



Recent amendments to conveyancing legislation in NSW

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The *Conveyancing Legislation Amendment Act 2018* (NSW), assented to on 22 November 2018, introduces a number of changes to the *Conveyancing Act 1919* (NSW) (**Conveyancing Act**) and the *Real Property Act 1900* (NSW) that will affect property transactions in NSW.

We summarise the main amendments below.

1. New provisions for electronic land transactions

In support of the industry's transition to paperless conveyancing, NSW land transactions can now be conducted electronically.

New provisions in the Conveyancing Act make it clear that land transaction documents will be valid and enforceable when they are:

- contained in an electronic data file form; and
- electronically signed and witnessed.

These new provisions now apply to all contracts and deeds relating to land under the *Real Property Act 1900* (NSW).

2. Changes for residential off the plan contracts

Amendments which are yet to commence will introduce new vendor disclosure requirements and increase the cooling off period for residential off the plan contracts.

(a) Disclosure and Notification requirements

Under the new laws, vendors will be required to attach an approved form of disclosure statement to the off the plan contract which includes a copy of the draft plan and any other documents prescribed by the regulations. Regulations are not yet in place. However, it is anticipated the regulations may prescribe as part of the disclosure statement documents such as by-laws and a schedule of finishes (where there is building work), unit entitlement allocations and proposed leases. The new vendor disclosure requirements for residential off the plan contracts will operate in addition to the existing requirements under

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contracts will operate in addition to the existing requirements under section 52A of the Conveyancing Act.

A failure to provide the required disclosure statement will give the purchaser the right to remedies and relief prescribed by the regulations, and may include the right to rescind the contract and get their deposit back.

At least 21 days before completion of the contract, vendors will be required to:

- notify purchasers of any material change to particulars contained in the disclosure statement, if applicable; and
- provide purchasers with a copy of the registered plan and any other documents registered with the plan.

After a purchaser receives the notice of changes, a copy of the registered plan and other registered documents, the purchaser will have the right to rescind the contract if they can establish they would not have entered into the contract had they been aware of the changes or inaccuracies, or the changes or inaccuracies materially prejudice them.

(b) Cooling off period

In a further amendment yet to commence, the cooling off period for off the plan contracts will increase from five to ten business days.

The regulations may prescribe the maximum length of time by which the cooling off period may be shortened with the giving of a certificate compliant with section 66W of the Conveyancing Act.

Russell Kennedy in conjunction with Aitken Lawyers look forward to working with clients to assist them to enter into electronic form land transactions and comply with or review disclosure obligations for off the plan contracts. Click [here](#) to view merger announcement.

For more information, please contact [Sara Hatcher](#), Aitken Lawyers on (02) 8987 0000 or [Donna Rayner](#), Russell Kennedy on (03) 9609 1503.

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