

MURDOCH PRICE

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SUPPLEMENTARY INFORMATION SHEET FOR PURCHASERS OF CROSS LEASE TITLES (Buying a House)

Cross Lease

A cross lease is where there are at least two houses and the underlying land is owned in common by all the owners of the houses.

The owners as a group lease each house to the owner of that house usually for a term of 999 years at a nominal rental of 10 cents per annum.

There is often an exclusive use area attaching to each house.

The title will show an undivided share of the fee simple (effectively the underlying land) together with the lease of the house shown on a plan (i.e. the footprint of the house on the land). The lease provides for the exclusive use area as shown on the plan.

The significance of this form of ownership is:

- (a) If the house has been extended beyond the footprint on the plan then there is no title to the extended bit (e.g. a conservatory).
- (b) Any buildings in the exclusive use area (or common areas) not shown on the plan also create a defective title (e.g. a stand alone garage).
- (c) You cannot make additions or alterations to the house that affect the footprint without your co-owners consent and you may have to engage a surveyor to prepare a new flats plan with a replacement cross-lease.
- (d) The lease might restrict your use of the land e.g.:
 - (i) Renting may be prohibited or subject to restrictions.
 - (ii) You may have to have a common house insurance company with your co-owners.
 - (iii) You may not be able to use the house for other than residential purposes.
 - (iv) Restrictions on pets.

In order to correct the title a new plan and replacement cross leases are required. This requires your co-owners co-operation and a new survey plan. This can be costly.

You need to inspect the house carefully to ensure it is in accordance with the flats plan. Any deviation can be the subject of a title requisition which would enable you to cancel the purchase if a satisfactory arrangement is not agreed.

However you need to act quickly as there is a time limit (often 15 working days) for title requisitions and not every deviation can be the subject of a title requisition.

Just because council have issued a permit or building consent and/or the co-owners have agreed does not rectify the title.

While you may be happy with the deviation the problem may well resurface when you come to sell the property.