



Attorney-General and Minister for Justice
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14 April 2022

Mr Neil Laurie
The Clerk of the Parliament
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Laurie

I refer to e-Petition 3688-22 tabled in the Legislative Assembly on 15 March 2022 titled *Off the Plan Developments*.

I thank the petitioners for bringing their concerns to the attention of the House.

I am pleased to advise the Government is reviewing the issue of termination of 'off the plan' contracts via sunset clauses as part of the Government's Property Law Review currently underway.

As Queensland's Minister responsible for the *Body Corporate and Community Management Act 1997* (the BCCM Act) and the *Land Sales Act 1984* (the Land Sales Act), I appreciate that buying a residential property is one of the biggest financial decisions many Queenslanders make during their lifetime.

I would also like to highlight that a 'sunset clause' is not part of the REIQ's Queensland Law Society endorsed contract. 'Off the plan' sales typically utilise non-standard contracts, given the property is yet to be registered. For this reason, I strongly encourage anyone considering buying a residential property to obtain independent legal advice before signing a contract, especially when a contract is a non-standard contract or includes added conditions.

In Queensland, the Land Sales Act regulates 'off the plan' sales of proposed lots. The Act aims to facilitate property development in Queensland, while also protecting the interests of consumers in relation to property development, including buying land 'off the plan'.

The Land Sales Act requires the seller of a proposed lot to settle the contract for the sale of the proposed lot not later than 18 months after the buyer enters into the contract.

If the seller fails to settle the contract within 18 months, other than because of the buyer's default, the buyer may terminate the contract for the sale of the proposed lot by written notice given to the seller before the contract is settled.

The Land Sales Act does not provide sellers with a statutory right to terminate an 'off the plan' sales contract after 18 months. However, the particular terms of a contract entered into by the buyer and seller may provide the seller such a right to terminate, which may be referred to as a 'sunset clause'.

In Queensland, the BCCM Act contains provisions regulating 'off the plan' sales of lots proposed to be included in community titles schemes. In this context, a lot can mean a unit or townhouse in a property that will have a body corporate. The provisions are consumer protection measures to protect prospective buyers.

Specifically, the BCCM Act aims to protect prospective buyers entering into an 'off the plan' sales contract for a proposed lot by including a right for buyers to terminate a contract, if it is not settled within the timeframes prescribed by the BCCM Act. Depending on the terms of the particular contract, the BCCM Act allows up to five and a half years, from the date the contract was entered into, for settlement of contracts for the sale of proposed lots.

The sunset arrangements enable the buyer to terminate the sale contract for a proposed lot and recover their deposit. The BCCM Act does not provide a statutory right for a seller to terminate a contract for a proposed lot in these circumstances. However, again the particular terms of a contract entered into by the buyer and seller may provide the seller with a right to terminate.

If any buyers are concerned their residential property sales contract may be terminated in the future, I would encourage them to seek legal advice about the particular terms of the contract, and any legal remedies that may be available to them in the event of termination of the contract.

I note the petitioners' request for the Government to make similar legislative protections, as a matter of urgency, as those which were made in 2015 to the New South Wales (NSW) *Conveyancing Act 1919*, to protect both the purchaser who needs to provide consent in writing to the rescission of a contract and the developer who can obtain an order from the Supreme Court to rescind the contract.

As part of the Government's Property Law Review, careful consideration will be given to the approaches adopted by other jurisdictions that have grappled with issues associated with sunset clauses included in 'off the plan' sales contracts. We are commencing targeted consultation and will be consulting with the community in the coming months.

I thank the petitioners again for bringing their concerns to the attention of the House.

Yours sincerely



Shannon Fentiman MP

Attorney-General and Minister for Justice

Minister for Women and Minister for the Prevention of Domestic and Family Violence

Member for Waterford