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PLANNING MATTERS ALLIANCE TASMANIA



What to Watch Out For

especially when buying property off the plan

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DISCLAIMER: This Guide has been created for general information purposes only. While the Guide has been created with all due care, no warranty is given as to its suitability for any particular purpose and users should obtain their own advice relevant to their situation and specific needs.





FAQs when buying property

What are your three essential lists?

To start, develop your 3 lists: 'must have', a wishlist, and 'don't need'. Consider your your stage of life - and your future needs as well as current ones.

For example, what neighbourhoods do you like? Some things you might want to include on your "must have" list include:

- Transport facilities in the area - public, private and active (eg bicycles)
- Access to schools.
- The facilities and features of the suburb/subdivision, like parks, cafes, restaurants, playgrounds, medical and other services, and so on.
- Typical house insurance costs and land use zoning in the area.
- Suburb profile including the people that live there and crime rates.

See PMAT's **Property Buyers' Checklist** for questions about the subdivision and site.

LISTmap (LIST stands for Land Information System Tasmania) is an online tool that takes the guesswork out of analysing land in Tasmania. Go to <https://maps.thelist.tas.gov.au/listmap/app/list/map> Search for the address/suburb title you're looking at and get immediate information on the zoning and codes eg coastal erosion vulnerability, bushfire danger, landslip and flood history. Simply search for and select the information you want to see (eg zoning or codes) and it will appear as a layer over the top of the map.

Make a list of the areas you would like to live or invest in. Then, spend some time researching each area on LISTmap. Your search might reveal 'red flags' (eg no access to town water, bushfire-prone or is a landslip area).

What about covenants and easements?

Easements refer to 'the right to cross or otherwise use someone else's land'. Easements may be in place to ensure other properties have access to services such as water or power. If there is an easement on the block of land you're looking at, it may impact your building 'envelope', or the exterior 'shell' of your home.

Covenants listed on the title of a block of land may be either Private, or ones imposed by the local Council, eg Bushfire Prone Areas etc.



FAQs when buying property

Moving to the country?

If you are looking at property in a rural zone, consider:

- Is the surrounding land use compatible with your lifestyle expectations? Farming can create noise or smells that may be at odds with your expectations of a rural lifestyle.
- Are you considering removing native vegetation? There are regulations which affect your ability to remove native vegetation on private property.
- Do you understand your obligations to manage weeds and pest animals?

Does the property experience flooding or bushfire?

Properties are sometimes subject to the risk of fire and flooding due to their location. You need to investigate these risks and consider their implications for finance, land management, buildings and insurance premiums.

Has previous land use affected the soil or groundwater?

You should consider whether past activities, including the use of adjacent land, may have caused contamination at the site and whether this may prevent you from doing certain things to or on the land in the future.

Do you know the exact boundary of the property?

You should compare the measurements shown on the title document with actual fences and buildings on the property, to make sure the boundaries match. If you have concerns about this, you can speak to your lawyer or conveyancer, or commission a site survey to establish property boundaries

Are there any nearby proposed or granted planning permits?

The local council can advise you if there are any proposed or issued planning permits for any properties close by. Significant developments in your area may change the local 'character' (predominant style of the area) and may increase noise or traffic near a property.

Can you find out from Council if there are any issues affecting the Property?

A consumer in Tasmania can ask the local Council if there are any relevant records in relation to the property for sale. A 337 Certificate (not attached to Tasmanian contracts as occurs in most mainland states) can reveal for example:

FAQs when buying property

- whether completion certificates have been issued for building and plumbing permits,
- whether there is an occupancy permit for the building,
- if there are any outstanding enforcement notices/actions or outstanding rates on the property, and what the zoning of the site is.

Are any recent building or renovation works covered by insurance?

Ask the vendor if there is any owner-builder insurance or builder's warranty to cover defects in the work done to the property. Tasmania does not currently have a builder's insurance scheme but this is under review so check online for current status of this.

Does the property have working connections for water, sewerage, electricity, gas, telephone and internet?

Unconnected services may not be available, or may incur a fee to connect. You may also need to choose from a range of suppliers for these services. This may be particularly important in rural areas where some services are not available.

Is there an Owners Corporation?

