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Q&S CONVEYANCING UPDATE

ISSUE 29, 3 JULY 2009

PROPERTIES AT RISK OF FLOODING

Due to the recent flooding in many parts of South East Queensland we have been asked by Buyers of residential property what their rights are if these properties are at risk to flooding.

The nature of Conveyancing practice in Queensland is to “sign now and search later” and accordingly a Buyer only usually knows facts about a property revealed by physical inspection prior to signing the Contract.

The REIQ Contract for Houses and Residential Land (Sixth Edition) does not contain any standard conditions that give a Buyer the right to terminate the Contract if the property is subject to flooding.

A prudent Buyer who has any doubts about the characteristics of the property and in particular if it is subject to flooding should materialise these doubts into special conditions in the Contract.

A suitable special condition dealing with flooding is as follows:-

- a) This Contract is subject to and conditional upon the Buyer being satisfied within 14 days from the date of this Contract (“the Notice Date”) that the Property has not in the past been affected by flooding.
- b) If the Buyer’s searches reveal that the Property has in the past been flooded, or is currently at risk of flooding then the Buyer may terminate this Contract by notice in writing to the Seller before the Notice Date.
- c) If the Contract is terminated pursuant to the above clause, then the Deposit must be re-funded in full to the Buyer.

A Buyer can obtain information on flooding from the relevant Local Authority or instruct their solicitor to undertake a search on their behalf.

Agents selling properties in flood prone areas may consider providing these reports to potential Buyers to remove any such doubts.

Brisbane City Council has recently launched its free Floodwise Property Report available on its website.

**Richie Muir, Solicitor,
Quinn & Scattini Lawyers**

If you would like to ask any question about this or any other similar issue Richie may be contacted on 3821 2766 between 8.30am to 5pm Monday to Friday.

*In addition to residential and commercial Conveyancing services,
our team of experienced lawyers practice in Business Law, Commercial Litigation,
Property Law, Wills & Estates, Criminal Law and Family Law.*



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