

PROPERTY DEVELOPMENT

A COMMON PROJECT

We assume the Project will:

- (1) include:
 - (a) acquiring the site;
 - (b) obtaining an appropriate development approval;
 - (c) demolition of the current premises;
 - (d) construction of a residential development comprising residential units only (i.e. not a mixed use commercial, retail, residential development); and
 - (e) sale of all of the lots and these will be “off the plan”;
- (2) be developed in a single stage;
- (3) be structured as a simple Community Titles Scheme;
- (4) have a professional body corporate manager appointed as manager and caretaker;
- (5) not have letting agency, management rights or managed investment options offered; and
- (6) have the car parks offered to lot owners as exclusive use.

GENERAL STAGES OF DEVELOPMENT

The following steps are likely to be encountered with your Project:

1. Purchase of Site

The Seller’s solicitor is likely to provide a draft contract for your consideration. Before signing this contract we strongly recommend it be reviewed by your lawyer and accountant to determine the full extent of the impact on you.

It is likely you will want to insert various special conditions or make changes to this contract to suit your circumstances.

There are numerous issues for you to consider before signing the contract. Some of these include:

- (1) what buying entity to use;
- (2) your development time line;
- (3) the likelihood and timing of a successful development approval;
- (4) making the contract subject to a due diligence (or other relevant clauses – eg access for site survey/soil tests, etc), to give you time, after you have secured the purchase of the property, to confirm the viability of the development. In particular it provides you with time to determine any issues or costs relating to the site (eg impact of current leases, easements (registered and unregistered, etc)); and

Further advice please contact

Michael Smith michael@pacificlaw.com.au or

David Netherton david@pacificlaw.com.au

www.pacificlaw.com.au

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or 07 5443 4744

- (5) tax implications now and when reselling the units.

Like any purchase, good planning and research before making an offer is critical for a successful project.

If you would like any assistance with the above, including any referrals to our network of accountants, surveyors, town planners, architects, etc please do not hesitate to let us know.

2. Development Approval application (including permission for demolition)

This stage will require consultation with your town planner, surveyor, engineers, architects and other specialist consultants. The town planner should be well placed to advise you of your options regarding the property and any issues you may encounter. The timing of obtaining such approval should also be considered carefully with the town planner and this catered for in the contract by way of Special Conditions.

3. Select a builder and enter a building contract

Reviewing the building contract is critical and should be performed in consultation with your solicitor and a quantity surveyor. Placing an emphasis on fixing the cost of construction of the building, together with the timing of construction are essential.

Discussing your finance at this time and the financier requirements is critical for the success of your Project.

4. Prepare the legal structure for the residential lots (preparing the scheme documents)

Various structures are possible, but most will include a Residential Community Title Scheme ("CTS"). The CTS provides a framework that allows issues relating to all lot owners to be governed such as: access to the car park for the building or the foyer; noise restrictions, prohibition on hanging out washing on balconies.

The CTS will have its own common areas and a body corporate governing its action. The requirements and rules for the CTS will be recorded in a document called the Community Management Statements ("CMS"). This document:

- (1) lists the lots included in the CTS;
- (2) states the percentage (lot entitlement) that each lot owner must contribute for the cost of maintenance and repair of the building (eg garden maintenance, repainting the building);

- (3) outlines which parts of the buildings are to be available for use by the residential lot owners;
- (4) includes bylaws regarding how areas are to be used and how people are to act (eg no loud noise after 9pm); and
- (5) provides for exclusive use areas of car parks, courtyards and storage areas.

The legal documents must also address the role of the body corporate and in particular the manager and caretaker.

5. Third Party Contracts - Preparing disclosure statements and contract documents to sell the units

Under the laws of Queensland, a disclosure statement must be provided to the buyer of a residential unit before they enter into a contract. This disclosure statement is quite comprehensive and must include details of the new lot, the CMS, the legal structure and plans.

The contract documents compliment the development timeline of the project and are drafted to be subject to the building being built and the registration of the plans creating each lot.

Settlement of each sale contract can occur 14 days after the buyers are given notice of the registration of the plan.

6. Demolition of the current buildings and construction of the new building

Once Development Approval has been obtained on terms acceptable to you, we expect you will demolish the current buildings and commence construction of the new building with your builder (or relocate the existing building to another area of the land).

Project management from this time will be critical to the success of the building. Confirming start dates and variations is particularly important.

7. Register of the scheme documents for the new building

Once the building is complete and certified by council to be in accordance with the requirements of the Development Approval the CTS documents and plans will need to be registered at the government Titles Office. This process creates the individual lots and provides public notice of the subdivision and creates the CTS.

8. Holding the first meeting of the body corporates for the new schemes

At this meeting each CTS will appoint a body corporate manager, organises necessary bank accounts, levy payments, organise insurance and maintain rolls (eg list of assets).

9. Conveyancing of the units

Conveyancing of the units involves us preparing a contract and disclosure statement for a particular residential lot and have these documents signed by the buyer and you. The agent will hold any deposit paid. We will then managing the transfer of the lot to the buyer once the lot is created.

