

# Conveyancing Solutions

# focus



2007

## Welcome to Spring and another exciting issue of Conveyancing Solutions Focus!

**The year is powering ahead at breakneck speed, Spring is here again – and that means another info-packed issue of Conveyancing Solutions Focus!**

This issue we'll check out the latest news which includes changes to mortgage duty, land tax and First Home Plus

One. We'll also give you the rundown on buying off the plan and we'll also talk about home owner builders, your responsibilities as an owner builder and the importance of an Owner Builder Warranty.

*There's a lot covered in this issue, so enjoy!*

## News

### **Abolition of Mortgage Stamp Duty**

The New South Wales 2007 State Budget spelt changes to the Duties Act of 1997 relating to Mortgage Duty. Mortgage duty is going to be abolished in three stages:

- First stage abolition applies to owner buyers and takes effect 1 September 2007. This applies to owner occupier buyers under a mortgage who secure an advance from 1 September related to the owner occupier mortgage.
- The second abolition applies to investor buyers and will commence on and from 1 July 2008. This applies to investor buyers under a mortgage who secure an advance from 1 July 2008 related to the investor mortgage.
- The third abolition applies from 1 July 2009 and is for all other buyers of other property types, e.g. commercial.



These exemptions from mortgage stamp duty only apply to 'natural persons' under the mortgage as opposed to companies or trusts, and the exemptions only apply to the 'purpose of the loan' and not the property that is being mortgaged.

### **Changes to Land Tax**

Also under the latest State Budget, land tax will be reduced from 1.7 per cent to 1.6 per cent, commencing from the 2008 land tax year.

That means from the commencement of the

2008 land tax year, you will pay 1.6 per cent of the taxable value of the land – if the taxable value of the land exceeds tax-free thresholds that apply to the tax payer.

### **Helping Hand for First Home Buyers**

Stamp duty concession has been extended for first home buyers that use shared equity schemes with an approved financial institution or immediate family member.

Thanks to First Home Plus One, first home buyers will be eligible for a proportion of the stamp duty exemption, provided they have entered into a purchasing agreement on or after 1 May 2007. Here are some more helpful facts about First Home Plus One:

- All eligible home buyers must acquire at least 50 per cent of the property;
- If a first home buyer has a spouse who has owned a property before, they are not eligible for assistance under First Home Plus One;
- Duty is calculated based upon the proportion of the property purchased by

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# Our Top Tips for Buying off the Plan

somebody who is not a first home buyer and all joint parties are liable for any duties deemed payable;

- If the other party (not a first home buyer) is acquiring an interest of 5 per cent or less in the property, the normal First Home Plus benefits apply;
- First Home Plus One can also apply to vacant land, provided the land does not exceed \$450,000 in value and the buyer intends to build their first home on that land - other criteria must also be met;
- Assistance under First Home Plus One can only be provided if the total value of the property does not exceed \$600,000 for house and land and \$450,000 for vacant land; and
- First home buyers must move into the house for a continuous period of six months minimum within 12 months of entering the purchase agreement.

For further information about this fantastic scheme, contact us or visit the Office of State Revenue website at [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au).

**W**hen you're buying off the plan, you're agreeing to buy a dwelling that you haven't actually seen in real life! You've only seen the drawings.

As great as drawings on paper may look, we have a number of really important things you need to consider if you're looking at buying off the plan – and here they are:

**1 Choose your area carefully:** Property values can go up or down. As you know, there is a time gap between the time you sign the contract and move in – and if your property is in a good area, chances are the value of the property may increase in that time! On the other hand, the property value may go down before you move into your new home – but that's a risk that exists even if you buy an established dwelling. Our advice here is to choose your area wisely. You don't want property values to go down, so do your research and buy off the plan in good areas where growth is likely.

**2 Know what you're getting yourself into and ask questions:** Buying off the plan is a leap of faith, even though the thought of moving into a beautiful, brand new home is a nice one. That's why we urge you to know what you're getting yourself into. Think of everything and ask all the questions of the developer/builder.

Once you sign your contract, you may be legally bound to purchase, so know what you're getting. Ask questions about the area, the developer, the project itself. Check that the developer is reputable and that the development has all the necessary approvals from the relevant authorities.

**3 Read the fine print of your contract:**

Sometimes things just go wrong with the development of a property, so take the time to read the fine print so you know what will happen in the event of something going wrong. Make sure you know what your rights are if something goes wrong – will you get your deposit back?

**4 Request all the necessary documentation:**

Get a copy of the contract, in addition to a copy of the Strata Plan.

**5 Get independent legal advice:** This is absolutely essential! Talk to your conveyancer and get them to check the terms of the contract. With this sort of advice, you'll make the right decisions.

Always talk to your conveyancer before purchasing off the plan! Buying a property is the biggest purchase you'll make, so minimize the risk and do everything you can to make the right purchasing decision for you.

## Owner Building 101

If you want to undertake construction or renovation work on your home, but you don't have a building license, the law calls you an owner builder.

And as an owner builder, there are laws you must adhere to. Here they are:

- 1 You are allowed to become an 'owner builder' if you are over 18 years of age and own a property (either as a person, or as a share owner or somebody with leasehold experience greater than three years);
- 2 You must obtain an 'Owner Builder' permit, and to do so you must have completed an 'Owner Builder' education course or training if the project you intend to undertake has a market value of \$13,000 or more;
- 3 You must obtain an 'Owner Builder' permit if the work you wish to undertake exceeds \$5000 in value. Permits are available from the Office of Fair Trading and will cost \$132;
- 4 If the work you are undertaking is valued at \$5000 or more, you will need Building Approval from your local council;
- 5 You have to comply with workers compensation and occupational health and safety as an owner builder;
- 6 All contractors you enlist as an owner builder must be licensed if the work they carry out exceeds \$200 in value;
- 7 If you are enlisting licensed contractors to undertake work in excess of \$1000, you must use a written building contract which is to be signed prior to any work commencing. This contract must comply with legislation and it will protect the owner builder if the work is not completed or is defective – this applies if the work completed by the contractor exceeds \$13,000; and
- 8 Contracts suitable for this purpose are available from the Office of Fair Trading.

Also, it is *very important* that you get an Owner Builder Warranty. That's because:

- Without one, you will be fined heavily;
- It is mandatory if you are selling your property; and
- A purchaser can cancel a purchase contract at any time if you do not have one.

The Owner Builder Warranty protects you as an owner builder for any work you or a contractor acting on your behalf does. If any of this work results in injury, building damage, building defects or any other unfortunate incident, the warranty will cover you. Talk to your insurer about the options you have for protecting yourself and enjoy your home builder experience!

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