

# Buying off-the-plan: Tips for investors

## Introduction

In the last decade buying property off-the-plan has become increasingly more popular. Buying “off-the-plan” generally means entering into a contract to purchase a property on the basis of design drawings either before it has been built or before construction works have been completed. For the investor, there are many reasons to consider buying off-the-plan including a possible lower entry price into the property market, taxation benefits, stamp duty savings, capital growth and a healthy return.

## The benefits

A significant advantage of buying off-the-plan is the considerable saving on stamp duty. In several Australian States stamp duty is generally assessed on the value of the property at the time the contract to purchase is entered into.

As the property market continues to rise, it is foreseeable that the value of your investment will increase between the period of signing the contract and taking possession.

Buying off-the-plan may give you extra time to save money to apply towards your purchase. It will also allow you time to sell an existing property and arrange finance. It may be possible to invest in off-the-plan property with as little as a 5% deposit and by the provision of a bank guarantee or security deposit instead of cash.

Moreover, tax deductions may be available for investors via depreciation thus reducing your annual tax liability. Depreciation expenses may include the building, fittings and fixtures. You should ensure your contract contains a condition that the developer discloses the building costs to assist a depreciation claim. Specific advice should be sought.

The ability to negatively gear your investment is also a significant tax benefit for investors.

## The risks

There are, however, a number of risks you should be aware of when considering an off-the-plan investment.

These include the possibility that the market price will stagnate or even fall between the time you sign the contract to purchase and take possession of the property. There is no guarantee that the purchase price will reflect or be less than the market value when the construction is complete. You should be aware that developers generally set their prices based on a projected market value as at the estimated completion date and taking the most optimistic approach.

It can be difficult to visualise how your apartment or townhouse is going to look once it is complete as there is generally nothing a developer can show potential purchasers except a floor plan, artist’s drawings and other promotional material. Alterations during construction are also likely and unless they materially affect the unit you have purchased there is no recourse against the developer.

A practical risk is that investors may be tempted to buy beyond their means because of the small size of the deposit required to be paid, with the substantial balance not due for a number of years. This can become a real issue particularly if the market value of the property falls, as you may not then be able to obtain the loan you need to complete your purchase. Loan ratios are based on market value not purchase price.

## Tips for investors

The following tips may assist you when purchasing off-the-plan:-

- Endeavour to get in early as the best units are invariably sold first. The earlier you are, the wider the selection. Be aware, however, that prime units often have higher lot liability which will mean that your owners corporation fees will be proportionally higher.
- There may be lifestyle considerations of which you should be aware before entering into a contract to purchase, as they may affect your ability to lease the property. These may include:-
  - prohibition or restrictions on keeping animals
  - car parking restrictions or the use of car stackers (which are generally unpopular)

## Buying off-the-plan: Tips of investors (...continued)

- noise and human behavioural issues particularly in mixed use developments containing after hours gyms, restaurants, bars or night clubs
- You should insist on the inclusion of sunrise and sunset clauses in your contract. A sunrise clause requires the developer to commence building work by a specified date or within a specified period. This will guard against commencement being unduly delayed. Equally, a sunset clause provides that the project will be completed by a specific date and if not gives you the right to terminate the contract.
- Contracts will invariably allow the developer to vary the floor area from the original floor plan. Whilst a nominal variance is acceptable, the contract should contain a condition that the variance will not exceed a prescribed maximum.
- Always read the schedule of fittings and fixtures in detail to ensure that you are satisfied with the quality and type of fittings and fixtures. These include appliances, lighting, door furniture, floor coverings, paint and the like. The contract must exhaustively set out all such items.
- It is advisable to appoint an independent building consultant to check the design plans and schedule of fittings and fixtures to ensure that they adequately reflect your understanding of what you are purchasing.
- Ensure your finance will be available upon settlement and that you have or will have sufficient funds in hand to cover the balance of the price. It is advisable to plan for contingencies in the event that you are not able to borrow as much as you would like on the security of the property.
- Check whether there is any scope to customise your apartment design and whether you can change the fittings and fixtures. If so, this is best done pre contract so that the signed contract reflects the agreed changes.
- GST will be payable on the sale price and should be paid by the developer. Ensure that your contract contains a term to this effect or GST liability may be passed on to you.
- When purchasing you may not know what contractual arrangements have been or will be made by the developer for management, caretaking and the like. Full enquiries should be made.
- Be aware that the more facilities the development contains such as gyms, pools, concierge etc., the greater the owners corporation fees and in time such fees will only increase particularly with the need to provide for capital repairs and maintenance.
- Finally, previous examples of the builder's work should be inspected. Testimonials of people who have employed the builder and/or purchased from the developer should be sought.

### Builder Warranty Insurance

Upon settlement of your purchase you will generally have the limited benefit of:

- **a defect liability period** – that is a period within which you can notify defects due to faulty materials or workmanship to the developer and which the developer must then rectify.
- **builder warranty insurance** – such insurance covers your investment against structural defects for a period of 6 years from completion and for non structural defects for a period of 2 years. You should however be aware that
  - such warranty insurance is what is generally referred to as “insurance of last resort” as you can only make a claim if the builder has died, disappeared or become insolvent.
  - such warranty insurance does not apply to any development which is over 3 levels in height (excluding any levels that are for car parking purposes only).

### Conclusion

The location and aspect of many apartment buildings matches the lifestyle that people aspire to. For reasons as diverse as proximity to your workplace, shopping facilities, cafes, theatres, beaches and parks, more and more people are relocating into major cities and inner suburban areas. Provided that you exercise an appropriate level of due diligence in selecting your apartment, obtain legal advice in relation to the terms of purchase and have your finances covered, the prospect of procuring a viable investment as dynamic as your lifestyle are maximised.

**Anne Marie Gasbarro**  
Partner

### Expert advice. Practical solutions. Personal service.

Level 11, 575 Bourke Street, Melbourne Vic 3000 Australia | GPO Box 38, Melbourne 3001 | DX 400

T 03 8621 2888 F 03 9614 0880 | [www.mckeanpark.com.au](http://www.mckeanpark.com.au)