

# SUMMARY OF MAIN CHANGES MADE IN CONTRACT FOR THE SALE AND PURCHASE OF LAND 2019 EDITION (FROM THE 2018 EDITION)

The Contract for the Sale and Purchase of Land 2019 Edition is a revision of the 2018 Edition and addresses the residential [off the plan reforms](#) which, amongst other things, change the statutory cooling off notice on page 5 of the contract for the sale and purchase of land. The residential off the plan reforms are implemented by the *Conveyancing (Sale of Land) Amendment Regulation 2019*, most provisions of which commence on 1 December 2019 (“the Amending Regulation”). Practitioners are alerted to the transitional provisions of the Amending Regulation which commence on publication. Care should be taken in relation to the form of the cooling off notice included in contracts exchanged before and after the change in cooling off notice takes effect. Consideration should also be given to the obligations under the *Property, Stock and Business Agents Act 2002* and the *Conveyancing Act 1919* when marketing residential property.

The new cooling off notice must be used for all residential off the plan contracts exchanged from and including 1 December 2019. That obligation extends to all other residential contracts exchanged from and including 2 June 2020.

The 2019 Edition also includes other legislative and practice updates, including changes in relation to eConveyancing, the GST at settlement measure and the foreign resident capital gains withholding measure.

Item	Change	Rationale
Page 1	The reference to “NSW Duty” is updated to “NSW DAN”.	This reflects the change in terminology used by Revenue NSW.
Page 2, Choices	Insertion of “Nominated Electronic Lodgment Network (ELN)(Clause 30):”	<p>This new prompt has been inserted to facilitate early discussions between the legal representatives for the parties as to the ELN that will be used for the transaction. The nominated ELN should be inserted in the space provided on page 2.</p> <p>The nomination of the ELN on page 2 should be read with revised clause 30.4.3, which is to the effect that the parties must conduct the electronic transaction using the nominated ELN unless they otherwise agree.</p>
Page 2, Choices	“Proposed <i>electronic transaction</i> ” is updated to “ <i>Electronic transaction</i> ”	<p>This change reflects that in NSW all mainstream conveyancing dealings must be lodged electronically unless a waiver applies.</p> <p>If a waiver does apply, the “no” tick-a-box should be selected, and details of the relevant waiver should be inserted in the space provided. Alternatively, details can be provided by the vendor within 14 days of the contract date, or by the purchaser at least 14 days before the date for completion. It is important that the legal representatives for the parties consider whether a waiver will apply to the transaction as early as possible.</p>
Page 2, Tax Information	“ <i>RW payment</i> ” has been renamed “ <i>GSTRW payment</i> ”	<p>This change in definition has been made in clause 1, the definition clause. References throughout the contract are updated accordingly.</p> <p>The change was made to better distinguish between the GST at settlement withholding measure and the foreign resident capital gains withholding measure, in accordance with feedback received from the Australian Taxation Office (ATO).</p>

