find your local Town Planner at the local council.

For all houses and vacant land, you must check with the council for any pending changes as to zoning. Zoning is what the land is allowed to be built e.g. farm, residential house or 100 storey apartments. Each council will have a different type of codes for zoning and it is complicated. Only the people who issue the s149 (2) certificate can answer your queries about zoning with certainties.

Be very careful with changes to State Environmental Planning Policies (SEPPs). The policy changes constantly and the policy changes are so voluminous and no one can go through it all and not even the department itself knows it all. Why is it important that you need to check it yourself if you have any concern? There could be a policy change that might impact on your property value e.g. changes from low density housing to high density housing within your area. The best way is to go and see your local council and remember to take the s149 (2) certificate with you. You should also consult with the Department of Planning NSW. They will have the expertise to answer all your questions.

Remember: the local council is the best and they are the authority with anything to do with land

Remember: you are responsible for your own purchase and any loss that you might incur

Remember: lawyers, barristers and conveyancers are responsible for the transfer of the property title only

Remember: the Land Title Office responsibility is to register your details and keep a record of it safely.

3. Always rescind the contract within the cooling off period if you have doubts that your loan will NOT be formally approved in time.
4. Never believe that the property that you are buying is the best in the world and that you will never get another opportunity. Your mind must be clear and your emotion is healthy when you are buying.
 - Do not panic. Investment should be well thought out. If your loan is not approved within the cooling off, do not go ahead, rescind it. You better conserve your saving than ruin your life by losing the 10% of the sale price and emotionally ruining your life and your relationship with your spouse.
 - Do not become too emotional. Concentrate on what you have to do.
 - Be loan conscious
 - Do not go further if you cannot get any further extension of the cooling off period
 - Do not go further if you have no evidence of the loan is formally approved
 - Do not get opinions from anyone, get the facts. Only facts matter.
 - Do not lose control

Agents will add pressure to you by saying such things as there are competing buyers. This could be true and could be false. If the pressure is too much, do not buy it.

5. Auction and its inherent problems

Never go to auction if you are not financially strong. Loan approval is usually after the auction. Valuation might come back lower than the auction price.

Study about auctions before you should buy at auction. A novice buyer at auctions usually gets disappointed.

Warning

Salesmen duties are there to sell. Their job is to convince you to buy. Banks are there to lend money and make a profit from you. If there are risks to them, they will reject you.

Judges are there to make a decision. If you buy and cannot settle because you have not enough money to settle, no judges will let you off scot free. Conveyancers, solicitors and barristers duty in conveyancing is to transfer title from Person A to Person B only.

All other hazards identifications must be done by you, the buyer.

Practical Suggestions

- ✓ Your mind should be crystal clear at all time.
- ✓ Know your personality such as nervousness, outburst, impulsiveness or apathetic behaviour
- ✓ You must stay calm
- ✓ Be positive
- ✓ Be resourceful
- ✓ Be proactive and take initiatives.
- ✓ For houses, you should buy Illegal Structure Insurance to protect yourself from Council giving you any problems. Illegal structures are common. The common illegal structures are an extension of a room, patio and granny flats. It's hard to tell if the property has any illegal structures and the best way is to have it insured.