



# Matthew Huntingdon & Co.

S O L I C I T O R S & N O T A R I E S

First Floor  
367 Barrenjoey Rd  
Newport NSW 2106  
ABN: 13 091 768 121

Post Office Box 870  
Newport Beach 2106  
[mhlegal@bigpond.com.au](mailto:mhlegal@bigpond.com.au)  
DX 9008 Mona Vale NSW

---

Telephone (02) 9999 1504

Facsimile (02) 9997 7938

---

A Guide for the use of Clients or Potential Clients of the Firm

## **BUYING A HOME UNIT/TOWNHOUSE**

### **General Information and Disclaimer**

The following notes are designed to be a checklist of issues to consider when considering the purchase of real estate.

Most of the points are common sense but should be addressed at the point you begin inspecting properties.

The explanation of the legal work involved in the conveyancing process is intended to clarify for the consumer the work his or her solicitor has to do during the transaction and is set out as the usual logical progression of a typical purchase transaction.

These points are not intended to be exhaustive. Nor are they intended to replace professional advice which should be sought to take into account individual circumstances.

# **PRACTICAL HINTS ON WHAT TO LOOK FOR WHEN BUYING A HOME UNIT/TOWNHOUSE**

## **1. PRIORITIES**

- Establish your priorities (i.e. make up a wish list in order of importance to you).

## **2. OUTGOINGS**

- Ask the real estate agent or owner for details of council and water rates and strata levies.

## **3. LIGHT**

- Be conscious of the amount of light in the unit. If lights are on at the time of inspection, turn them off to gauge this in actual daylight. Ideally you should visit the unit at different times of the day before committing yourself.

## **4. NOISE**

- Be conscious of the noise level inside the unit and open windows to gauge the level of outside noise coming in. Is the unit near a church, school or on heavily used transport routes or near shopping centres where noise could impact on your lifestyle?
- Arrange for toilets to be flushed to see if there is water pipe knocking in the building. If this is serious a plumber's advice may be warranted. Such an issue may also come up in any pre purchase inspection of the books of the Owners Corporation.

## **5. LAYOUT**

- Be aware of the construction of the unit block. If possible avoid a situation where the sleeping or living areas of your unit are adjacent to the kitchens or bathrooms of neighbouring units.
- Is there a corridor separating the entry to the unit and living and sleeping areas? This is desirable.
- Check to see if laundry and clothes hanging areas are in places which are accessible to your unit and are not in places like a flat roof where it was not originally intended for people to walk on them.
- Are there seepage problems in carports or garages in the lower part of the building or underground? Damage to the paintwork on your car may be expensive to repair and you may have difficulty recovering the cost from the Owners Corporation.
- Check that there are no extensive settlement cracks which might indicate instability in the foundations on which the complex is built.
- If the unit block is near the sea or a lake consider the effect on your car, your appliances and the fittings of the block (and even on your clothes and zippers) of salt spray.

- Look carefully at the location of the block having regard to wind and rain. Exposure if the block is on high ground and the potential for heat trapping and water problems if the block is on low ground or near natural or artificial water courses, should be taken into account.

## **6. VIEW**

If there is a view (which will naturally increase the price) is it possible that the view might be obstructed at some time in the future thereby devaluing the property?

## **7. COMMON PROPERTY**

You are a contributor to the funds kept by the Owners Corporation for upkeep and replacement of the common property. Therefore consider the following:

- Condition of walls, staircases and carpets. Will they need repainting or replacement soon?
- The state of painting and general condition of the building as a whole, including the roof.
- Is there a lift? These can be expensive for the Owners Corporation to maintain and replace.
- A swimming pool requires constant maintenance by the Owners Corporation. A tennis court is less expensive to maintain but will still add to the levies in the long term.
- Are there extensive lawns, gardens and outside lighting - all require maintenance by the Owners Corporation.
- Is there communal hot water? This can be a nuisance.
- If the owners themselves look after the affairs of the Owners Corporation, are they doing this job effectively? Many units blocks have an independent managing agent who if competent, can minimize the inevitable disagreements between owners and bring a professional approach to management of the block according to law (for example, meetings, budgets, levy collection, paying tradesmen & the like).

## **8. TITLE**

Important ramifications flow from the system under which the title to the home unit or townhouse complex is governed.

