

Buying Land and Building a Home



Disclaimer

This booklet is for information purposes only, and must not be relied on as a substitute for legal advice.

Contents

Why Buy Land and Build?	1
<hr/>	
Buying Land	1
<hr/>	
Location and services	1
Features and orientation	2
Access	2
Boundaries and restrictions	2
Building Options	3
<hr/>	
House and land package	3
Project home	4
Custom built home	5
Kit home	6
Owner-builder	8
Selecting a Builder	11
<hr/>	
Builder checklist	12
Building contract	14
Warranties	15
Stamp Duty	16
<hr/>	
Buying land and building	16
Buying on completion	16
Useful Telephone Numbers	17
<hr/>	



Why Buy Land and Build?

For many people, buying land and building a home can be an attractive alternative to buying an existing house or unit. This means that you can build the home that will suit you and your family. The land may be bought and the house contracted and built on it, or a house and land package may be bought from a developer or Landcom. A project home builder or a custom builder may carry out the actual building of the house. Some people opt to build a kit home while others decide to build it themselves.

You need to decide whether you want to first buy the land and then find a house design to fit the land, or to do the reverse. It is probably more logical to buy the land first as land sites can be very limited but house designs are many and varied.

Buying Land

Location and services

When you choose a location, make sure it has the services you consider necessary for a pleasant lifestyle. It is no use buying where you will not be happy to live, although your financial situation may force you to compromise. You should consider the availability of schools, child care centres, shopping centres, parks, medical services, clubs, community swimming pools and so on. If some services are not yet available, find out if they are planned and when they are likely to be available.

An important consideration is public transport, what is available and how long it will take you to travel to and from work. Try to picture what the suburb will look like in 10 years' time and consider if this is still the place you want to live.

When buying land, you should consider the costs of connecting and maintaining services, including:

- water
- electricity
- gas
- telephone
- sewerage
- fire control.

Features and orientation

You should evaluate the land site critically. Consider any trees and whether they can remain or have to be removed before building. The cost of removing trees is likely to be expensive and council permission is usually required. Also consider whether any rocks need to be removed.

Remember that steep sites tend to increase building costs. The stability of the soil may also need to be checked. The local council may require geo-technical reports and extensive engineering drawings before granting permission to build.

If there are any creeks, dams or watercourses on or near the site, you may need to check any restrictions about building. Check if the site is prone to flooding as you may face difficulties obtaining finance and insurance.

You should consider the aspect and any views from the block. Will the views be built out or blocked out by vegetation in the future?

Use the site's natural features for maximum energy efficiency. For example, if possible, have the main living areas facing north for maximum exposure to the sun.

Access

You will need access to the site for concrete trucks and construction equipment, including bulldozers and bobcats if excavation is taking place. If the site is in a new or outlying area, a road may need to be constructed first. You should find out who is responsible for its cost and maintenance.

Boundaries and restrictions

Have the actual boundaries of the land measured. A registered surveyor should check and peg these. Also check with the local council about the building boundaries and zoning for the property.

Check if there are any easements for services (eg. sewerage, drainage or electricity) on the land. Any covenants that will limit your choice of building material or size of house should also be identified.

If you wish to add a granny flat, or subdivide the property for dual occupancy, check whether this is permitted by the local council. A check of any building covenants or restrictions on the title should also be undertaken.

Building Options

House and land package

House and land packages can be purchased through Landcom or from a private owner/developer. When you purchase through Landcom you place a \$100 deposit with Landcom to reserve a block of land. You then approach a builder for a price to build the house design of your choice. You should receive a tender letter from the builder within seven days. You then take the tender letter with plans and specifications to your lender.

If your lender does not approve the loan, Landcom will not refund the \$100 deposit. If your lender approves the loan, you will need to pay a deposit to the builder for the preparation of working drawings and specifications. This deposit can range from \$800 to \$2,000. This amount is usually not refundable and includes payment of council charges and fees to other relevant authorities.

After 30 days, you will need to exchange contracts on the land and pay the balance of 5% of its value. The land is usually settled 30 days after exchange with the funds coming from your lending body. At this stage, you will usually start to pay interest on the land loan to the lending body.

Whether purchasing through Landcom or a private owner, a land loan is normally used to finance the purchase. Normally there are two separate contracts involved, one for the land and one for the builder to build the house. However, when purchasing from a developer, there is usually one contract only.

A deposit (usually 10% of the purchase price) is paid on the house and land package. Contracts are signed and exchanged, with the balance of the purchase price being paid at settlement.

