

SETTLEMENTS - FAQ

What is the Role of a Settlement Agent?

A Settlement Agent/Conveyancer attends to the legal transfer of Land Title from the Seller to the Buyer. Settlement Agents also handle a variety of other property related transactions and can prepare numerous documents under the Transfer of Land Act. Settlement Agents have to be licensed under Settlement Agents Act (W A Law). Settlement Agents are not Lawyers and can not provide you with any legal advice in relation to your property transaction. Settlement Agents should identify when you need to get legal advice and advise you of this fact. A settlement agent can not act or continue to act for person/s if any conflict arises in the settlement process that does not allow the settlement agent to represent the best interests of the person/s they are representing.

Can I choose my own settlement agent?

It is your right to choose your own settlement agent. Very often when you sign a Contract to sell or purchase a property the Real Estate Agent will nominate their own Settlement Agent. Whilst this is common practice, it is possible A Real Estate Agent recommending a Settlement Agent may have a financial or ownership arrangement between the Real Estate Agent and Settlement Agent. We encourage you to get two or three quotes for settlement to ensure you are getting the best price for the service provided.

How much will settlement cost?

Settlement fees are determined by the Department of Commerce and are set according to the purchase/sale price and are dependent on whether the property is a strata. Many settlement agents discount from this set fee. Settlement Agents can charge additional charges for Search fees, postages, photocopying, telephone, faxes, mobile calls and government charges for enquiries made on your behalf. You can ask for an itemised costing on this from your settlement agent.

Do I have to attend settlement?

No, your settlement agent attends settlement on your behalf as this is part of their service.

What occurs at settlement?

All settlements must take place within the CBD as this is the location of a Landgate office where documents can be lodged. Settlement is normally at the buyers bank or Landgate where all parties meet and documents are checked and money is exchanged. This process is normally less than 10 minutes. Once everyone is happy with the documents and funds, the transaction is settled. You will be advised when this all occurs on settlement day.

How long is the settlement process?

Normally 6 to 8 weeks. Most Contracts allow the Buyer 21 days for finance approval and then between 21 and 28 days for settlement from the date of finance. The process time factor allows the banks to issue documents, have them returned and checked in readiness for settlement.

Why can my settlement be called off?

Sometimes settlement can be called off or delayed for reasons beyond the settlement agents control. There are several reasons why this can happen. Some being – Shortfall of monies on the morning of settlement, documentation prepared wrong for settlement, the bank has brought wrong discharge of mortgage or prepared the discharge of mortgage incorrectly for settlement, parties were late for settlement and the parties could not wait and had to go to their next settlement, the bank prepared wrong cheques for settlement, a sale settlement did not occur so the purchase settlement could not proceed etc.

What do I do if my settlement is called off and I have booked my removalists?

The Joint Form of General Conditions which governs how settlements proceed, allows both the Seller and Buyer 3 days grace period. So generally a settlement that has been called off (and usually they are for very minor and easily solved reasons) can be easily rebooked for the next day. If you have booked removalists you will have to cancel them and re-schedule. Unfortunately any costs incurred for this delay will have to be borne by you.

Why can't you advise me of the full amount payable for settlement until settlement is booked?

Unfortunately the bank do not give us all the personal facts regarding your finance approval. The finance approval letter we receive from your bank sometimes does not have the figures on it or the correct figures for settlement. The bank usually shows the total value of your loan, however, all bank charges, mortgage insurance solicitor costs are usually deducted from this amount. If you wish you can advise us when you get the bank documents of the amount the bank are handing over for settlement or you can show us the paperwork and we can try assist you with this.

So until your settlement is booked most banks will not disclose the net funds available for settlement. This means, that there is not a lot of time to arrange clear funds from you in order to settle your property. Unfortunately Settlement Agents Trust Accounts have clearance days for cheques so we have to work with you to make alternative arrangements for the funds so they are available and clear for settlement in a short time period of time.

When should I do the Final Inspection on the property?

You are entitled to re-inspect the property 5 business days before settlement. Contact your real estate agent to organise this. We recommend do this within 3 business days prior to settlement to allow if any issues arise to be rectified by the seller prior to settlement.

When can I get keys to the property?

If the property you are purchasing is vacant you should be able to obtain the keys from the real estate agent immediately upon settlement being completed. If the current owner lives in the property as their principle place of residence then they have until 12pm the next day following settlement to move out and hand the keys over.