This will include drafting settlement figures liaising with your financier, attending settlement and organising the relevant transfer documents.

LIKELY LEGAL DOCUMENTS AND PROPOSED FEES

2. Our Fees

CONVEYANCING	Fees (plus GST)
Conveyancing <ul style="list-style-type: none"> Buying a house Buying a unit Selling a house Selling a unit 	<p style="text-align: right;">\$900</p> <p style="text-align: right;">\$1,000</p> <p style="text-align: right;">\$850</p> <p style="text-align: right;">\$900</p>
Review of the Contract of sale Including suggested special condition where appropriate – verbal advice only: <ul style="list-style-type: none"> House Unit Off the plan 	<p style="text-align: right;">\$500</p> <p style="text-align: right;">\$800</p> <p style="text-align: right;">\$1,200</p>
Purchase of a Development Site <ul style="list-style-type: none"> Review of the proposed Contract of Sale; Acquisition Conveyance; and Development Structure Advice 	<p style="text-align: right;">\$1,800</p> <p style="text-align: right;">\$1,000</p> <p style="text-align: right;">\$1,500</p>
BUILDING CONTRACTS	Fees (plus GST)
Building Contract Review	<p style="text-align: right;">\$1,500</p>
ESTABLISHING A COMMUNITY TITLES SCHEME	Fees (plus GST)
Preparation of the Community Management Statement Including: <ul style="list-style-type: none"> Liaising with Body Corporate Manager for necessary information. Liaising with Surveyor for exclusive use plans and other necessary information. Preparation of First Community Management Statement for the Scheme. 	<p style="text-align: right;">\$1,200</p>
Preparation of an Easement	<p style="text-align: right;">\$450 to \$650</p>
Registration of the CTS Name	<p style="text-align: right;">\$150 (if required)</p>

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Preparation of Body Corporate Management Agreement in consultation with Body Corporate Manager	\$600
Preparation of Body Corporate Caretaker Agreement in consultation with Body Corporate Manager	\$600
Preparation of Managed Investments Act Disclosure Statement.	\$2,500
Sale of the Management Rights <ul style="list-style-type: none"> Preparation of the Sale Agreement for the Management Rights for the Scheme and completion of the sale of the Management Rights business. Management of the sale Contract to completion. 	\$3,000

REGISTRATION OF NEW TITLES	Fees (plus GST)
Registration of Survey Plan and CMS in consultation with your surveyor	\$1,200
Requesting mortgagee consent to Survey Plan and CMS	\$350
Preparation of the Body Corporate records Including the Minutes of the first meeting of the CTS, assisting you to create a budget and insurance for the CTS	\$1,200

SELLING DEVELOPMENT LOTS/STOCK - CONVEYANCING	Fees (plus GST)
Conveyancing – Development Stock/lots <ul style="list-style-type: none"> Selling off the plan – prior to registration of the community title scheme Selling after registration of the community title scheme 	\$900 per lot \$800 per lot
Preparation of ‘Off the Plan’ Sale Contracts	\$950
Preparation of Disclosure Statements Including: <ul style="list-style-type: none"> Liaising with Body Corporate Manager for preparation of levy budgets and agreements. Compliance with the <i>Body Corporate and Community Management Act</i> and <i>Land Sales Act</i>. 	\$1,550

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Issuing Development Contracts to Third Party buyers	\$450 per issue
<p>If you are engaging a real estate agent for the sale of the lots, you may find your real estate agent will prepare each subsequent sale contract using our pro-forma contract as a base in which case the \$450.00 per additional lot fee would not apply.</p>	

2.1. Estimated fees

The estimated fees above are provided as an indicative price and are subject to a formal quote being provided to you when more information is known about the proposed design of the project and development time line and structure. Furthermore, our fees do not include additional work necessary to deal with extraordinary items which are not part of the work specified or part of the ordinary conveyancing procedure.

2.2. Outlays

We **do not** charge for telephone calls, facsimiles, photocopying, or miscellaneous expenses. However, the following outlays will be payable by you: courier fees, express post fees, stamp duty, registration fees, mortgage fees, search fees and bank cheque fees to at cost price to us.

2.3. Work out of scope

Our fees do not include additional work necessary to deal with extraordinary items which are not part of the work specified or part of the ordinary conveyancing procedure. Such work will be charged to you at a rate of \$350 (plus GST) per hour.

OUR SERVICE AND EXPERIENCE

3. Working with us

We appreciate in todays market you need lawyers who;

- (1) are reliable, helpful and easy to deal with;
- (2) give good clear and practical legal advice;
- (3) can easily be contacted, whenever required;
- (4) have the resources to get your work done on time as agreed
- (5) know the local area and market in which you are developing your product; and
- (6) are well respected and connected in the local area with other businesses who may be of assistance to you.

At Pacific Law we have a property development team built to achieve these goals. Our property development lawyers have over a decade of experience working on projects from small duplexes to large staged, mixed use developments with listed companies all over Australia. We are happy to provide you with further details of our experience at your request.

We look forward to working with you

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