

# Burchell Higgins

PROPERTY SALES

## Budgeting for a loan

Before applying for a loan, you should work out how much you can afford to borrow and repay.

Here are some free resources to help you create a budget.

### MoneySmart website

#### National Debt Hotline

1800 007 007

#### Translating and Interpreting Service

13 14 50

You should consider these expenses:

Upfront costs, like building inspection reports, solicitor or conveyancing costs and stamp duty. Stamp duty is a tax paid to the NSW Government on the transfer of property and is calculated as a percentage of the contract sale price. [Revenue NSW](#) has an online calculator to help you estimate how much stamp duty is for different property prices.

The ongoing costs of owning a property (such as council rates, water, insurance, strata levies and maintenance). These costs will affect the amount of income you have available for repayments and everyday expenses.

## What is a mortgage?

When you borrow money from a bank or other credit provider to buy property, you have entered into a mortgage.

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As the property owner, you are the 'mortgagor' and the home loan provider is the 'mortgagee'. If you fail to make your loan repayments, the bank may be able to take possession of the property.

When you mortgage your property, the bank will lodge their interest in the property with NSW Land and Property Information. This means that the mortgage will appear on the property's title certificate, and you cannot sell it without your bank's consent.

## Shopping for a home loan provider

Shop around for a home loan/mortgage provider as you would for any other product that you buy.

Loan providers offer different interest rates and different features and services with their loans. Doing your homework could save you thousands of dollars in the long term.

You can use a finance/mortgage broker or comparison services to compare home loans and choose a provider.

A finance broker is an agent between you and your home loan provider. They look at your individual situation and may recommend one or more credit products that meet your requirements. This may save you time, and hopefully money, but they may be receiving a commission from the home loan provider. So, there is always the risk that they could recommend a mortgage that isn't the best one for you.

If a broker asks you to pay a commission, you must sign a finance broking agreement with them. They are not entitled to a commission unless they obtain the credit on the exact terms specified in the finance broking agreement.

If you decide to use a finance broker or comparison provider, ask questions such as:

- How many loan providers and products do you access?
- Which credit providers do you have on your list of lenders?
- How do you get paid?
- Does the commission you receive vary between mortgage providers?

## Home loan pre-approval

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Before you start looking for a property, you may want to consider applying for 'pre-approval' from your home loan provider. Lenders normally offer 'conditional' pre-approval depending on the size of the loan you want and your financial circumstances.

This approval indicates that you are eligible to apply for a home loan up to a certain limit. They are often obligation-free so you or your home loan provider are not committed to a loan contract.

Pre-approval is useful for showing vendors that you are serious about the property and streamlines the process of finalising your finance before making an offer.

## Unconditional approval

If you have already received conditional approval from your lender, final approval of the loan application will be granted on certain conditions (eg a valuation report, providing evidence of assets or providing other documents required by your lender).

Your mortgage contract will generally be given to you at this point for your signature and this is often termed seeking 'unconditional' approval. Once these documents are signed, returned, and checked by the lender, you and your lender are obliged to follow the terms of the contract.

## Mortgage contract

While you should have your solicitor or conveyancer review your mortgage contract, you should also review it yourself. Before you sign it, be sure it meets all your needs. You should also make sure you understand the fees that you will be charged. Also, be aware of what fees you will be charged if you refinance your loan or change home loan providers.

## How the law protects you

The *National Consumer Credit Protection Act 2009* gives protection to people borrowing money. It requires home loan providers to give you information that is clear and easy to understand. This will help you decide whether you can afford to borrow.

Before you sign a mortgage contract, the home loan provider must give you:

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- details about fees and charges in a *pre-contractual statement*; and
- an information statement, which outlines your rights and obligations.

Pre-contractual statements should tell you:

- the amount of money you are borrowing.
- the annual percentage interest rate.
- how the interest is calculated and when it is charged.
- the credit fees and charges to be paid or how they will be calculated.
- how they will inform you of changes affecting interest rates and fees or charges.