Project home

Project home companies build many new homes every year. They usually have a variety of standard designs and plans, ranging from basic budget designs to highly innovative upmarket designs. This means that project home companies can offer houses at very reasonable prices compared with custom builders. Project home companies are generally members of the Housing Industry Association or the Master Builders Association.

Before you select a home design, check:

- which one will best suit your budget and needs and
- the house layout will fit on your land. Remember that most project homes are designed for flat or gently sloping blocks of land. If you are on an awkward block, the wrong house could add tens of thousands of dollars to the price, just to build up to floor level.

When looking at display homes:

- obtain the floor plans, and measure the room size for yourself
- make sure that your furniture will fit into it and
- the design suits your lifestyle
- find out exactly what is included in the home and what is not
- ask if changes may be made and
- what choice of materials is available.

Remember that once you have selected a house, any changes required by you after construction has begun may be expensive and cause delays. If you do need to make a change to the plan after construction has commenced, obtain a written quotation from the builder and approval from your lending authority. In some cases, permission may not be given.

You should ask three or four builders to quote on building the house on your block of land. This is important as the price tag of display homes does not include any site costs. When the builder quotes on your house, ensure that the quote is fully itemised

and as comprehensive as possible. The builder should visit your site to ensure that all extras are included, such as:

- surcharge for building out of the builder's normal area
- site access problems for delivery of materials
- pier and beam footings
- extra lengths of connection to drainage, water service, electricity
- engineer's fees
- rock excavation
- drilling under roads for service connections.

Be aware that quotes that are very low may not have a high-quality finish and that quotes that are very high could be excessive. You should also check out the builder's reputation and licence. (See the checklist on page 12.)

Custom built home

Custom builders are different from project home builders as they only build a handful of houses each year and most of these are 'one-off' houses. These houses tend to be more expensive to build than project homes, where economies of scale can save money.

The first step is to find a suitable design. You can get an architect or draftsman to draw plans or you can draw them yourself. Sometimes, the builder will be able to provide a plan for you.

Drawing the plans yourself is not recommended unless you know what you are doing and know all the requirements for house plans. Plans must include a site plan, floor plans, sections and elevations, construction and any other details necessary. If the plans are poor or incorrect, it is likely that you will be dissatisfied with the completed dwelling.

A competent **architect** should be able to design a house that can be built within your budget. They are trained in design and must be registered. Architects can be found by contacting the Royal Australian Institute of Architects (RAIA).

You can employ an architect to develop the concept or design, and prepare the working drawings and all the documentation. To get to this stage will normally cost around 6% to 8% of the value of the house.

An architect can also be employed to organise quotations and supervise the entire project. The cost for this complete service is likely to be about 10% to 12% of the value of the house.

Draftspersons do much the same as architects but are not trained in design nor do they need to be registered. A draftsperson is the person to see when you know exactly what you want but need someone to draw it up. Many draftspersons have good design skills as well.

Many **builders** offer a planning service, where they design the house, prepare the plans and build. If you choose this option, make sure you get competitive quotes from other builders. If you choose one builder but use the plans of another, you will need permission in writing from the designer/builder, as a royalty may be payable.

The final plans are likely to represent a compromise between your budget, your needs, and your wants. Important design features you should consider include:

- the number of rooms required
- what style of house will fit on your land
- how it can be best oriented to use the sun
- the roof style
- the types of windows and doors
- access to the house and
- whether the overall effect is 'you'.

Kit home

Kit homes are essentially the plans and components of a house (with some exceptions) delivered to your site, ready for you or a builder to construct. It is more often used in country than city areas. Their advantage for outlying areas is that everything can be delivered at once on one or two trucks.

The quality of the kits varies. It is important to deal with reputable, well-known companies and

check them out carefully. Kit home suppliers must be licensed with the Office of Fair Trading. For kit homes over \$12,000, a certificate of home building warranty insurance must be given to the homeowner before taking any money on the contract and before supply.

Talk to previous clients to see how the kit home actually went together, how complete it was, what the quality was like, what they had to provide, how easy it was to build, what was not included, how the instruction manual was and so on.

Before you commit yourself to a kit, obtain a copy of the inventory and building manual. Not all kit homes have the same inclusions in the basic price. Check whether items, such as footings, slab/floor, wiring/switches/electrical accessories, plumbing/taps/fittings, built-ins, kitchens, sanitary ware, tiles and paint, are included.