If the property has a Strata Title, with common property such as driveways or grounds, it may be subject to an owners corporation. You may be required to pay fees and follow rules that restrict what you can do on your property, such as a ban on pet ownership.

Do you know your rights when buying a property?

The contract of sale and section 32 statement contain important information about the property, so request to see these and read them thoroughly. Many people engage a lawyer or conveyancer to help them understand the contracts and ensure the sale goes through correctly. There are also important rules about the way private sales and auctions are conducted. These may include a cooling-off period and specific rights associated with 'off the plan' sales. The important thing to remember is that, as the buyer, you have rights.

Also search online or get advice on more Tasmania-specific information on conveyancing, title checks and searches, hidden costs of buying a home, exchange and settlement, building and pest inspections.

Buying off the plan

What is buying off the plan?

Buying off the plan involves signing a contract to purchase a property that does not yet exist. You can review the developer's construction plans, design and layout, but there is no physical property for you to assess or inspect prior to putting down a deposit.

When buying an off-the-plan property, you'll generally have the opportunity to inspect a model or demonstration property so you can get a feel for the final build. However, keep in mind that this may not be indicative of the final result so it's important to analyse the terms of the contract to get details of the floor plans, materials, fittings and fixtures.

PROS

- **Set price.** A key benefit of purchasing property off the plan is that you can pay the current market value for a property, even though it will be completed in future, and may likely appreciate in value by that time. You can enjoy capital growth before the property is finished.
- **Choice.** If you get in early you have the flexibility to choose your purchase from the range of properties for the development project. For instance, you may be able to choose a property that's closer to amenities or shops or one with a better view.
- **Low initial capital outlay.** Generally you'll need to provide a 10% deposit and the outstanding balance of the payment doesn't need to be paid until settlement.
- **Time.** The long settlement period means that you have time, or 'a breather' to get your finances in order, boost your savings and time to save for settlement. You may also benefit from capital gains over time.
- **FHOG and stamp duty concessions.** In Australia, most states provide a first home owners grant (FHOG) for first home buyers purchasing new dwellings that are valued under a certain amount. This may involve exemptions or discounts associated with stamp duty. Check Federal and State concessions/grants.

CONS

- **Limited growth market.** When purchasing off the plan, you run the risk of paying too much for a property if the market enters into a decline.
- **Expectations.** As many builders don't allow you to see the property until construction

Buying off the plan

has completed, there is the risk that the quality or layout of the build may not be what you had in mind. Keep in mind that display suites may be a marketing ploy, the final result may vary significantly from the model construction. Don't base your decision on a display suite.

- **Climate change.** Developers must design and build to minimum legislated standards, but these may not allow for climate change impacts.
- **Rising interest rates.** As with any finance decision, you run the risk that interest rates may rise before you settle on the property, which may be an issue if you made the decision based on low interest rates.
- **Bankruptcy.** There is a risk that the developer may go into liquidation before the build is completed, so you need to carefully review the terms of the contract to see what your options would be if this occurred, eg is insurance available?
- **Rely on good will.** When buying off the plan, you must rely on the reputation, honesty and goodwill of the developer which is why it's crucial to research the developer and their financial strength.
- **Change in your lender policy.** Certain investors may be affected by a change in lender's policy since the Australian Prudential Regulation Authority (APRA)'s recent intervention. For instance, if you took out a loan for a \$500,000 investment your lender may have been prepared to lend you 95% LVR (loan-to-value) (\$475,000). However, an intervention by APRA now means the lender can only lend you 80% LVR (\$400,000). This would mean that you need an additional \$75,000 to complete the deposit and qualify for the loan - or find another lender that's willing to lend at a higher LVR.

How the purchasing process works

1. Research

While research suggests that buying off the plan may be more advantageous for investors rather than owner-occupiers, it's crucial that you do some research not only regarding the property and the development plan but also into the area. Carefully assess the home to see if it suits your needs, will deliver long-term comfort and considers sustainability principles. Make sure that you are dealing with a reputable builder and ask lots of questions about what is covered by the purchase price and what is not (use PMAT's Property Buyers' Checklist for question suggestions).