**IMPORTANT: Always read the mortgage contract thoroughly before you sign it. You are not obliged to sign anything on the spot! You may wish to take a copy home to study it and get legal advice on any terms you are unsure about.**

## Comparison rates

A comparison rate is a tool to help you identify the true cost of a loan. That rate will include both the interest rate and fees and charges relating to a loan, reduced to a single percentage figure.

## Your credit history counts

If you don't have a good credit rating, you may not be able to get a home loan. If you have had problems paying off a loan or credit card in the past, your details may be held with a credit reference company.

If a home loan provider rejects your loan application because of your credit record, you should check the record yourself. In Australia, there are two main credit reporting agencies where you can request a free copy of your credit report: Equifax and <Dun & Bradstreet>. You can check with both agencies.

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## Getting someone to guarantee your loan

If you have trouble borrowing money from a home loan provider, a friend or family member may be willing to guarantee the loan. This will make them a 'guarantor' under the law.

Before you take out the loan, your guarantor must be given a copy of the mortgage contract and the document explaining a guarantor's rights and liabilities. If you stop making payments, the home loan provider will first take action against you. They can usually only take action against the guarantor after they have tried all avenues to get the money from you.

## Lenders Mortgage Insurance

As a general rule, banks only lend up to around 80 percent of the property's value. Some banks will allow you to borrow more than 80 percent of the property's value if you take out Lenders Mortgage Insurance (LMI).

This is a one-off payment added to your home loan and used by banks to reduce their risk of loss should you default on your loan. While LMI allows you to purchase a property with a smaller deposit, it does increase your overall loan.

Before you sign a mortgage contract with LMI, understand how much you are being charged for LMI and make sure you can afford the repayments on the larger loan.

## Borrowing with your partner

If you decide to take out a home loan where both your name and your partner's name are on the mortgage contract, then you become a co-borrower. This means that you are both responsible for the debt. If the payments stop, the home loan provider can choose one of you to sue for the whole debt. This may depend on:

- who has the highest income.
- who can be found at the time.

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There is no legal requirement that you and your spouse or partner must both sign a loan contract unless you are co-borrowers.

### **Vendor finance**

Vendor financing arrangements may seem simple, but they have the potential to deprive you of hard-earned savings. Anyone considering vendor finance as a way of purchasing a home should seek expert and independent legal opinion.

### **Income insurance**

Income protection insurance covers you in case you can't make repayments because of unforeseen circumstances such as unemployment, sickness, or injury. The benefits and costs vary so shop around first.

Mortgage providers can't force you to take out income protection insurance. They can insist that you take out insurance for the building and contents. There is no obligation to take out insurance through the insurance arm of the credit provider. Shop around to find the best deal.

### **Valuation**

If you have selected a property to purchase and you are finalising your finance, your lender will conduct a valuation of the home and land to assess the viability of your mortgage and the asking price.

Paying too much for a property can put your equity and the lender's equity at risk. If there is a large difference between the asking price and the lender valuation, your finance could fall through. This is why it is crucial that you do your research on the property and look at similar recent sales in the area.

### **Changes to the mortgage contract**

Your mortgagee can only change the contract if the contract specifies that changes may be made. Read the contract carefully so that you know what changes may occur.

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The mortgagee must generally notify you of interest rate increases. Notice must be given no later than the day on which the increase takes effect. Notice must be 20 days if:

- the way interest is calculated or applied is changed, or
- a credit fee or charge is increased.

If the mortgagee does not notify you individually about the change, the mortgagee must publish the change in a newspaper, which has statewide circulation and will confirm the information on your next statement.

## Difficulties with making payments

If you can't meet your repayment obligations due to temporary unemployment, sickness, or other reasonable cause, you can apply to the mortgage provider to vary your payments. If you can't reach an agreement, contact the Australian Securities & Investments Commission (ASIC) at [www.moneysmart.gov.au](http://www.moneysmart.gov.au) or call 1300 300 630.

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