



2 Buying or building

You may be living in a home that you own or have a mortgage on, but wish to sell and buy or build another one. This might be because you want less garden, a smaller house or you want to change location.

Before making a final decision or signing any contracts to sell, buy or build:

- know what you want and can afford;
- do your research and shop around;
- ask lots of questions;
- get advice; and
- talk to people you trust.

Costs

To buy or build, you may need a home loan. In applying for a loan, the lender will consider your income and capacity to repay. Home loans have different features, including interest rates, fees, charges and pay back options. Understanding the different options can be difficult and confusing. If you are not sure about anything, ask questions and get advice.

Before you go looking for properties or engage a builder, you can approach a lender to approve a home loan in principle and in writing.

The cost of buying or building is much more than just the price of the land and the dwelling. There are other expenses that you need to plan for, such as stamp duty, charges, expert advice, site costs, possible demolition or refurbishment, insurances and ongoing expenses. There is also the cost of moving and living somewhere else while you are building or in between selling and buying.

It is not only important that you can afford to buy or build and meet your expenses now; you must also be able to continue to afford your home and expenses in the future.

Titles

Each parcel of land available for purchase in Western Australia is recorded on an electronic

register by the Land Titles Office, which is part of Landgate – a government agency. The original record is known as a certificate of title.

Think carefully before signing a final contract for finance, purchase or building.

There is no requirement for a cooling-off period with these contracts in Western Australia. If the contract you sign does not include a cooling off period, you cannot get out of the contract because you have changed your mind.

The certificate of title outlines important information about the land, including:

- the legal description of the land (lot number, plan number and title number);
- whether the land is a green title, purple title or a strata title;
- who owns the land; and
- some types of restrictions about if and how the land can be used.

You can request a copy of a property's title from Landgate for a fee. Contact (08) 9273 7373, 1300 365 288 (country) or visit: www.landgate.wa.gov.au

Restrictions on land or properties

Before buying a property or land on which to build, check to see if there are any restrictions e.g. covenants, easements, memorials or caveats on the land title. Some titles may restrict what you can build, what additions may be made and even what materials you can use. For example, the Water Corporation may have a right to install or access a sewer line on the property, which could restrict your ability to install a pool or build an extension. Some newer suburbs may have covenants about fences, gardens or the style or quality of the housing.

Restrictions are generally recorded on the certificate of title. When a property is first sold with restrictive covenants, these conditions should be detailed in the contract of sale. As well as reviewing the title, you may also want to check with the local government about any planning restrictions that may apply.

Buying a home

Property can be bought either by private sale or at auction. An auction is a publicly held sale where the property is sold to the highest bidder. A private sale can be conducted directly with the property owner or through a real estate agent.

Real estate agents are required to be licensed by the Department of Mines, Industry Regulation and Safety. To check that an agent is licensed before you engage one to sell a home or assist you in buying a home, ring the department on 1300 304 054.

It is important to remember that, unless the contract makes specific provision, properties are sold in the same state as when first inspected. So it is essential to conduct a thorough inspection. Once you have inspected the property, if you want changes to be made prior to sale or you want to ensure certain items are included in the sale, you should insert specific terms or conditions into the contract. These terms need to be accepted by the seller.

The seller is not currently required to supply information about a property directly to the buyer, except for a strata title property (see fact sheet 3 for more details on strata title). However, buyers may if the seller agrees, receive a Seller Disclosure Summary, which provides information about a property. It is important that the seller and agent do not deliberately mislead buyers about the condition of a property.

Checking the things you can't easily see in a property or complex may require special skills, so it's often a good idea to engage experts to do these inspections for you. Types of inspections include building, electrical, plumbing/sewerage and timber pest inspections.

Checking the things you can't easily see may also involve asking the seller or agent to confirm in writing if:

- there are restrictions on the use of the property that are not listed on the title, for example, access to a sewerage;

- any buildings, improvements and fences on the property were constructed without the relevant approvals;
- the building or any additions are less than six years old and, if so, whether home indemnity insurance has been taken out; and
- there are any legal ownership disputes.

If a property is currently tenanted, ask for details of the lease agreement. If the tenants have a fixed term agreement with the current owner, and do not agree to move earlier, they may remain in the property until the fixed term expires, with the buyer as their new landlord.

Buying checklist

- Conduct thorough inspections of the property and check restrictions, or use independent experts to do these checks on your behalf.
- Get all assurances in writing.
- Word the contract so that any offer on a property can be withdrawn if standards written into the contract are not met.
- Be clear on what is included in the sale e.g. fixtures and fittings.

Building a home

Building a home involves three major decisions:

- choosing land;
- choosing a design; and
- choosing a builder.

You will need to think about all three decisions at the same time. For example, the type of land you buy may limit your options for the design of your house and the type of house design you choose may impact on your choice of builder.

Choosing land

Check with the local government about:

- any special by-laws, planning aspects or restrictions relating to the land;
- previous recorded use of the land by industry;
- whether there are any restrictions on the materials you use, the style of your house or the timeframe for building; or

- any plans for the area that might affect your enjoyment of the property, such as planned road construction.

