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Encumbrances

An Encumbrance is a legal document containing restrictions relating to the use and future development of land. It is registered over the property and will appear on the Certificate of Title.

Encumbrances are commonly used by developers to put restrictions on land owners to ensure that properties built within a development maintain a level of consistency. If there is an Encumbrance registered over your property and you believe it no longer serves a purpose, you can negotiate with the Encumbrancee to have the Encumbrance removed. Once it has been removed, it no longer binds the current or previous owners and is removed from the Certificate of Title.

If you are considering purchasing a property that has an existing registered Encumbrance, or will have an Encumbrance registered at settlement, it is important that you understand and consider the obligations and restrictions the Encumbrance will impose on you and make sure you are willing to follow the terms set out in the document.

We recommend that you request a full copy of the Encumbrance from the agent and have the document checked by your Conveyancer either prior to signing a Contract or during your cooling off period. Your conveyancer can highlight areas of specific importance you should be aware of, as well as your general obligations and rights.

The terms of an Encumbrance can be difficult to understand. The team at Tuckfields can help make the process easier for you by breaking down the “legal speak” in these documents.

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*Need more info?
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