BOWRAL CONVEYANCING CENTRE

Podcast Transcript

Episode Title: Sunrise and Sunset Clauses Explained in Off-the-Plan Contract
Host: Ian (Speaker 2)
Guest: Paul Denny (Speaker 1)
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Transcript

Ian (00:00.078)

The time is 14 to 8, and Paul Denny's in the studio. Good morning.

Paul (00:03.000)

Good morning, Ian. How are you?

Ian (00:04.500)

Fantastic. Good. Let's talk about buying off the plan today.

Paul (00:07.500)

Yes, yep. It's coming back. There was a bit of a lull there, but there are developments coming up and people are starting to think about investing again. Not as strongly as it was a few years ago, but still, it's coming back.

The most important thing I always think when you're looking to buy off the plan, before you even go down the path of contracts, is to verify the reputation of not only the developer but also the builder, which can easily be done with a Google search.

Remember, there's the developer, that's the person who comes up with the project, and the builder is the person who actually does it. So there are two parties. And if you do a Google search and you find that there's all sorts of history of defects, not being finished, or shoddy workmanship, stay clear. It doesn't matter how strong the contract is; if you're dealing with someone who doesn't really want to build a quality product, go away and find something else.

Ian (01:00.000)

I'm really interested in hearing you say that because I've never ever thought about that. I just assumed the developer was the builder.

Paul (01:05.500)

Well, the contract would appear to protect you, but it still comes back down to the reputation of not only the developer but the builder. In my time, I've got to know a lot of developers and builders, so you know, instinctively, they're pretty good. The other ones you don't know about, do your research before you go any further.

Ian (01:22.000)

Okay, now at Bowral Conveyancing Centre, you can review the contract.

Paul (01:25.500)

Well, that's the most important thing. Obviously, we always recommend that, particularly with off-the-plan. There are a lot of issues in an off-the-plan contract that are not present elsewhere. There's this concept of a sunset date and a sunrise date.

Ian (01:42.000)

So what's that, you say?

Paul (01:43.000)

Indeed. So firstly, let's look at the sunrise date. Bearing in mind that a developer has to get loan approval before they can start their project, and for that, they have to have a certain number of pre-sales. The lender won't give them any money until they know that, usually, 100% of the building has been sold to repay the loan.

Ian (02:04.000)

Makes it challenging.

Paul (02:05.000)

So there's a clause in there that says unless we've started by, say, December '25, then we can cancel the contract. We don't have to build the project. That's a sunrise date. There could also be delays in DA approvals, etc.

Then we come to a sunset date, which is basically a date in the future when you must finish the project, and if not, the person can just walk away. Usually, it's somewhere a long way ahead of what was really expected to be the completion date. So if, for instance, you're buying something today and they say, "We expect to be finished in June '26," the sunset date may be June '27. So you're locked in for that period of time before you can do anything if something goes wrong. A good example is in Bowral with Waterbrook. Now that was a great project. A lot of people bought into that. Then the builder went broke.

Okay, so that puts the developer in the position of having to think about how to get out of that. You've got to terminate that contract with a builder that's no longer in existence, get another builder to pick up the project, and run with it. How long are you looking at? Six, 12 months? So there are huge delays there. That would be an opportunity, if that happens to coincide with the sunset date, for the purchaser to walk away.

Ian (03:36.000)

So if you're buying into one of these developments, and gee, they all look terrific on paper, you really need to get good advice, and you can get that from Bowral Conveyancing Centre.

Paul (03:44.812)

Yes, and there are all sorts of other issues. We'll cover that next week as well.

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Key Information

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