Choosing a design

If you have an idea for a house design, you can employ a building designer, architect or builder (who offers a design service) to draw the design for you. Before engaging someone, discuss the cost and who keeps the design copyright. If you want to build again using the design, you may want to retain copyright. Make sure this is in writing.

Alternatively you can choose an existing design that is offered by a builder as a project home.

Choosing a builder

Builders must normally be registered by the Building Commission to undertake building work worth \$20,000 or more.

Project home builders offer standard designs at a known cost. There may be extra costs to fit the design on your block of land, and if you change the standard design. Some project home builders offer house and land packages that minimise the risk of extra costs.

Many project home builders offer a design service and will prepare and cost a one-off design for you. You may pay extra for this service, and the builder will normally retain copyright so that you can't get prices from other builders.

If you have your own design you can ask a number of builders to give you a price to build it. You may get your architect or designer to arrange this for you. It is always good to get at least three prices.

In selecting any builder it is always wise to ask to look at recently completed work, and to speak to recent clients about their experience.

Building contracts

Make sure that the building contract includes all your final requirements about the building and features. Making changes after the building contract has been signed can be costly.

You should check that your contract covers matters such as:

- type and size of the hot water system;

- type, number and location of light, gas and TV fittings, power points and taps;
- provision for site works;
- method for termite prevention treatment;
- extent of tiling;
- the crossover (where the driveway on your land meets the verge); and
- which surfaces are to be painted and the quality of paint to be used.

Disputes

If you are unable to resolve a problem with a builder, you can lodge a complaint with the Building Commission. To get a complaint form, contact the Commission on 1300 489 099 or visit their website at www.dmirs.wa.gov.au/building-commission

What is an owner-builder?

If you are not a registered builder and want to manage the building of your own house, you can apply to the Building Commission for owner-builder approval.

Owner-builders are required to ensure that the construction meets the relevant laws, including the building standards policed by local authorities and laws involving provision of a safe working environment for tradespeople.

There are many rules, risks and responsibilities when you decide to construct your own house as an owner-builder. One of the major risks is the possibility that your project could run over time and over budget. As an owner-builder, you may find it difficult to obtain a home loan and there may be restrictions on selling the home. Get advice and weigh up this option carefully.

Granny flats

Ancillary accommodation or a 'granny flat' on an existing property is an option that can be convenient and cost effective for some people. It can allow families to use existing land and provide close access whilst still ensuring independence. Granny flats may be an extension to the home or a separate dwelling in the backyard.

Granny flats do not require a property to be subdivided, but planning approval is required from the local authority and a building permit is required for construction. Approval is also required from the Water Corporation.

Granny flats can be custom designed or can be purchased as a kit or prefabricated home. They need to be built either by a registered builder or owner-builder.

There are a number of companies in the market that specialise in building granny flats and can manage all drawings, approvals and construction.

If you contributed money or other valuable assets in exchange for your granny flat, Centrelink or the Department of Veterans' Affairs may regard you as having a 'granny flat interest' for the purposes of assessing assets or eligibility for rent assistance.

See sheet 11 for non-building issues to consider about granny flats and family agreements.

Where can I get more information?

For more information on buying and building, including getting advice from experts, buying off-the-plan and kit homes, the Department of Mines, Industry Regulation and Safety has the following guides:

- *Home Buyers Survival Guide*
- *Building your new home: a checklist*

To obtain a copy please visit www.dmirs.wa.gov.au/consumer-protection

Subdividing

If you live on a larger block, you may wish to subdivide and sell off a portion of the land to access funds or reduce the amount of land that has to be maintained.

Alternatively, you may wish to use part of the land to build a new villa for yourself or develop two new houses – one for you and one to sell.

The Western Australian Planning Commission (WAPC) is responsible for approving all subdivision applications in WA. The WAPC refers applications to the relevant local government and any public body or private utility for objections or recommendations.

The WAPC may approve an application with or without conditions, or refuse an application. You can apply to the State Administrative Tribunal for a review of a decision of the WAPC to refuse an application or to impose conditions on approval.

The WAPC will endorse a subdivision on a plan or diagram that has been certified correct by the Western Australian Land Information Authority (Landgate). The WAPC must be satisfied that the plan is in accordance with the approval and that all conditions have been complied with.

The applicant can then apply to Landgate for new titles. Applications for title must be made within two years of the WAPC endorsement date.

There are significant costs involved in subdividing and the process can be quite lengthy and complicated. An experienced surveyor can help you with the steps involved. A surveyor can help with checking for restrictive covenants applying to the land, site surveys, subdivision approvals, meeting any conditions for subdivision, final pegging, drafting of the plan and the lodgement of plans.

Check with the surveyor on what is included in their charges and what you have to pay as extra. Costs can include:

- Surveyor's fees
- Sewerage, drainage and plumbing
- Power charges
- Driveways
- Tree removal
- Fencing
- Demolition
- Settlement agent fees
- Government fees

Under the *Planning and Development Act 2005*, subdivisions comprising three or more lots may require a monetary contribution in lieu of providing public open space.

Where can I get more information?

For more information on subdivisions, contact the Western Australian Planning Commission on (08) 6551 8002, or visit www.planning.wa.gov.au

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