It is preferable from a re-sale point of view to have a strata title or community title as distinct from company title or leasehold title. Ask the owner or estate agent which system governs the property inspected or look for it in the draft contract which the Agent is obliged to have for inspection before the property is listed for sale.

It is prudent to discuss this with your adviser before committing yourself to the purchase. It can have an effect on the attitude of any potential financier of the purchase.

# **THE LEGAL ISSUES INVOLVED IN BUYING A HOME UNIT OR TOWNHOUSE**

The legal work in the purchase transaction will include the following:-

## **1. STRATA INSPECTION REPORT**

An inspector who has examined the records of the Owners Corporation will advise us on such matters as:

- The level of insurance maintained and whether regular valuations of the property are obtained
- Whether correct minutes are kept and regular meetings conducted
- The level of disputes between owners
- The level of competency to administer the affairs of the Owners Corporation according to the governing legislation
- The ratio of tenants to owners which can impact on the level of caring for the property.
- The current balances of the funds for maintenance and large expenses required to be kept by the Owners Corporation
- The level of complaints between owners and insurance claims in regard to drainage, water leaks and the like
- If any extraordinary expense is anticipated which may require a special levy to be struck to cover it. This is extremely important, as you do not want to find that you are up for a major contribution to the Owners Corporation within a short time of becoming owner of the unit.

This report should be obtained in all cases before exchange of contracts and, if applicable, in the time before any cooling off period expires.

## **2. TITLE SEARCH**

A search of the title to the property will ensure that the vendor owns it and will aid in the negotiation of the terms of the contract.

## **3. SEARCH OF THE STRATA PLAN**

This is to correctly identify the unit you have inspected and to match it with the legal title to the property you are buying.

#### **4. DRAINAGE DIAGRAM**

This is to show the position of sewer and water pipes and connections to the mains. These can traverse other properties and need to be examined. The diagram will also show, for example, if the building was built over the Water Board's existing sewer line and if so, an investigation will be required to ensure that the Water Board gave its consent and approval.

#### **5. ZONING CERTIFICATE**

This is a certificate from the local council in regard to zoning and related matters.

#### **6. GOVERNMENT DEPARTMENT CLEARANCES**

These reports will show whether any government authority has plans to resume the whole or any part of the property for community purposes or has any other interest in the property;

#### **7. OWNERS CORPORATION CERTIFICATE**

This is a certificate from the Owners Corporation in regard to the current status of levy contributions for the unit you are buying and the insurances taken out by the body corporate. It will also list the office bearers on the Committee running the affairs of the Owners Corporation;

#### **8. EXCHANGE OF CONTRACTS**

Once the parties agree on the terms of the contract, the original contract signed by the vendor is exchanged with a counterpart contract signed by the Purchaser and the deposit is paid. Subject to cooling off (below), the parties are legally bound to the transaction at that point.

#### **9. COOLING OFF**

A purchaser may be entitled to a five business day cooling off period after exchange if the Vendor agrees. If the purchaser decides not to proceed within the cooling off period, he pays the Vendor 0.25% of the sale price, receives the balance of the deposit back and is no longer bound. Frequently Vendors want the certainty of knowing that the transaction is to proceed from exchange of contracts and want the purchasers give up their cooling off rights by insisting on a solicitor's or conveyancer's certificate to that effect.

#### **10. SETTLEMENT ADJUSTMENT SHEET**

This shows the adjustment of charges imposed by government or semi-government authorities which will need to be paid by the vendor before completion;

## **11. REQUISITIONS ON TITLE**

These are detailed questions about the vendor's ownership of the property and knowledge of matters which might impact on the prudence of completing the purchase;

## **12. FINANCING ISSUES**

T

his will involve satisfying the requirements of any financier supplying funding for the purchase.

## **13. STAMP DUTY**

This is the government stamp duty (or tax) on the contract and, if applicable, the mortgage securing a financier's loan.

At the time of writing both the Commonwealth and NSW governments offer grants and there are concessions available for first home buyers in regard to NSW purchase stamp duty.

## **14. SETTLEMENT**

This involves arranging the final payment of the balance of purchase moneys including adjusting rates and levies between vendor and purchaser, completing the formal transfer of ownership and notifying relevant government authorities of the change. The representatives of the purchaser, vendor and their financiers attend a meeting where the transaction is completed.

Please don't hesitate to contact us if you have any questions. Our details are at the head of this brochure.