You are responsible for general insurance (eg. fire and theft) of the kit once it leaves the factory. Ensure your kit supplier has attached a certificate of home building warranty insurance (for projects over \$12,000). This will cover you for any problems with components of the kit.

Building the new kit home may be done by you as an owner-builder, by a sub-contractor organised by you (only when you have obtained an owner-builder permit from the Office of Fair Trading) or by a licensed builder contracted by you. If you use a builder, you can typically double the price of the kit to have it built. Some kit home companies will offer a build option where their builder puts the house together, which may be reasonable in cost. If the kit supplier is also the builder, the total cost should be shown on the contract and home warranty insurance provided also for the building work.

Owner-builder

An owner-builder is anyone who takes on the job of managing their own building project and does the coordinating and contracting usually undertaken by a builder. Apart from electrical, plumbing and gas fitting, you may do all the work yourself, or engage sub-contractors to do all or part of the work. Under NSW law, you must obtain an owner-builder permit if:

- you intend to undertake or supervise and coordinate your own residential building work
- the market value of the labour and materials is greater than \$5,000 and
- the work requires development approval or is a complying development.

You do not need to hold formal trade qualifications except for specialist work. However, you must:

- be 18 years or older and
- own, have a share of ownership, or have a leasehold interest (exceeding three years) in the land on which you intend to build or renovate and
- live or intend to live in the completed home or in one dwelling of a duplex or other dual occupancy dwelling and
- you must also have completed an approved owner-builder course or training, if the market value of your proposed building project is over \$12,000.

Thousands of people choose to be owner-builders each year for projects from carports to extensions to new homes. Owner-builders are often inexperienced, or lack time and knowledge but usually have strong ideas on the finished product. Therefore, a good option is to use a licensed builder to build the house to lock-up stage. This means the floor, walls, the roof, eaves, doors and windows, and some drainage and plumbing are in place. The owner can then finish off the house. If the remaining work does not need council approval or is not valued over \$5,000, it does not need a permit.

You can apply for an owner-builder permit from any

Office of Fair Trading Centre either in person or by mail. You will need:

- proof of ownership or long-term leasehold interest in the land (rates notice or title deed)
- your development application number issued by your local council or complying development certificate number
- a copy of your building plans (including site plans) as submitted to council
- a certificate of completion of approved course and
- your owner-builder permit application fee (\$140).

You may obtain more than one owner-builder permit for the one property if the works are connected to the original project. However, you can only obtain an owner-builder permit for another property five years after you obtained your last owner-builder permit.

An owner-builder needs to:

- organise plans, specifications, and engineering drawings (if applicable)
- lodge plans with local council
- call for tenders and quotes
- obtain finance
- obtain water and sewerage diagrams and all other approvals from the appropriate authorities (eg. local council, water authority)
- obtain an owner-builder permit from the Office of Fair Trading
- obtain a written contract. (Since 1 May 1997, all contracts for residential building work with labour and materials content valued over \$1,000 must be in writing and contain certain warranty provisions)
- organise workers' compensation, public liability and builder's all-risk insurance for the owner-builder project
- ensure occupational health and safety awareness for all workers
- check with the Office of Fair Trading that tradespeople you contract with are licensed and that the licence is current and authorises its holder to do the work

- pay PAYG taxes from all tradespeople engaged as wage employees (not contractors)
- oversee the building process, such as the arrival and departure of tradespeople, ordering and delivering of materials and management of the site
- hire a foreman or supervisor if necessary (although you as the owner-builder remain responsible for the building work throughout the project)
- organise power and water to site
- organise toilet facilities, sheds
- set out the site
- organise scaffolding where necessary
- purchase all materials and take delivery of them
- clean up after tradespeople
- answer all enquiries about the project
- keep records of the project
- pay tradespeople (normally on a weekly basis, but make sure contracts provide for payment for work done, not just time passed)
- control costs
- deal with all problems and disputes
- inspect all tradespeople insurance policies (ie. home warranty, public liability, workers' compensation and builder's all-risk). These policies relate to individual tradespeople. You as the owner-builder will also need your own insurance cover as you build.

You can save money as an owner-builder if no mistakes are made. Mistakes quickly erode any savings. Savings may increase as the work done by the owner-builder increases but the cost is in the extra time taken. Remember that the more work you do as the owner-builder, the greater the risk of mistakes being made.

One of the drawbacks of owner-building is the stress involved, partly due to the time that has to be devoted to the project. It can put stress on relationships with family and friends.

