



Q & S CONVEYANCING UPDATE

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ALTERNATIVES TO CASH IN A SLOWING MARKET

In today's changed economic climate there is an increased number of would be Buyers who are finding it harder to obtain finance to purchase real estate

The application of more stringent assessment criteria by financiers means that Agents and Sellers need to be more creative, inventive and flexible in their approach to deal making.

We were recently approached by a developer who had a prospective Buyer who was ready and willing to buy and who had some cash but not enough for a 10% deposit. The Buyer was a small self employed businessman and had Trade Dollars that he wanted to use.

Our client developer was prepared to accept some Trade Dollars and asked us for help to document the deal. We prepared an agreement collateral to the REIQ Contract in which the Seller agreed to accept Bartercard Trade Dollars in part payment of the deposit and purchase price for a property.

Bartercard is a well known trade exchange facility whose members can pay for items in whole or in part using Bartercard Trade Dollars instead of using cash.

While we don't have any brief to promote Trade Dollars or Bartercard some Sellers, like our client, given the soft market that we have now, might be inclined to accept Trade Dollars rather than lose a Buyer. With Trade Dollars the Seller doesn't have to be a developer or even a small business operator to be able to utilise the Trade Dollar system.

The standard form contracts of sale need to be amended and special conditions of sale drawn or a Collateral Agreement entered into if resort to Trade Dollars is to be utilised.

When preparing a contract utilising Trade Dollars, Sellers need to be mindful that Trade Dollars are usually discounted from cash and if there is default by the Buyer a prudent Seller should be able to recover losses in cash not Trade Dollars

Under the *Legal Profession Act 2007* it is unlawful for Agents to draw special conditions or legal documents including Collateral Agreements, only lawyers are licensed to do so.

A fair estimate of the cost for a lawyer to prepare a Collateral Agreement is @ \$660.00 depending on complexity. A small price to pay if a sale is achieved.

Richie Muir, Solicitor
Quinn & Scattini

If you would like to ask any question about this or any other similar issue Richie may be contacted on 38212766 between 8.30am to 5pm Monday to Friday.

Quinn & Scattini Lawyers has offices in Brisbane, Beenleigh, Caboolture, Southport, Ipswich and Cleveland. 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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