



Selling to a developer under NSW's new planning reforms: what you need to know

Author: [Chris Alfonso](#)

Email: chris@ealawyers.com.au

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NSW Government planning reforms, which came into effect in February 2025, are reshaping the residential landscape in parts of metropolitan Sydney, the Central Coast, Illawarra-Shoalhaven, and the Hunter regions. If you live within 800 metres of one of 171 town centres or train/light rail stations, your property may now be more attractive to developers than ever before.

This blog explains what residential property owners need to know, from legal risks and extended settlements to tax implications, option agreements, and collective sales, **before** accepting any offer. While selling to a developer can be a lucrative opportunity, these transactions come with legal and commercial risks that are quite different from a standard residential sale.

Selling to a developer is not a standard property transaction. If you have been approached by a developer - or are considering attempting to sell your property to a developer - here are some key practical, legal and commercial issues to be aware of.

Why are developers approaching homeowners?

Under the NSW Government planning reforms (Feb 2025), land close to key transport and commercial hubs may now be eligible for increased density developments. The aim is to encourage more diverse and affordable housing, including terraces, townhouses and low to mid-rise apartment buildings, in locations close to existing infrastructure.

Council planning controls can be overridden under certain conditions

Under the new policy, development applications that meet the prescribed standards for mid-rise housing (such as building height, setbacks, and open space) must be approved, even if they do not comply with a council's existing planning controls. This effectively overrides local planning rules, and councils will not be able to refuse such applications solely on the basis that they depart from local zoning or development standards.

This change has significantly increased the value of some residential blocks or older strata buildings, and developers are actively looking to secure those sites.

Before accepting any offer from a developer, it is important to get the right advice. A planner or valuer familiar with local development controls can help you understand your land's true potential and what it might be worth to a developer.

Be cautious with early offers from developers

Developers often move quickly to secure land ahead of the broader market. You may be offered a contract or a "Heads of Agreement" with little detail or one that heavily favours the buyer.

It is important to understand what you are being asked to sign, and take time to ensure that what is being proposed is suitable for you. Even non-binding agreements can limit your options later.

Extended settlements are common and risky

Developers may ask for a long settlement (sometimes 6–24 months or more), giving them time to secure approvals or adjoining properties.

While this can benefit both parties, it can also come with hidden downsides, including the following:

- Your property is effectively off the market for a lengthy period, and you would not be able to negotiate with another prospective purchaser for that period of time, which may prevent you from pursuing other opportunities;
- The contract may allow the developer to withdraw in certain circumstances;
- The market could change, or the developer may try to renegotiate;
- Life events may occur (death, incapacity, a need to move or downsize, etc) while you are bound to the agreement, which would limit the ability for you or your family to seek a more appropriate arrangement.

You need clear, enforceable contract terms to manage these risks.

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Put and call options: know what you're signing

Rather than entering a standard sale contract and buying the property outright, a developer may offer a put and/or call option agreement. This type of agreement may give the developer the right, but not the obligation, to purchase your property at a future

date.

What is a “call option”?

A call option gives a buyer the right, but not the obligation, to purchase a property or asset at a specified price within a set period of time. The purchaser can ‘call’ for the property to be sold to them.

What is a “put option”?

A put option gives a seller the right, but not the obligation, to require the buyer to purchase a property or asset at a specified price within a set period of time. The Vendor can ‘put’ the property to the purchaser to require that they buy it.

While options provide flexibility for the buyer to delay settlement while they make planning arrangements, decide whether they want to proceed, or secure finance for the development, they can leave a Vendor in an area of uncertainty for months. The Vendor may be bound to the option, but not know for certain whether the developer will proceed.

An agreement may have just a call option, allowing the developer to decide whether they wish to proceed, or the agreement may also include a put option allowing the Vendor to require the transaction to proceed.

These arrangements are legally binding and may trigger stamp duty and GST implications. Legal advice from an experienced solicitor is essential before entering into any option agreement.

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GST and tax Implications when selling to a developer

If you are selling a property with development potential - especially vacant land or land that has been subdivided - GST must be considered.

You may also face a significant capital gains tax (CGT) liability depending on how long you have owned the land and how it has been used.

It is often necessary for your accountant and solicitor to work together to ensure the legal and tax implications are understood before contracts are signed.

Are you the only owner? Consider collective sales

If your land forms part of a row of homes, developers may be interested in acquiring multiple lots. If your property is part of a strata scheme or duplex, then the developer will likely need to acquire multiple lots to even consider the development.

Owners who sell collectively can often work together to obtain greater leverage in negotiations, but it requires coordination and care.

In a strata scheme, the owners can collectively agree to sell the entire building to a developer, which requires at least 75% of lot owners (by unit entitlement) to support the sale.

Get help from a property lawyer

Selling to a developer can be a rewarding opportunity, particularly if your property is affected by NSW's new planning reforms. These transactions are rarely as straightforward as a regular residential property deal. The contracts are more complex, and the risks and financial stakes are higher. Obtaining advice from practitioners experienced with such transactions is essential.

While this guide provides a general overview of some considerations when selling to a developer, it should be noted that each situation is unique. If you are considering a sale or have been approached by a developer, it's important to get advice early.

E&A Lawyers have a dedicated and experienced [property law team](#). We can help you to navigate the legal complexities of managing the sale to a developer. For more information or to arrange a consultation with a lawyer, you can call or email us.

Contacting E&A Lawyers

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[02 9997 2111](tel:0299972111)

info@ealawyers.com.au

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- [Calculating all the costs when buying and selling property](#)
- [What if I accept less than 10% deposit when selling my property?](#)
- [6 key things to consider before selling a property in NSW](#)

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