Buying off the plan

You need to consider the growth potential and trends for the location, whether or not it suits your investment strategy or lifestyle needs, review finance options, and depreciation and tax benefits. Also organise a block inspection with your builder, to check it meets your needs. Ask about fundamentals like orientation (the way the block faces), slope and size. Make sure you research the local market conditions and speak to experts about property price trends and growth factors for the area. Review the display home, models and floor plans. You should also check the fixtures, fittings and finishes.

Your research and the decisions you make now will influence how well your home suits your lifestyle, how cost effective it is to run, and how sustainable and costly it is over the longer term. More details on this important stage are at <https://www.yourhome.gov.au/buy-build-renovate/preliminary-research>

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What about soil quality?

Soil testing your block is just due diligence when purchasing a block of land. A soil test will look at the physical and chemical characteristics of the soil to determine if it's safe and will help you estimate the stability and land retention of the block. Good soil composition is important in terms of minimising the cost of building a sturdy foundation.

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Negotiating for Net Zero emissions

A study in 2019 by the Cooperative Research Centre for Low Carbon Living (<http://lowcarbonlivingcrc.com.au/>) identified the financial costs and benefits of upgrading typical display home designs in Melbourne, Townsville, Canberra, and Perth to net zero emissions standard. Doing this added 6–11% to construction costs, but reduced annual energy costs by around 88%, around \$1750 per year. Most major efficiency gains came from the additional insulation, increased shading, glazing upgrades and energy-efficient appliances, such as induction cook tops and air source heat pumps, with only a small 3–4 kW photovoltaic (PV) system required.

The research shows net zero energy housing can be achieved when homebuyers negotiate with their builder about energy-efficiency upgrades. A 4-part video series follows the journey of building net zero energy display homes and mainstreaming these practices in the industry (see References and Additional Reading below).

Buying off the plan

2. Expression of interest and quotation

Developers may reach out to local real estate agents in an attempt to generate interest in the development. Sometimes you may be able to lodge an expression of interest payment, however it's important to note that this signals your interest and does not guarantee that the property will be sold to you.

When you have decided on a site and have narrowed your choice to 1 or 2 plans, you are ready to ask for final quotations with a detailed schedule of finishes that will form the basis of your contract. Quotations should include all the inclusions and contingencies, with the budget and any variations or changes negotiated. Ask your builder to nominate, in writing, any items excluded from their price.

3. Legal advice for contract review & signing

Once you've selected the location and development project, you'll need to sign a contract of sale for the purchase. Before signing on the dotted line, it is paramount that you seek independent legal advice from a contract and property law professional to ensure that the contract contains all the relevant terms for the exchange. Take note of all the terms and clauses including whether or not you can visit the site during construction, if you can alter finishes or fixtures, what happens if problems occur after build completion? Purchasers should be aware of their rights when buying off the plan or buying land that is not registered.

Make sure you receive legal advice, and approval from your lending authority, before signing a contract. Attach to the contract copies of:

- the quotation (including all costs)
- council-approved plans and specifications (if available)
- surveyor's report
- geotechnical report and engineering certification details
- schedule of works including a fixed completion date and schedules of allowance for every inclusion or variation.

If council approved plans are unavailable, contracts may be drafted to include clauses that allow you to withdraw if council conditions add to cost or adversely alter expected performance outcomes.

Buying off the plan

- Know what you are signing.

Before signing a contract, ask the following questions:

- Are there separate contracts for purchase of the land and construction of the house?
 - How do those two contracts interact?
 - Will there be additional costs or penalties if there are delays to building start dates?
- Cooling off period.

Be sure the property you are buying is what you want. 'Cooling-off' periods for residential property sales are not a requirement under the Property Agents and Land Transactions Act 2016 (the Act) in Tasmania (although are usual in other States). Further, there is no requirement under the Act to disclose defects in the quality of the property for sale. Asking the right questions could save you money and trouble. "Buyer beware" is the position you should take.

- Deposit amount.

Generally a 10% deposit is required for off-the-plan purchases and the contract should specify who will receive the interest earned on the investment.

- Project plans.

The contract should disclose information regarding the specific plans of the build. This should include proposed plans, floor plans and a construction schedule. It's important that you fully understand, and are satisfied with, the level of detail that the developer has disclosed regarding the development plans and the quality of fittings and fixtures.

