



Selling a Property? You will need a Contract for Sale.

Arranging for a Contract for Sale

In both the ACT and in NSW, you are required by law to have a draft Contract for Sale or a “Marketing Contract”. Your real estate agent needs the Marketing Contract so they can advertise the property for sale. It contains a number of legally required searches, and sets out the contract terms that will be used when the property is sold.

So we can prepare a Contract for Sale that meets your statutory obligations, and best protects your interests as a Seller, there are a few things that we need to know.

Getting the details right

In the Trinity Law brochures dealing with legal costs, and identification requirements, we provide you with information as to what searches we expect will be required, as well as what we need from you in terms of client identification and verification.

In addition to those please let us have your best contact details, including your residential and postal address, and any future address. Please feel free to let us know if there is a preferred way of contacting you, or if you have any special requirements. We also need to know if you have appointed a real estate agent, and if so, who they are. If there is mortgage over the property we also need to have contact details for your bank. We suggest you check with your banker or with your broker, to find out what their requirements will be when the property is sold.

Is there anything that affects you or the property that we need to know about?

To enable us to prepare the Contract for Sale that properly protects you, please let us know anything that might be unusual, or which affects you or the property. Are there any outstanding Court cases, are you subject to any bankruptcy orders, are there any guardianship arrangements, or does the sale involve the use of a Power of Attorney?

Has the Council or any local authority issued you notices involving the property; things like trimming trees, removing power lines, road widenings, or the like? Have any of your neighbours raised any issues in relation to your fences, or are there any noise complaints, or other environmental issues?

In short, if there is anything that you are unsure about, let us know. We would much rather have more information about you and the property, instead of a problem down the track.

What is it that we are selling?

When you sell a house, you are also selling the “fixtures”. Fixtures are part of the house that are built-in, screwed in, or bolted in, such as hot-water services, kitchen benches, ovens and the like. Please advise if there is anything that you are going to be taking from the property that is, or a Purchaser may think is a fixture, or should be staying? Equally, if there are goods that are staying with the property that you want to ensure that are included in the Contract, and that will help attract a prospective Purchaser to buying the property, can you let us have those details? These may be things like dishwashers, pool equipment, solar panels, TV antennas, or air conditioning.

What if my property has a swimming pool?

In NSW, if your property has a swimming pool, there a number of certificates that you are required to attach to the Contract. In particular, you will need to give us a Certificate of Compliance or a copy of a complying Final Occupation Certificate and your Pool Registration Certificate. If your property is in the ACT, you should also confirm with us, and let us have a copy of the Certificate of Occupancy.

Unapproved Structures

In the ACT, if you are selling a house or a town house, you are required to have a Building Compliance Report attached to the Contract, and that will list any unapproved structures.

In NSW however, if you fail to disclose unapproved structures, you can potentially give a Purchaser rights to claim compensation or to rescind the Contract. You should also let us know if you hold a survey for the property, as many prospective Purchasers will want to see a survey as part of making an offer.

Most importantly, let us know if there are, or you suspect there may be any unapproved structures – full disclosure is the best way of dealing with them.

