

Negotiating to buy a property

Below are some hints and tips when negotiating to buy a property. In all cases, you should seek legal advice because you will be entering into a legally binding contract. This document should be viewed as a general guide only.

Before you find a property

- If you do not currently have a legal representative you will need to select one to assist you with the property purchase. Ask prospective solicitors/conveyancers if they are prepared to review a few Contracts of Sale (also known as Vendor Statements Section 32) before you secure a property.
- It is also recommended that you select someone to conduct a pest and building inspection, so that you have their contact details on hand when you find the right property.

When you find a property that you really like

- Inspect it on a number of occasions and try to visit the street at different times of the day and week.
- Ask the real estate agent for the Vendor Statement or Contract of Sale. They can usually be obtained by email or from an 'open for inspection'.
- Forward the documents to your legal representative and ask them to advise you if there are any issues that you should be aware of. Potential issues could include an unusual title, detrimental planning permits, or owners' corporation management concerns (for home units).
- Some issues identified by the legal representative may be referred to your broker to ensure that your finance will not be affected; other issues are simply a matter for you to consider and decide if it affects your opinion of the property.

Put yourself in the shoes of the vendor (and agent)

- Is the asking price realistic? Conduct your own research into recent property sales of similar types of property in the area.
- Before making an offer, ask the agent if the vendor would prefer the settlement period to be long or short. This information may give you an indication of the vendor's eagerness to sell. If they want only 30 days it means they are keen to sell, so may accept a lower price if you can agree to this timing, because other purchasers may not. Alternatively, the vendor may want a long settlement. Settlement can occur on any agreed day. After the contract is signed, the date can be brought forward by agreement, but if you request an extension there is a risk of financial penalties to you.
- If you were the vendor, would you accept an offer with all the conditions you'd like to include? Adding extra conditions will reduce the purchaser's risk but the vendor and agent will see a greater risk of the sale falling through. This has implications for the vendor and agent. Marketing for the property will stop during the settlement period but then has to restart again if the agreement falls through. This uncertainty may reduce the chance of your offer being accepted. This can be an important factor if you are making an offer prior to an auction – vendors may not accept many (if any) conditions.

Consider the terms and conditions of your offer

It is not only purchase price that is important. The amount of finance required (shown as \$Y below) is important and should be discussed with your mortgage broker before making an offer.

Typical phrases you might use to make the offer.

- I want to make an offer of \$X for the property.
- My preference for settlement is 90 days.
- I will need a finance approval clause. Although I've already seen my broker, I need to get formal approval for finance of \$Y from 'ABC Lender' and this may take up to 10 business days.
- My offer is subject to a satisfactory building report to be arranged by me and completed within 48 hours of my offer.
- I don't have 10% cash available for a deposit so I can offer 5%.
- Finally, my offer is also subject to removal of the rusted car body in the front yard prior to settlement.

Remember, a purchase at auction cannot be made subject to conditions; however, you may discuss the settlement and the amount of any deposit with an agent prior to an auction.

Questions you may wish to ask the agent before the auction

- I may bid this weekend and if I am successful, will the vendor accept a 45 day settlement rather than the 60 or 90 days that has been advertised?
- Will the vendor accept a 5% deposit rather than 10%, because this is the amount I have available?
- Will the vendor accept a deposit bond, rather than a monetary deposit?

