

## **PREAPPROVAL FINANCE AND SIGNING SALE & PURCHASE AGREEMENTS**

**Pre-approval Finance** is a letter that is provided to you by your lender or broker, confirming that the lender has, based on the information provided, agreed that you are able to borrow a certain amount of money. The pre-approval letter will usually be conditional on the property located being suitable security to the bank and that other conditions as submitted to the lender for the pre-approval finance remain unchanged. It is **not necessarily** the basis that a borrower can go ahead and make an unconditional offer. This should only be done in consultation with your solicitor and either your broker or lender. This is particularly more critical if you are borrowing over 80% of home value or changing some of the conditions of your pre-approval.

For instance buying an apartment instead of a flat or house may have different lending criteria. Borrowing over 80% may require a registered valuation, particularly if it is a private sale, rather than through registered real estate agents. There can be other fish-hooks and that is why I suggest you **always consult** with your broker/lender and solicitor. Your solicitor should always vet your agreement before you go unconditional. He/She may pick up something on the title you weren't aware of. An agreement can be made subject to this.

Pre-approval is critical to the process of purchase. Without it you may be taking an unnecessary risk.

### **The Sale & Purchase Agreement**

Normally completed on a standard Real Estate Institute document, this is a legal contract. Once it is agreed to and signed by both vendors and purchasers **it is binding** on all parties. Some people sign these not realising the impact and then find they want to get out of the contract. This is usually because they have let their heart rule their heads and **not** taken prudent advice as outlined above. Don't take risks with these; the consequences are forfeiture of deposit and even possibly being sued for breach of contract.

The document states full legal names of vendors and purchasers, itemises the legal property description including street address. The deposit amount is stated and generally your land agent will ask for a 10% deposit which is considered standard. There is **no legal requirement** for a 10% deposit. The deposit needs to be realistic to show you are serious but if you don't have 10% don't offer it. For instance if you are a 95% or 100% purchaser, offer no more than 5% of a 95% purchase. 100% purchasers should make their deposit as small as possible. We tend to recommend that with the higher prices of houses, a lesser deposit is realistic. Also remember that if you borrow the deposit you will be paying the interest. Ask in your pre-approval application what deposit you can get from your lender.

The **Finance Date** is the date by which you must have fully approved **unconditional** finance. If in your pre-approval there are certain conditions to fulfil, make sure that you have allowed sufficient time to get these done to the lenders satisfaction eg if a valuation or building report is required, it may take longer than a week before the lender gets it, let alone looks at it. It is not unrealistic to have two weeks to finance and then two weeks to settlement. Remember you are making the offer, try to get it as

much on your terms as possible. The Land Agent is acting for the vendor and will try to get it as much in favour of the vendor as possible – that is their role.

The **Settlement Date** is the date you take possession. Finance must be paid over from your lender to the vendors account on that date or you will face penalty interest charges for delayed settlement. Your broker is a good friend here, to make sure the lender has sent documentation to your solicitor on time and generally ensure the process runs smoothly.

Many real estate agents will automatically fill in the lender required with a general term such as 'any financial institution'. We would advise crossing this out and inserting a specific bank or lender that you have pre-selected. Any alterations or changes to the contract **must** be initialled by all parties or a fresh contract re-drawn.

If you fail to take this simple precaution and your favourite lender finds any reason not to lend, you may be forced under the contract terms to borrow from another lender on terms unsuitable to you. It doesn't rule out using another lender if you wish. Your broker will help you with this.

We normally advise clients not to reveal to a Land Agent how much they can borrow or purchase to. The reason being that in any negotiations you don't reveal your full hand to the opposing camp. The land agent is in the opposing camp. This, of course, brings into question brokers who come under a real estate banner, as to who they are really acting for. Make sure your broker is totally independent.

**Auction Agreements** are usually significantly different from standard sale and purchase agreements, eg you can't make an offer subject to finance or conditional on checking title matters and council records. You will need to make these enquiries before bidding.

In summary, Sale and Purchase contracts are not to be taken lightly. Make sure the key people (Solicitor, Broker, Banker) who will assist you purchase your property, are kept in the loop. Most times there will be no problem, but if there is, you will need these people.

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