

# ADVISOR DAY 2021

## PROPERTY DEVELOPMENT 101 | HOW TO SAVE ASPIRING PROPERTY DEVELOPERS FROM THEMSELVES

Presenter:

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## Overview

- Why do property developers need saving?
- Life cycle of a development
- How can you help?



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## Why do property developers need saving?



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## Why do property developers need saving?

- It looks easy / undue optimism.
- Cash flow.
- Because no-one wants to consider at the start what might happen down the track if it goes wrong.
- Because you don't need any qualifications, experience or training to buy a block of land and carve it up, but this might change.
- Because tax (including GST) is complicated.

*McCarthy and Commissioner of Taxation (Taxation) [2021] AATA 1511 (28 May 2021)*

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## *McCarthy and Commissioner of Taxation*

### Timeline:

- **August 2016:** Contract signed.
- **September/October 2016:** Finalised plans ready for DA.
- **October 2016:** Settled purchase.
- **October 2016:** McCarthy's lodged subdivision application.
- **May 2017:** Tenant vacated.
- **July 2017:** House demolished.
- **August 2017:** First contract of sale signed.
- **January 2018:** Second contract of sale signed (although there was an earlier contract for this lot that did not proceed).

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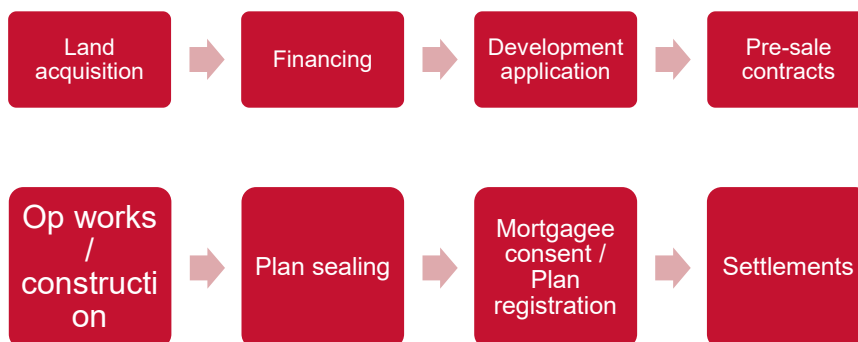
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## McCarthy and Commissioner of Taxation

Problems with the McCarthy's argument:

- they borrowed more than the purchase price - arguably to spend on developing the property?
- there was a lack of genuine enquiry as to whether they could afford to keep the property as a rental property
- a surveyor was instructed to prepare plans and a development application shortly after they signed the contract and the application was ready for lodgement prior to settlement
- the DA was lodged 10 days after settlement
- their actions taken as a whole did not support their assertion that at the time of purchase, they intention to hold the property as a rental, long term.

## The Life Cycle of a Property Development



## How can you help?

- Be realistic.
- Be prompt.
- Give sound structuring advice.
- Encourage your clients to engage experienced consultants.
- At the time your client purchases their development site or sites, properly consider the GST treatment of that purchase and what it means for your client's sale contracts once the development is completed.
- Make sure your client is registered for GST.
- Help your clients prepare a realistic cash flow for their project and make sure (as best you can) that they have a healthy contingency.
- Make sure they have the right insurance at each stage of the process.

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## The exception to the rule

Does your client need a building licence?

It is an offence to carry out, *or undertake to carry out*, building work if you do not hold an appropriate class of QBCC licence.

Limited developer's exemption, but it is under review.

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## What did we learn?

- We learned why aspiring property developers need our help - property development isn't easy, cash flow is terrible, no-one wants to think about how it might go wrong, you can develop property without qualifications or skills and because tax is complicated.
- We learned that developers need advisors to become involved early to help with structuring and to provide sound advice throughout the life of a property development project.
- We learned that even the smallest, most basic projects can be taxed as ordinary income.
- We learned what a very simplified life cycle of a property development might look like.
- We learned how you can help your property developer clients.

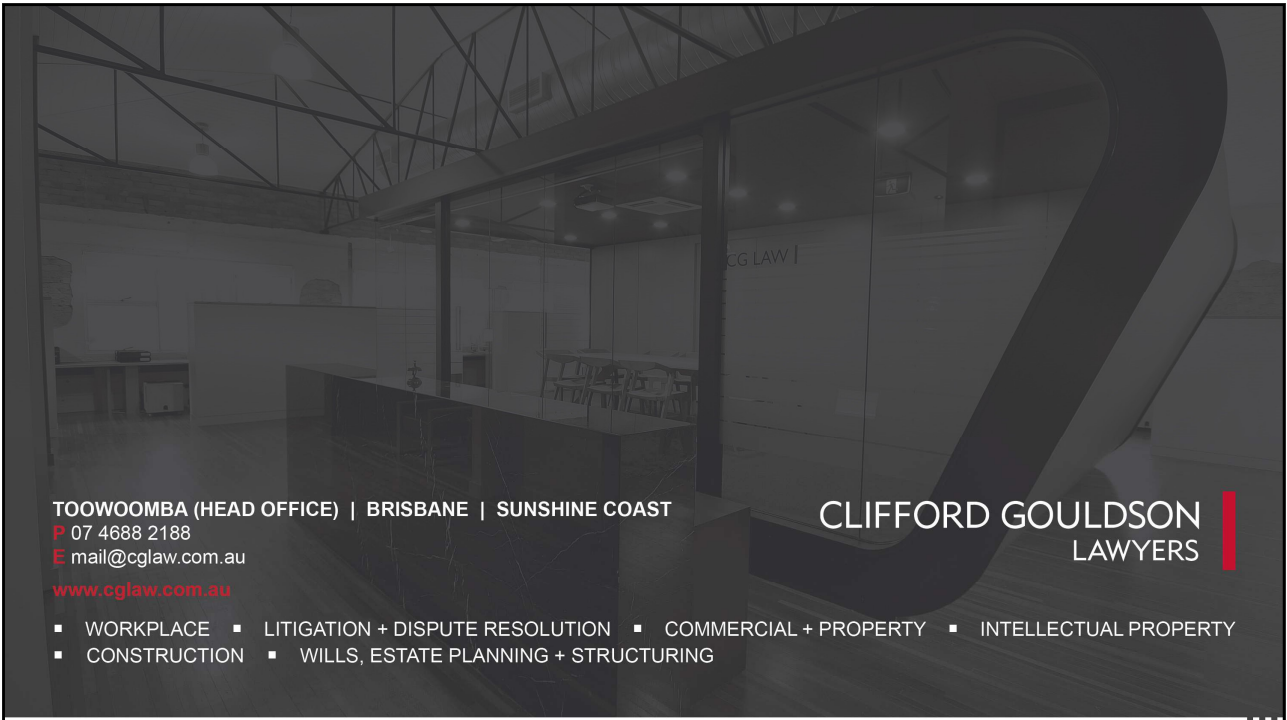
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## Questions??

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