



## FURTHER PROPERTY LAW CHANGES: THE SALE OF OFF-THE-PLAN LOTS WILL BE SIMPLIFIED

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The Queensland Government has introduced further amendments to property legislation, specifically for the sale of off-the-plan lots, which will be of significant benefit to property developers.

The *Land Sales and Other Legislation Amendment Bill 2014* (“**the Bill**”) introduced to Parliament on 3 June 2014, amends the *Land Sales Act 1984* (Qld) (“**LSA**”), the *Body Corporate and Community Management Act 1997* (Qld) (“**BCCMA**”) and instalment contract provisions in the *Property Law Act 1974* (Qld) (“**PLA**”).

### AMENDMENTS TO THE LSA

The Bill transfers the disclosure requirements for proposed community title scheme lots to the BCCMA. The definitions throughout the LSA will be updated to provide greater clarity - the term “allotment” will be replaced with the term “lot”, and “buyer” and “seller” will be used consistently.

Soon sellers will need to provide further statements to buyers at least 21 days before settlement of the contract if the disclosure plan is inaccurate. Currently, a significant variation notice must be provided 14 days after the seller is given the survey plan. The Bill also adopts the “material prejudice” approach used in the BCCMA regarding the seller’s obligation to notify the buyer of any variation between the disclosure plan and the final survey plan. Sellers will need to provide a plain English explanation of the general effect of the differences. An example of this is a change to the depth of fill from the disclosure plan. The onus will be on the buyer to show the variation materially prejudices them in order to terminate the contract within 21 days after receiving the further statement.

### PLA AMENDMENTS

The Bill has removed the maximum deposit restriction in the PLA for the sale of proposed lots, allowing a deposit to be 20% of the purchase price before the instalment contract provisions are triggered. For post registration sales, the deposit limit will remain at 10%. This change will assist developers to obtain pre-sales to secure finance and will improve financial viability for large off-the-plan developments.

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### AMENDMENTS TO THE BCCMA

Buyers will have 21 days after receiving a further statement to terminate the contract if they are materially prejudiced as a result of a change (currently 14 days). The Bill will also remove the offences relating to disclosure statements but will retain a buyer’s termination rights.

Provided a buyer under an option contract is the same buyer, only one disclosure statement will need to be provided. Once the Bill is passed, sellers can nominate a 5½ year sunset date for settlement, removing the statutory regulation requirement to extend the 3½ year sunset date. If a sunset date is not specified in the contract, a default period of 3½ years will apply. A buyer will still have a termination right if the transfer is not supplied to them within the required time.

### WHAT IS NEXT?

Currently, the Legal Affairs and Community Safety Committee is reviewing the Bill and it is estimated that it will be some months before the Bill is passed.

There are no transitional provisions in the Bill and contracts entered into after the commencement of the Bill will need to comply with the amended legislation. ClarkeKann will continue to monitor the progress of the Bill and will notify you of any key developments.

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