You should aim to be on site every morning to answer questions and organise the day's work

and, if still working at your regular job, ensure your employer understands that, at times, you will need to visit the site during working hours.

The single most difficult problem for owner-builders is the availability of finance. Many lending authorities will not lend to owner-builders at all. (See the booklet, *Financing Your Home Purchase*, for more information about financing.)

Finally, if selling the property within six years from completing the building project, the owner-builder must take out home building warranty insurance. This insurance will cover the subsequent purchaser of the property for defective or incomplete work if they cannot obtain compensation from the owner-builder. A certificate of this insurance must be attached to the contract for sale.

Selecting a Builder

When you are ready to select the builder, seek recommendations from friends, neighbours or relatives who have recently had building work done. If you notice some good building work being done around your area, ask who the builder is. The builder may be available. If you have no contacts, call the Master Builders Association for a short list of builders in your area doing the type of work you require. The Housing Industry Association will be able to give you a similar list.

Look for advertisements on television, radio, in home buyer magazines or the local newspaper. Look in the Yellow Pages under 'Building Contractors' and under the various types of trade categories. The Office of Fair Trading has information on how to select a builder or tradesperson.

Invite builders to quote. You should provide detailed plans and specifications. If possible give an accurate indication of what you want to spend on prime cost items, such as sanitary ware, tiles, kitchen and so on. If any engineering is required, make sure the builder has these details as well.

Builder checklist

Use the following checklist when selecting a builder and during the construction process.

Is the builder properly licensed with the Office of Fair Trading? The licence number of the builder and lists any conditions that apply to his or her licence. The licence holder is entitled to contract. Any contract entered into should be in the builder's name and licence number.

Ask the builder for the addresses of some previous work carried out. Then ask the owners whether:

- they were happy with the builder
- the builder started and finished on time
- the builder held to the quoted price, were there hidden extras?
- the work was properly supervised and by whom
- the tradesmen continually need to be called back to repair or complete work
- they would use that builder again.

Ask the builder how much deposit you need to pay. Most home loans require a deposit of 5% and a maximum deposit of 5% applies. Where smaller works, such as extensions, are being done, the builder is entitled to ask for a deposit of 10%. Asking for a deposit before providing building warranty insurance is illegal.

Ask the builder how many jobs are being done at the present time. Too many jobs doing too much at once to properly manage your job well.

Ask the builder whether your house will be coordinated by a superintendent for the project. Ask how many houses are allocated to each supervisor. A supervisor should not have more than three to five houses to look after.

Check the builder's workers' compensation, public liability, building and construction insurance documents.

Check the contract you will sign. Consult your own solicitor to ensure your interests have been adequately protected by the contract you propose to sign.

Make sure the contract documents and any alterations have been reviewed by your solicitor yourself before work commences or any money is paid.

Check the plans and specifications have been approved by the building consultant before work starts.

Are the progress payments stipulated in the contract? It is important that the work is inspected by the lending authority each time payment is due. Ask your building representative (architect or building consultant) to check that the work meets the required standard.

Are there any defects picked up by your building consultant? Point out any defects to the builder with the date by which the problem should be resolved. Do not take possession of the house until the builder formally notifies you that the work is complete. You have permission to move in. Moving in early will require the permission of the lending body.

ing the building process.

	Yes	No	Follow up
This licence gives the name licence, as well as stating that ould be in, and include, the			
d out. If possible,			
as			
defective work and			
es cost more than \$20,000, up to \$20,000 in value, are Asking for money up front			
ime. The builder may be			
supervisor allocated to your r. Ideally, a supervisor should			
der's all-risk, home warranty			
ensure that all of your needs o sign.			
een signed by the builder and			
e local council before building			
ortant that the house and by your own he works are being built to			
resent a written list of any ld be fixed. You should not you of completion and you mission of the builder and			

Do you need to put in an insurance claim because the build notified defect under the home warranty insurance? Other o

- seek independent legal advice as to whether or not the c
If not, and you are clear about the resolution you are see
to the Consumer, Trader and Tenancy Tribunal for an ord
- make an insurance claim to the insurer named on the ce
attached to the building contract
- if there is no insurance, contact the Office of Fair Trading
be able to assist you with your complaint.

Have you arranged general insurance cover (ie. fire, theft, storm and contents as soon as you take possession?)

Building contract

A building contract includes not only the 'actual contract document' or 'building agreement' but also the architectural plans of the house, the specifications which describe the quality of the building, and possible tender quotations.