- Inclusions. Make sure that you review the inclusions and warranties in the contract of sale to make sure that if the developer makes changes to the planned build, it will not affect you negatively. It's also important to ensure that the contract specifies the cost of upgrading fixtures and fittings if you are not satisfied with the initial ones. Also check to see if there is a dispute resolution process in place in case of any delays or other issues.

- Finance.

If you're obtaining finance from a lender, you need to ensure the contract is subject to you obtaining the relevant finance. Generally, developers will give you 30 days to obtain finance approval from the date that the contract was signed, but check what will happen if you don't get finance approval.

- Building defects.

The contract should include a clause stating that the developer is responsible for rectifying any defects in the construction, prior to settlement.

Buying off the plan

- **Timeframe.**

Ensure that your contract includes a sunset clause, which requires the project to be completed by a particular date or within a specified timeframe. Especially if the subdivision is still under construction and the individual land titles have not yet been issued.

- **Rescinding the contract.**

Look for clauses allowing a developer to rescind the contract after you have exchanged.

- **Remember.**

There are no price guarantees until you have exchanged contracts.

For more information about the construction process, visit Building a home (<https://www.yourhome.gov.au/buy-build-renovate/build-home>).

4. Development team review

As noted above, it's very wise to conduct a background check to confirm the experience and qualifications of the developer, builder, and architects. You should visit the company website, review past and current projects as well as their financial performance to ensure that the developer is in a strong position to carry out the intended works.

You should ensure that the builders for the development are licensed and qualified, you can check this on your state government's website. Home warranty insurance is currently being reintroduced in Tasmania. Check on this situation before signing your contract.

5. Obtain finance

Some Australian lenders may be reluctant to provide finance for off-the-plan purchases because the property may be sold for more than it's worth. In an uncertain market, the property value might decline between the signing of the contract and the completion of the build. As a result, some lenders will require an 80% loan-to-value (LVR) ratio, while others may require reviews of any pre-approvals they issue at the time you sign the contract. It's a good idea to wait and apply for approval 6 weeks prior to settlement.

Your budget should include the total amount you want to spend, and the amount you want to spend on sustainability features that reduce bills later. For more information on affordability go to <https://www.yourhome.gov.au/buy-build-renovate/affordability>



Buying off the plan

Prices advertised by developers and builders can indicate probable cost, but take care. Make sure that your builder's allowance takes into account the cost of better design features that save you money in energy, water, and maintenance bills in the long term.

Also make sure that you have taken into account additional costs, including:

- preliminaries – plans, council approval costs, geotechnical and engineering certification, land/building surveyor's fees, insurances, bank and legal fees,
- inclusions – additional features or quality you request that are not covered in the base building costing,
- site allowances – which may include landscaping, safety fencing, sediment barriers, excavation (slope), drainage (overland stormwater flows), or stronger footings to accommodate reactive foundation material identified by the geotechnical survey,
- variations – charges for changes you make after signing the contract, which are often very expensive.

First Home Buyers' Concessions

Every state and territory offers some form of help for first home buyers in the form of grants and stamp duty concessions. In some states the most generous grants, often up to \$10,000 or more, are only offered to purchasers of new buildings. This includes people buying off the plan. Check Tasmania's current grants and concessions, eg <https://www.sro.tas.gov.au/first-home-owner/eligibility> as well as those from the Federal Government.

Further Considerations when buying off the plan

How do you choose a developer/builder?

Check the credentials of the company before choosing your developer/builder:

- Establish how long they have been in business and how many homes they have built.
- Ensure they are experienced in your region, climate, and council area.
- Inspect some finished projects to check for quality and attention to detail.
- Get references and speak to past customers.
- Check their licence and complaints history with your state building regulatory authority.
- You can request to have guarantees of the developers' financial capabilities included in the contract to protect yourself in the event that the developer goes into liquidation.



