

EVOLUTION LAWYERS

BUYING A RESIDENTIAL PROPERTY

Some things you might want to know

1. Conveyancing

Buying a residential property falls within the category of transactions lawyers term “[conveyancing](#)”. This short guide sets out some things you might want to know about what is involved in a property purchase conveyance.

2. The Sale and Purchase Agreement

Every property purchase involves entering into a sale and purchase agreement with the current owner. The same [form](#) of agreement, which was developed by the Auckland District Law Society and Real Estate Agents Institute of New Zealand, is used in virtually all property sales.

The agreement can be drafted to either include conditions or not. All conditions included in the agreement, for example finance, must be satisfied before you are under an obligation to complete the purchase. Conditions have deadlines, which if not met can lead to the agreement being cancelled. In most cases, a deposit is payable when the agreement goes unconditional.

3. Your Loan and Mortgage

Unless you are very fortunate, you will be taking out a loan to buy the property. The loan will be secured by a mortgage over the property.

As well as being your lawyer, we will also act for the mortgagee (usually a bank) as part of the transaction. The bank engages us to protect their interests in connection with the transaction. We do that by ensuring the mortgage is registered over the property title at the same time it is transferred to you. Most banks also ask us to complete their disclosure requirements under [consumer protection law](#).

The time we take to fulfil the bank’s requirements is taken into account in our fee estimate for property purchases.

4. KiwiSaver Withdrawal

If you have KiwiSaver and would like to put all or some of those funds towards the purchase price, you will need to apply to your KiwiSaver provider. You can only use KiwiSaver funds to purchase a home that you intend to live in. The earlier the application is submitted, the better, as most providers take up to two weeks to process them.

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KiwiSaver providers require a solicitor's undertaking, which we will provide that your KiwiSaver funds will only be used to go towards the purchase price on settlement. The funds cannot be used for any other purpose before or after settlement, such as repaying a loan from a third party.

5. Trust Account

We will use our [trust account](#) to receive and pay funds on your behalf. This will include receiving the loan from the bank and your KiwiSaver withdrawal, if any, and paying the purchase price to the seller.

If we hold a surplus in our trust account following the payment of the purchase price, we will use that to pay our fee. Any proceeds remaining after payment of our invoice will be paid as you direct.

6. Landonline and Authority & Instruction Form

The transfer of the property title from the current owner to you is effected electronically using [Landonline](#). To complete the transaction through Landonline, we need to have your written and signed authority to do so. That authority is provided via a form known as an [Authority & Instruction Form](#), which is an important document. It needs to be signed by you, witnessed, and backed up by a verified copy of your photo identification.

7. Tax Details

Anybody who purchases a property must complete and sign and [land transfer tax statement](#). The property title cannot be transferred without it. If the property you are buying will not be your main home, you must provide your IRD number. An IRD number is always required where the property is to be held in a trust.

8. Signing Documents

If you are in Auckland, we can meet at a location convenient to you to sign up the documents required to complete the purchase. This will include the Authority & Instruction Form and loan documents. We will make other arrangements if you live outside Auckland.

9. Insurance

As part of the bank's requirements for advancing you a loan, it will want to know that the property will be adequately insured. This involves obtaining a certificate of currency from your insurer showing the bank as an interested party. The certificate needs to be provided to the bank along with the loan agreement in order to receive the loan funds.

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10. Settlement Day

The purchase will be completed on settlement day, which will be agreed in the sale and purchase agreement. We will do everything we can to complete settlement as early as possible, however, settlements are often delayed by things that are out of your and our hands. If we think there is a risk settlement may not go ahead as planned, we will let you know straight away.

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