



# Q&S CONVEYANCING UPDATE

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## LAND NOT LAWFULLY USEABLE FOR RESIDENTIAL PURPOSES

Many real estate agents may not be aware of the effect of Chapter 5, Part 2, Division 6 of the Property Agents and Motor Dealers Act 2000 ("PAMDA"). The division applies to:

- a) the sale of "vacant land";
- b) which is located in the City of Brisbane (or any local government area in the State - meaning any region, city, town or shire in the State); and
- c) which land cannot at the date of sale be lawfully used for residential purposes.

Where these conditions apply, a real estate agent must give a buyer a statement before the buyer signs the contract. The statement must contain the information set out in sub - section 149 (3) of PAMDA, namely:

- a) identification of the land including Lot/Plan number;
- b) names/address of seller/buyer;
- c) a statement that the land cannot lawfully be used for residential purposes;
- d) a statement that any construction of improvements on the land which are intended to be used for residential purposes is an offence under PAMDA and which may entitle Council to demolish the said improvements.

The statement must also be dated and signed by the agent and the buyer.

**Important:** If an agent does not give the statement in substantially the form prescribed in section 149 of PAMDA, the buyer may by notice to the seller or agent avoid the contract within 6 months of the buyer entering into the contract. Moreover, the seller and agent are both liable at law to the buyer for any amounts paid by the buyer under the contract and the buyer's legal and other costs and expenses which the buyer can recover as a liquidated debt.

If completion is effected, sub-section 150 (8) of PAMDA provides a mechanism for the conveyance of the title back to the seller.

These statutory liabilities are in addition to fines payable by the agent and do not bar the buyer from seeking damages at common law.

Given the gravity of this section we highly recommend where it is the intention that land is to be used for residential purposes that agents undertake appropriate searches of the land being sold to ensure it is properly zoned for residential purposes before the buyer enters into the contract.

Members of our property law and conveyance teams can assist you with searches or other advices you may require in relation to the above.

**Raymond Duffy, Associate,  
 Quinn & Scattini Lawyers**

If you would like to ask any question about this or any other similar issue Raymond may be contacted on 5499 3622 between 8.00am to 5.30pm Monday to Friday or email [rduffy@quinnscattini.com.au](mailto:rduffy@quinnscattini.com.au)

This update is for your information and interest only. It is not intended to be comprehensive, and it **does not constitute and must not be relied on as legal advice**. You must seek specific advice tailored to your circumstances.

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