Buying off the plan

Ask your developer questions like:

- Can I make changes to finishes or fixtures in the bathroom and kitchen?
- Can I select appliances, such as stoves and dishwashers, and items such as floor and wall tiles?
- Can I visit the site during construction?
- Where do I stand if construction is altered from the original plan?
- What are my rights if the design or layout is altered, and is my consent required?
- What are my rights if there are delays, eg in construction?
- If the building is finished earlier or later than expected, can I still arrange finance?
- Is my deposit secure if the construction doesn't go ahead?
- Can I on-sell the property to someone else during the construction period?

Also see PMAT's [Property Buyers' Checklist](#) for more details to check.

Can you negotiate changes to a home off the plan?

Many developers and builders will make small changes to a standard plan to achieve better orientation or thermal comfort at no or low cost, such as:

- mirror-reversing the plan
- rotating the plan on your site for better orientation
- changing the size of a window
- moving or deleting windows
- improving cross-ventilation paths by moving doors, windows or walls
- changing lawns to low-water landscaping in mulched beds

Other simple changes may add cost but improve the thermal comfort of your home:

- using more efficient glazing options
- installing adjustable shading devices to east and west
- increasing standard insulation levels
- using efficient lighting (for example, LED)
- using efficient appliances with the highest available star ratings
- using plumbing fixtures with the highest available WELS star ratings
- exposing thermal mass (for example, using tiles or polished concrete instead of carpet)

Buying off the plan

- using materials and finishes with low environmental impact.

Depending on what is offered in your base package, you may also need to negotiate more significant upgrades that may add upfront cost but significantly reduce lifecycle costs and add value:

- adding thermal mass (for example, internal brick feature wall)
- using efficient heating and cooling systems
- adding a solar hot water system (or other energy efficient option)
- adding a rainwater collection system with good storage size connected to indoor uses
- adding a photovoltaic (solar) system.

You should speak directly with your developer to identify exactly what is included in the purchase price (e.g. floor coverings, painting).

What about design changes?

The way in which an off-the-plan property is sold can vary depending on the developer. For instance, the developer may be able to alter the design of the property without the buyer's approval, or buyers may need to pay more if the cost of construction varies. Again, ensure that you closely review the contract of sale before committing to a transaction so you don't get caught out.

What if the build is different when it's finished?

As the purchaser, you are protected by legislation in the event that council regulations, such as zoning, alters the construction. For instance, section 9AC of the Sale of Land Act 1952 (VIC) requires developers of off-the-plan properties to notify you if any changes are made to the subdivision plan. This section allow allows you to revoke the off-the-plan contract within 14 days of being notified of an amendment which will "materially affect" the property. This protects you from paying for a property that is drastically different to the one you originally agreed to purchase.

Generally developers are not permitted to make changes without consulting you first. If you believe that "major" changes have been made to the original structural plans, fittings or finishings, and you haven't been notified by the vendor or developer, then you should seek legal advice regarding your options.



Buying off the plan

What if the developer delays settlement?

It is not uncommon for settlement to be delayed due to unforeseen circumstances, such as complications with the local council, or the developer's employees. However, if you are under the impression that the developer is deliberately delaying settlement, then you have the right to take legal action. Be aware though that this would be a highly expensive course of action.

Moving in before settlement

This should be clearly determined in the contract, however the purchaser cannot move into the property before house construction is completed. However, if you have been issued with a Certificate of Occupancy, then it may be possible for you to occupy the property before the works are finished.

What happens if there are defects?

When you're buying a newly-built off-the-plan property, it's understandable that you would expect your home to be in pristine condition on the day you move in. However, this may not always be the case.

Before you sign any contracts, make sure you ascertain the developer's policy regarding maintenance. Most developers will have a maintenance period written into the contract, in most cases around 90 days. This means you have 90 days from settlement (and moving in) to make them aware of any defects, and they have 90 days in which to rectify them. Be warned, however: there may be cases in which a feature you identify as a defect falls within the builder's acceptable standard of workmanship.

What we don't want

Some final points from 'Better Placed' by the NSW State Architect

Poor design and even 'business as usual', are likely to have significant adverse environmental, social and even economic effects. Poor design can make spaces and places into liabilities rather than being beneficial to the public. The following indicators of poor design outcomes support the need for good design and better places:

POOR 'FIT' AND NOT RESPONDING TO CONTEXT

A community's sense of place can be undermined and existing attractors devalued when:

Design has little sense of the 'local' character, materials or landscape.