Any job (including labour and materials) over \$1000 must have a written contract which must include:

- the name of the builder and the consumer and signature of both parties
- the builder's licence details (name on licence and licence number)
- description of work and plans and specifications
- statutory warranties – warranties last for seven years from completion of work, but there are limitations on liability (ie. fair wear and tear and manufacturers' warranties)
- the contract price, prominently displayed on the front page, with a warning if it is subject to change
- evidence of title to land
- evidence of owner's capacity to pay for works
- progress payments, including legal deposits are limited under the *Home Building Act 1989* but they are not required to be included in a building contract.

It is also a good idea to include:

- dates of commencement and completion

	Yes	No	Follow up
<p>er refuses to fix a</p> <p>ptions are to:</p> <p>contract is at an end.</p> <p>eking, you may apply</p> <p>der against the builder</p> <p>ertificate of insurance</p> <p>, which may</p> <p>n) for the house</p>			

Warranties

Building contracts have to contain relevant statutory warranties. The warranties relate to the performance of the work, the materials to be used, compliance with the law, completion time and fitness for occupation. The warranties will also apply for subsequent owners of the property. These statutory warranties cannot be excluded by any provision of the contract and will last for six years from completion of the work.

- penalties for late completion (care needed here)
- authorisation of payments by the lending authority
- lending authority inspections
- variations and how they should be treated
- sub-letting of work
- extensions of time
- hours to be worked
- determination (cancellation of contract) by the proprietor
- prime cost items and provisional sums (best kept to an absolute minimum)
- foundations and unexpected sums
- practical completion and payment
- defects liability period

- retention sums (if required)
- authority to exclude unauthorised persons
 - make sure that your representative can inspect the works when required
- clause dealing with disputes
- notices
- standard of construction
- damage to persons or property
- schedule of rates – details of rates where accurate quotes cannot be given.

The builder must give you a copy of the contract within five business days of entering into the contract. There can be no compulsory arbitration clauses in any home building contract.

For contracts over \$12,000 in total, the builder must give you a certificate of home warranty insurance before starting the work and before taking any money from you. Other insurances required are workers' compensation, builder's all-risk and public liability insurance (to cover liabilities to third parties for an amount of no less than \$5 million).

Most of these items are listed in printed contracts. You can add or delete clauses to best suit your needs, but this should be done with your consultant's advice, and remember, the builder has to agree as well.

Stamp Duty

Buying land and building

If you purchase land then later build a home, you usually only have to pay stamp duty on the purchase price of the land. Normally, a builder won't commence construction until the land is in the name of the purchaser.

The best arrangement is for the land to be settled at the same time as the building plans are due to come out of the local council. If this happens you will pay interest to the lending body for the shortest possible period.

Buying on completion

You may not wish to make any repayments until the house is built and so ask for a price 'on completion'. The builder will buy the land of your choice on, say 5% deposit of house and land package, and construct the house with the balance of purchase monies being paid on completion.

The loading in this case will include:

- stamp duty and solicitor's fees on the land purchased
- interest to the builder's bankers for the cost of the land purchase and
- the cost of home components while it is being built.

These costs will be added to a house and land package with one contract only for you to sign. In this case, stamp duty is payable on the full purchase price for the land and house.

Useful Telephone Numbers

Archicentre	1300 134 513
Association of Consulting Engineers	9966 4966 1800 800 528
Association of Consulting Surveyors	9267 9728
Office of Fair Trading	
Building Inquiries	13 32 20
Housing Industry Association (NSW)	9978 3333
Land and Property Information NSW	9228 6666 1300 052 637
Landcom – Sales office	9629 2999
Master Builders Association	8586 3555 1800 451 393
Office of State Revenue	
First Home Plus/First Home	9685 2187
Owner Grant Scheme	1300 130 624
Sydney Building Information Centre	8303 0580 1300 884 876
Workcover NSW	13 10 50



Further information

If you have any questions about the information in this brochure, please contact the **Home Purchase Advisory Service**:

Telephone: Freecall 1800 806 653

TTY Service: 1800 628 310

Email: advisory@housing.nsw.gov.au

Housing NSW's website has current information on home purchase issues and services, including all the Home Purchase Advisory Service publications.

Website: **www.housing.nsw.gov.au**

The information contained in this brochure was current as at February 2008.

Interpreter Services

If you have difficulty understanding English, contact the Translating and Interpreting Service (TIS) on 131 450. The Translating and Interpreting Service will telephone Housing NSW for you at no cost.



www.housing.nsw.gov.au

Housing NSW
March 2008