Item	Change	Rationale
Page 2, GSTRW payment (GST residential withholding payment) – further details	Two additional examples, “a partnership, a trust” have been added as scenarios where the supplier is not the vendor.	The change has been made in response to feedback received from the ATO.
Page 2, <i>GSTRW payment</i> (GST residential withholding payment) – further details	Insertion of new prompt for “Supplier’s GST branch number (if applicable)”	This new prompt has been inserted due to changes made to ATO form one for the GST at settlement measure. Form one now allows the addition of the supplier’s GST branch number on the basis that this will assist GST credits being reconciled with the right GST branch in a timely manner.
Page 3, List of Documents	New item 57 “disclosure statement off the plan” has been added to the List of Documents.	This amendment reflects the mandatory requirement, commencing 1 December 2019, for all off the plan residential sales to include a completed disclosure statement in the form prescribed by the Amending Regulation. See the <a href="#">Office of the Registrar General’s website</a> for a template for the disclosure statement.
Page 5, Statutory cooling off Notice	The content of the statutory cooling off notice has been amended.	<p>This amendment reflects the change to the statutory cooling off notice which affects ALL sales of residential property, both off the plan and non-off the plan contracts.</p> <p>From 1 December 2019, all residential off the plan contracts <b>must</b> contain the “new” cooling off notice, which provides a ten day cooling off period, as set out in the Amending Regulation.</p> <p>Transitional provisions enacted by the Amending Regulation provide that:</p> <ul style="list-style-type: none"> <li>• Non-off the plan residential contracts <b>must</b> contain the new cooling off notice from 2 June 2020 (ie there is a six month transitional period).</li> <li>• Residential contracts exchanged prior to 1 December 2019 (both off the plan and non-off the plan) <b>may contain either</b> the “new” cooling off notice or the “old” cooling off notice (being the notice included in the 2018 edition of the contract for the sale and purchase of land), as provided for in the transitional provisions of the Amending Regulation.</li> </ul> <p>The “new” and “old” cooling off notices are separately available from the <a href="#">ECOS portal</a> – see the icons at the foot of the page.</p>
Page 6, Warning 1	Updated references	The references to several Government Departments and other entities have been updated.
Page 6, Warning 6	Reference to “stamp duty” has been updated to “transfer duty”	This is consistent with the change in terminology used in practice.
Page 6, Warning 12	Reference to more information being available from the ATO	The ATO’s website contains a number of resources to assist practitioners in relation to the <a href="#">GST at settlement withholding measure</a> .
Clause 1 Definitions	Several definitions have been amended or updated.	<p>The definition of “<i>remittance amount</i>” has been replaced with a definition of “<i>FRCGW remittance</i>”.</p> <p>The definitions of “<i>RW payment</i>” and “<i>RW rate</i>” have been replaced with definitions of “<i>GSTRW payment</i>” and “<i>GSTRW rate</i>” respectively.</p> <p>These changes in definitions have been made to better distinguish between the GST at settlement withholding measure and the foreign resident capital gains withholding measure, in accordance with feedback received from the ATO.</p> <p>The definition of “<i>work order</i>” has been updated to refer to the updated <i>Swimming Pools Regulation 2018</i>.</p>

Item	Change	Rationale
Clause 2 Deposit and other payments before completion	New reference in clause 2.4 to payment of the deposit by electronic funds transfer.	This is to facilitate payment of the deposit by electronic funds transfer, which is becoming more common.
Clause 6 Error or misdescription & clause 7 Claims by purchaser	Addition of the word “Normally”.	This change has been made to reflect the operation of new clause 32.3 which effects the purchaser’s rights under clauses 6 and 7.
Clause 13.13.4 Goods and services tax (GST)	Clause 13.13.4 has been expanded.	The clause has been expanded to provide that the purchaser must serve a copy of the settlement date confirmation form (form two for the GST at settlement measure). This change reflects feedback received from the ATO.
Clause 16.5 Completion	Deletion of the obligation to pay an additional 20% of the registration fee in clause 16.5.	The obligation to pay an additional 20% of the registration fee where the vendor provides an additional document on settlement requiring registration has been deleted to reflect common practice and electronic lodgment.
Clause 16.6 Completion	Amendment of clause 16.6 in relation to clearance of land tax.	This clause has been updated to reflect recent changes in the processes available for the clearance of land tax, including payment of land tax via an Electronic Lodgment Network.
Clause 17.3 Possession	Updated legislative reference	The legislative reference in clause 17.3 has been replaced with the updated relevant legislative reference in the <i>Residential Tenancies Act 2010</i> .
Clause 23.9 Strata or Community Title	Clauses 23.9.2 and 23.9.3 have been amended to reflect the off the plan reforms. Clause 23.9.4 has also been revised.	<p>Clause 23.9.2 has been amended to remove the reference to non-disclosure of unit entitlement, to reflect common practice and for consistency with the disclosure obligations under the off the plan reforms.</p> <p>Clause 23.9.3 has been amended by replacing the words “substantially disadvantages” with the words “materially prejudices”, consistent with the terminology used in the off the plan reforms.</p> <p>Clause 23.9.4 has been amended to limit the disclosure obligation to a strata renewal plan that has not lapsed at the contract date.</p>