The position and arrangement of new elements causes obstructions to use of the public realm.

Buildings are disconnected from and make no contribution to the experience of the public realm.

Buildings mimic neighbouring buildings, or clumsily reference local character.

POOR PERFORMANCE

An increased operating and maintenance cost burden for end users can occur when:

Buildings do the "minimum" in responding to environmental imperatives or sustainability. Budget-related imperatives override environmental performance.

Poor design outcomes impact both comfort and use, as well as natural resources.

For example in Tasmania, the Energy Efficiency mandated is only 6 out of 10 - when some simple methods such as passive solar orientation, insulation and light coloured roofs could increase this to 8 out of 10.

POOR FOR COMMUNITY

Community cohesion can be eroded and problems of social inequity can be reinforced when:

Urban areas fail to provide inclusive and accessible shared public spaces.

A lack of integration of uses and tenure types creates social separation and exclusion.

Dispersal of activity creates fragmentation of the public domain.



What we don't want

POOR FOR PEOPLE

People's health can be undermined and their sense of risk and isolation increased when:

Poor access, orientation or spatial arrangements compromise human comfort or safety.
Activity in the public realm is discouraged through poor interfaces.
Construction efficiency is prioritized over livability or health.

POOR FUNCTIONALITY

Quality of life for people and communities, as well as their resilience to change, is lower when:

Particular usage patterns are locked-in, restricting change and adaptation over time.
Efficiency and productivity is constrained by poor spatial arrangements or relationships
Overly pragmatic design limits the human experience of a place.
For example, a lack of garden space increases the heat island effect; avoid too narrow internal corridors - 1m wide corridors allows for wheelchair access and ageing in place.

POOR VALUE

Buildings and places can lose value and even detract from local value over time when:

Costs increase over time as a result of failing to meet current standards.
Costs increase over time due to ongoing maintenance and repair due to poor design.
They do not reflect the sufficient commitment to delivering high quality experience for people, and as a result are not highly valued or cared for by the local community.

POOR LOOK AND FEEL

Buildings and places can undermine the value and quality of the surrounding urban environment when they:

Appear clumsy, unresolved, flimsy or cheap.
Lack design consideration and refinement.
Reflect poor choices of materials, elements and/or overall composition.

Further information

This Guide is based on information from these sites:

Australian Government: Your Home

<https://www.yourhome.gov.au/buy-build-renovate>

Better Placed, NSW State Architect

<https://www.governmentarchitect.nsw.gov.au/resources/ga/media/files/ga/strategy-documents/better-placed-a-strategic-design-policy-for-the-built-environment-of-new-south-wales-2017.pdf>

Due Diligence checklist Vic Consumer Affairs

www.consumer.vic.gov.au/duediligencechecklist

<https://www.realestate.com.au/advice/legal-checklist-buying-property/>

<https://www.finder.com.au/buying-off-the-plan>

<https://www.fairtrading.nsw.gov.au/housing-and-property/buying-and-selling-property/buying-a-property/buying-off-the-plan>

<https://www.abc.net.au/everyday/my-house-buying-mistakes/100390816>

Tasmanian Government: Consumer, Building and Occupation Services

<https://cbos.tas.gov.au/topics/housing/buying-selling-property/advice-buying-selling-property>

References and additional reading

Australian Government Department of Industry, Science, Energy and Resources

Households <https://www.energy.gov.au/households>

Energy Rating <https://www.energyrating.gov.au/>



Further information

Housing Industry Association

Information for home owners <https://hia.com.au/our-industry/housing>

Josh's House, Zero emission house

<https://joshshouse.com.au/star-performers/zero-emission-house-melbourne/>

Josh's House. Mainstreaming net zero energy homes, video series.

<https://joshshouse.com.au/zero-energy-homes-videos/>

Low Carbon Living Cooperative Research Centre.

Research <http://www.lowcarbonlivingcrc.com.au/research>

Nationwide House Energy Rating Scheme (NatHERS)

<https://www.nathers.gov.au/>

Your Home - Design For Place,

Free home designs <https://www.yourhome.gov.au/house-designs>