



Conveyancing Email Update



PAMDA Update

PAMDA may apply to some commercial property.

The requirements of the *Property Agents Motor Dealers Act 2000* applies to the sale of “residential property” in Queensland other than a contract formed on a sale by auction.

The property is “residential property” if the property is:

- (a) A single parcel of land on which a place of residence is constructed or being constructed; or
- (b) A single parcel of vacant land in a residential area; or
- (c) A lot or proposed lot in a Community Title Scheme under the *Body Corporate and Community Management Act 1997* or the *Building Units and Group Titles Act 1980* that is a place of residence or in a residential area.

Paragraph “c” above could therefore include non residential lots (such as retail or office space) within residential buildings.

It is difficult to say how the courts will interpret the above section and there have been no cases on it to date.

Whilst this was not the intention of parliament, we would recommend that you comply with the *Property Agents and Motor Dealers Act 2000* regarding:

- (a) Attachment of a Form 30c Warning Statement to the contract;
- (b) Giving a clear direction to the buyer directing their attention to the Form 30c Warning Statement, the BCCM Form 14 Information Sheet and the Contract prior to signing; and
- (c) Obtaining a waiver of the cooling off period for unconditional contracts, in respect of commercial lots if they are within a residential building.

The following property is not “residential property”:

- (a) A single parcel of land on which a place of residence is constructed or being constructed if the property is used substantially for the purposes of industry, commerce or primary production;
- (b) A single parcel of vacant land if the property is in;
 - i. A non-residential area; or
 - ii. Is in a residential area but the seller has a current development approval for non residential purposes; or
 - iii. Is used substantially for the purposes of industry, commerce or primary production.
- (c) Any land on which a non residential building is constructed or being constructed.

If you have any further queries in relation to this update do not hesitate to contact Paul McHugh.

February 2011

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