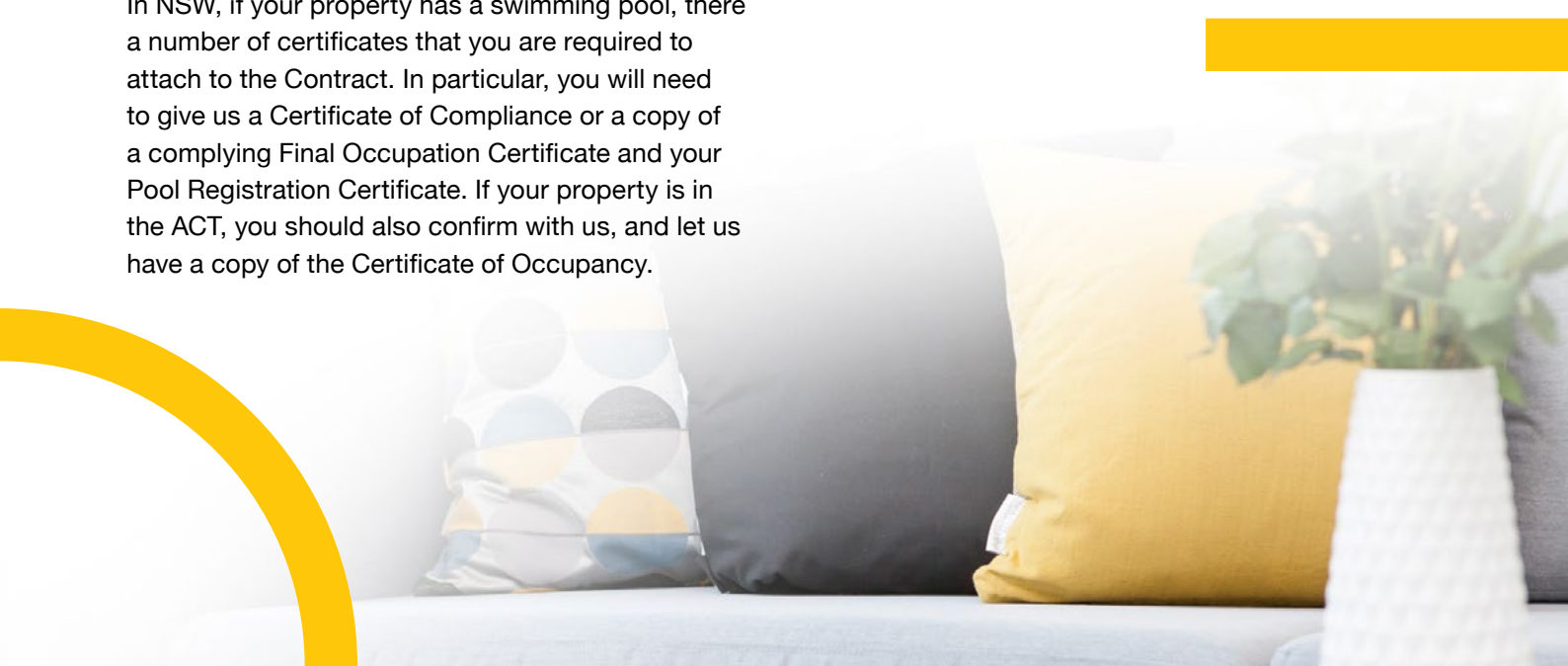
Home Building Act (NSW)

If you are an owner builder, and your property is in NSW, please let us know, as there is a specific warning we need to put into the contract.

For all NSW sellers, if you could let us have a copy of your Home Building Act insurance policies for work done in the last seven (7) years, that will also help us in preparing the contract.

Identity and Tax Clearance Certificates

If your property is being sold or is likely to be sold for more than \$750,000.00, we are going to ask you to apply for a Foreign Resident Capital Gains Tax (“FRCGT”) With-holding Clearance Certificate. We discuss this in our “Getting to Know You” information sheet. In the ACT you will also need to complete either a “Buyer Verification Declaration”, or “BVD”, or a Seller Verification Declaration “SVD”. If you contact the team, we can provide you with the relevant electronic portals to complete the forms.



What if the property is part of a Body Corporate?

If you are selling property that is part of a strata or unit development, such as a townhouse, flat or unit, please provide details of your Strata Manager. Could you let us have their contact details, as well as a copy of your last Body Corporate notice. You also need to let us know if there are any problems with the Body Corporate. In both the ACT and NSW, there are obligations on a Seller to disclose unusual extraordinary expenses or liabilities of the Body Corporate. In particular, if your Body Corporate has had to strike any special levies for work to be done, or is involved in the rectification of construction defects, or in any serious litigation, please let us know.

What if my property is rural or rural-residential?

Selling a farm or a hobby farm does involve a range of extra matters. Please make sure that you discuss those with us, either by way of a telephone call or by an appointment. Some of the more typical things that we want to know include whether there is a dam, a creek, or a bore on the property, and whether you hold any water licences or permits for them. If you have any livestock, we may need some information about that. We will also certainly want to know about any Rural Lands Protection Board issues and rates, Crown Roads, as well as any noxious weeds or stock disease issues.

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Land Tax

If you are selling the property and the property is not your own home, you will usually be required to pay Land Tax. If you are, can you let us know, can you kindly give us your last assessment, as we may be able to adjust the Land Tax as an adjustment at settlement.

What about anything else?

In short, let us know about anything at all which is important to you, or which you think would be important to a prospective Purchaser in respect of the property. An email or a telephone call to us at this early stage of preparing the Contract should hopefully make the sale process more streamlined, efficient and productive for you. We are here to help, and the more we know the better able we will be to help you.

