



Pre-purchase property inspections NSW

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When looking to purchase a property in NSW, it is important to take steps before exchanging contracts to [purchase a property unconditionally](#) (including if purchasing at auction or where no cooling off period applies), to ensure you know the property and how you are going to purchase it. This blog will address the pre-purchase inspections (including building and pest inspections) that a purchaser should generally consider for the purchase of residential properties in NSW.

It's important to understand that certain properties may have issues requiring additional investigations that are not addressed in this blog. Your lawyer will be able to speak with you about any of these.

Top three things to consider before exchanging contracts

There are three things that should certainly be considered before exchanging contracts unconditionally:

1. Obtain your pre-purchase inspections. If you are purchasing a house, then a pre-purchase pest and building inspection is essential. If you are purchasing a strata unit, then a strata inspection report should be obtained and reviewed.
2. Know how you are going to fund the purchase, including having your finance in order if obtaining a mortgage for the purchase.
3. Ensure the contract is [reviewed by a lawyer](#).

After you enter into a Contract for Sale without a cooling-off period, you would have little ability to have the contract changed or to pull out of the contract without risking losing your deposit and being exposed to further claims from the vendor.

What pre-purchase inspections do I need?

If a purchaser has unlimited time before exchange and unlimited access to the property, then they will be able to extensively investigate the property to know exactly what they were purchasing. Unfortunately, where there is a rush to exchange, or a vendor is unwilling to provide unrestricted access to their property, a practical decision needs to be made as to how far the purchaser goes to understand the quality and condition of the property they are purchasing.

As a minimum, before purchasing a property, purchasers should consider obtaining:

1. For a house – a Building and Pest Inspection Report. This will help you to understand whether the property is subject to any wood rot, termite and borer damage, structural damage, building issues affecting the property, fixtures and services, etc.
2. For a Strata property – a Strata Inspection Report. The Strata Inspection Report will provide information in relation to the strata scheme, such as regular and special expenditure, proposed changes to the management statement, issues with the strata scheme (including proposed capital works and the like) and so on.

For Strata, a building and pest report of the entire Strata complex is usually impractical given the size of most strata complexes. The time it would take to obtain the report and the cost incurred makes this unfeasible in most cases. However, for small strata complexes (such as a 2 or 3 lot strata), a building inspection may be suitable.

The information contained in either of the above reports could have an impact on your decision to purchase the property.

As lawyers, our primary focus is on ensuring that the title of the property is conveyed to you (ie, that you own the right to the property). These building inspection reports often speak to the quality or physical condition of the property and, as such, we are typically unable to provide advice on the contents of the reports. Nor can we recommend that a purchaser proceed with the purchase or not,⁰ based on the contents of the reports.

When do I need these pre-purchase inspections?

The above inspections should be completed before contracts are unconditionally binding upon you. This is necessary to ensure that if the inspections identify any issues, you have the option to either factor this into your offer or decide whether you proceed with purchasing the property.

Three key things to remember.

1. If you are attending auction, building inspections should be obtained before the auction. If you are successful at auction, you are not entitled to a cooling-off period and would be bound to the contract if you are the successful bidder.
2. If you are purchasing property by negotiation or private treaty and maintained your 5 day cooling-off period (ie your lawyer did not provide a section 66W Certificate on exchange), then the inspections are required before that cooling-off period expires.
3. If you are purchasing property by negotiation or private treaty and you are required to waive your right to a cooling-off period (ie the vendor is insisting upon a section 66W certificate as a condition for exchange to proceed), then the inspections should be obtained before you exchange contracts.

Additional protections you could seek prior to purchasing property

Some of the additional searches a purchaser could consider for the purchase of a house include:

1. Identification Survey - this survey will identify the position of the home upon the land, encroachments by or on the property, the distance of any wall of the home from the boundary etc. If there are easements, covenants or restrictions registered on the title, this survey will indicate whether there is any apparent breach of those easements, covenants or restrictions.

A survey is not a required document for the contract and if the vendor did not already have a survey, then it would usually be the purchaser's responsibility to obtain one at their cost.

1. Building Certificate - a survey of the property will not cover matters of compliance of the construction of the home with the *Environmental Planning and Assessment Act*. It will also not determine whether the building of the home or any extensions have been undertaken with council approval. A certificate under the *Environmental Planning and Assessment Act* may be obtained for the home and this Building Certificate, if granted, basically states that the local council will not require any part of the house to be demolished or substantially altered.

Get help from a property lawyer

While it may not be possible to understand all potential issues with a property before entering into contracts, the above pre-purchase inspections should be considered to assist you in obtaining some knowledge of precisely what it is you are purchasing so that an informed decision can be made.

E&A Lawyers has extensive experience in property transactions. We are able to assist you with all facets of your transaction from the relatively straightforward to the more complex with a view to minimising the potential risks associated with buying and selling property.

Contacting E&A Lawyers

For more information or to arrange a consultation with a lawyer, you can call or email us.

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