



## Selling Real Estate Checklist

**\*IMPORTANT NOTICE:**

This checklist is a guide. We hope you find it helpful. For advice about your specific conveyancing and legal needs you must obtain your own professional advice. You can contact Sweeney Tiggemann's conveyancing staff on (02) 9331 5739. This checklist is subject to our disclaimer notice on our website: [www.conveyancing-sydneysw.com.au](http://www.conveyancing-sydneysw.com.au)

**If you are selling real estate for the first time you will probably be feeling cautious and enthusiastic. But even if you are a second or third time seller there are a lot of things you will need to know about.**

**Every sale is different. This document will give you a useful overview. You must get advice about your personal circumstances.**

**If you have a question about the information contained in this document, please contact us on (02) 9331 5739. You may also find your answer on our frequently asked questions page on the website: [www.conveyancing-sydneysw.com.au](http://www.conveyancing-sydneysw.com.au)**

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## How do I sell my real estate?

The first step will usually be to choose your real estate agent and your solicitor or conveyancer.

If you are selling residential property, you should have your contract ready so that your agent can list your property for sale.

Your contract will need to include certain documents. For example, a contract has to include the council zoning certificate (known as a section 149 certificate), the council drainage diagram, and title searches. We can advise you about other documents that you will need.

It can take up to two weeks to get this organised, so you should speak to your solicitor or conveyancer as soon as possible.

## Should I auction my property or sell it privately?

You should take your agent's advice about this.

## What does my agent do?

Your agent acts in your interests. The agent has to keep you informed about any offers you receive. The agent should take reasonable steps to sell the property for the best possible price.

Your agent will ask you to sign an agency agreement. This will set out conditions such as:-

- the commission that the agent is to be paid if the property sells
- extra fees the agent will pass on, such as advertising charges
- whether the agency agreement is exclusive, or for a fixed term, etc.

If you have any questions about the agency agreement you should ask your agent and seek legal advice, before you sign.

## Can I change my mind after I have accepted an offer?

If a binding contract has not been signed then, you the Vendor, can usually pull out of the agreement. The Purchaser can also usually pull out of the agreement in these circumstances.

However the situation is different, in New South Wales, if the property has been auctioned. If the auctioneer has knocked the property down to a bidder, then the Vendor and Purchaser will usually be bound to proceed with the sale even if one of them doesn't want to sign the contract. You should obtain legal advice about these matters.

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### Should I accept an offer before the auction?

This is something that you should ask your agent. This is their area of expertise.

### When should I sign the contract?

Your solicitor or conveyancer will advise you about this. It is possible to sign and not be bound by the contract. You will probably be bound by the contract when the Purchaser has also signed, and each party intends to be bound and the contract complies with the legal requirements.

In New South Wales, if the property is not sold at auction, the binding contract frequently comes into existence in the following way:-

- the Purchaser signs the contract
- the Purchaser's solicitor posts the copy of the contract signed by the Purchaser to the Vendor's solicitor
- the Vendor's solicitor receives the contract signed by the Purchaser
- the Vendor's solicitor contacts the Vendor and makes arrangements for the Vendor to sign a different copy of the contract
- the Vendor's solicitor then dates each counterpart copy of the contract. The contract is formed at this moment
- the Vendor posts, to the Purchaser's solicitor, the copy of the contract signed by the Vendor

This is the process known as exchange of contracts. If the property is sold by auction, the "exchange of contracts" usually happens at the auction venue.

### What is gazumping and can I do it?

Gazumping occurs when a Vendor, having agreed to sell a property for an agreed price, subsequently decides to sell to someone else, usually on more favourable terms. You can usually do this, as Vendor, provided a written and binding contract has not come into existence. You must obtain legal advice about this.

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## What is the Cooling Off Period?

- If you are selling residential land, your purchaser will usually have the right to terminate the contract by 5.00pm on the 5<sup>th</sup> business day after the contracts have been exchanged.
- If the Purchaser terminates during the cooling off period, he or she will usually forfeit 0.25% of the sale price.
- You can ask the Purchaser to waive the cooling off period pursuant to section 66W of the Conveyancing Act. You should get advice about this.

## If I instruct Sweeney Tiggemann to prepare my contract what can I expect from them?

### **Firstly**

Sweeney Tiggemann, will order the necessary documents, including:-

- the zoning (section 149) certificate
- the drainage diagram
- the title search
- the title diagram
- a copy of any document registered on your title

### **Secondly**

We will ask you about your property and we will talk to you about what you need to put into your contract. For example, are there any items of property that you want to exclude from the sale?

It can take 2 weeks to get the zoning certificate, after it has been ordered, so you should instruct us ASAP.

## If my property is going to be auctioned, what should I do to prepare for the auction?

You should take your agent's advice about the value of your property. Ask the agent what reserve you should fix for the auction.

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### What will Sweeney Tiggemann do after exchange?

We will:-

- if applicable, make sure your financier/bank is preparing its discharge of mortgage.
- prepare the contract for settlement
- make sure that your financier, if there is one, is ready to hand over its discharge of mortgage
- answer any questions from the Purchaser which you are obliged to answer. Such questions are called "Requisitions on Title"
- prepare a settlement statement
- organise a settlement time and venue
- attend settlement
- and we will do whatever else is reasonably necessary to get the job done.

### What will I need to do to help Sweeney Tiggemann do their job?

We will need your instructions from time to time. We will need to have your telephone number, and other contact details such as your email address.

### What will happen at settlement?

We will, as necessary:-

- collect the Certificate of Title to your property and anything else that you will have to give to the Purchaser. The Certificate of Title is usually provided by your outgoing mortgagee, if there is one
- collect the settlement cheques from the Purchaser
- distribute the settlement cheques, including giving one to your outgoing mortgagee if required
- give the Certificate of Title, Transfer, Discharge of Mortgage to the Purchaser.
- collect from the Purchaser the document which directs the Agent to release the deposit to you. This document is known as the "Order on the Agent"
- and we will do anything else reasonably necessary to get the job done

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### What happens after settlement?

The property will belong to Purchaser who will, by this time, usually have access to it. You will have probably given your house keys to your agent before settlement. The agent will give the keys to the Purchaser following settlement.

Ordinarily you will need to be able to give the Purchaser vacant possession at the moment of settlement. This usually means all of your property needs to be out of your old house/property when settlement occurs. This can be tricky, with removalists loading their truck with your things at the same time as the Purchaser's removalist is on the way with a truck loaded with the Purchaser's things. As tricky as it may be, the system usually works without problems.

The agent will release the deposit to you after deduction of the agent's commission.