



This information is split into two parts: Conclusion and FAQs. Scroll down to find out more.

[Click here to contact a mortgage broker and to find out how to get pre-approval.](#)

Conclusion

Tell Me What I Need to Know About the Finance Condition in the ADLS Agreement For Sale and Purchase Of Real Estate (ADLS Agreement)

What is the finance condition?

The "finance condition" clause is a standard condition in the ADLS Agreement. The purpose of this condition is to protect the purchaser by making the purchase of the property conditional upon the purchaser being able to obtain finance (a loan) for the purchase. Normally, the purchaser has [x] (often 10) working days to confirm this condition. This is an **objective test** i.e. the purchaser's decision to fulfill the condition must be reasonable and not arbitrarily withheld.

Why should I be careful using this condition?

[Before buying a house, you need to do your homework \(due diligence\)](#). The finance condition is only about you getting a loan to purchase the house. It doesn't cover other problems that might show up. That's why you should do all your research before you sign anything.

How can I protect myself?

For example, if you only put in a finance condition and later find out that the house has a big problem, e.g. a leaky roof, you can't back out of the deal.

To be safe, you should put in extra conditions to protect yourself e.g. these conditions can cover things like getting a [building inspection](#), a [LIM report](#), or an [extensive due diligence investigation](#).

This way, if there are any problems you're not happy with, you can back out of the deal.

Ready to submit an offer?

Before you submit your offer, you should also work through [HouseMe Legal's Free Two-Stage Checklist to See If You Are Ready to Make an Offer](#).

Final warning: Remember, the finance condition is only about getting a loan. To make sure you're protected, put in extra conditions and check with your lawyer before you sign an agreement.

What to know more? Read the FAQs and further information below

FAQs

What does the finance condition in the ADLS Agreement say?

9.1 Finance condition

- 1. If the purchaser has identified that finance is required on the front page of this agreement, this agreement is conditional upon the purchaser arranging finance for such amount as the purchaser may require from a bank or other lending institution of the purchaser's choice on terms and conditions satisfactory to the purchaser in all respects on or before the finance date shown on the front page of this agreement.*
- 2. If the purchaser avoids this agreement for failing to arrange finance in terms of clause 9.1(1), the purchaser must provide a satisfactory explanation of the grounds relied upon by the purchaser, together with supporting evidence, immediately upon request by the vendor.*

Can you explain this condition to me in simple language?

9.1 Finance condition

- 1. If you want to buy the property but need a loan, you have to say so on the front page of the agreement. You have to arrange the loan with a bank or other lending institution that you like, and the terms of the loan must be good enough for you. You have to do this by the "finance date" shown on the front page of the agreement e.g. within 10 working days of the date of the agreement.*
- 2. If you can't get the loan and want to cancel the agreement, the seller may ask you why. You have to have to give a good reason why you couldn't get the money, and they may need to provide evidence to support your reasoning.*

How long do I have to obtain financing under the finance condition?

It is up to the purchaser to select this amount of time. Normally, 10 working days is standard for most property transactions. If you're a first-home buyer, you may require longer. The example snipped in below is what the first page of your agreement will look like if you have selected a finance condition.

CONDITIONS (refer clause 9.0)

Finance required (clause 9.1):

Yes/~~No~~

Finance date: 10 working days from the date of this agreement

LIM required (clause 9.3):

Yes/No

Building report required (clause 9.4):

Yes/No

Toxicology report required (clause 9.5):

Yes/No

What do I need to do during the conditional finance period?

Option 1: Contact multiple lenders to arrange finance for the purchase of the property.

Option 2: Work with a mortgage broker to do this for you.

For either option, you should start this process before you make any offers on any houses. This application process is called “*Getting Pre-Approval*”. [Click here to find out more about getting pre-approval.](#)

What happens if I need more time?

You can request your lawyer to ask the seller’s lawyer for an extension. The seller is under no obligation to accept your extension request so it is best to be realistic about how much time you need when you initially sign the agreement and select your timeframe.

What happens if I can't obtain finance?

If you are unable to obtain finance, you may be able to cancel the agreement under the finance condition. Remember, as the purchaser, you need to do all things that may be reasonably necessary to enable the finance condition to be fulfilled. This includes applying for finance with more than one lender. [This is why we highly recommend working with a mortgage broker.](#)

Is there anything I should not do?

If you suddenly get cold feet and do not want to go through with your purchase, you will not be the first person to consider “*What happens if I stop or abandon my loan application?*”

If you are applying for a loan and decide to withdraw or abandon your loan application before it is approved, you may be liable for a breach of the implied obligation to use your best endeavours to obtain the loan.

Under the finance condition, the Seller is entitled to ask for a satisfactory explanation regarding why you were unable to get finance. “*I did not finish the application*” or “*I asked my broker to cancel my request with [insert lender]*” are not satisfactory explanations.

What happens if I do not provide a satisfactory explanation for failing to arrange finance under the finance condition?

Under clause 11.4 of the ADLS Agreement, the following could happen to you if you fail to give a satisfactory explanation.

1. The Seller could keep your deposit (if already paid).
2. [The Seller could sue the purchaser for damages.](#) These damages could include interest on any unpaid portion of the purchase price, money spent trying to sell the house again, and money the Seller had to pay to take care of the house while they were trying to sell it.
3. The court could make the purchaser finish buying the house. This is called suing for specific performance.
4. The Seller can try to sell the house to someone else without canceling the agreement first. If they find someone else to buy the house, the agreement with the first purchaser is automatically canceled and the Seller can still try to get money from them.

Can I still conduct due diligence during the conditional phase if I only have a finance condition?

Yes, you can but you will not be able to cancel the agreement for any other issues you uncover.

Are there any other conditions I should include in my agreement?

Yes, you may want to consider using the following conditions:

1. [Due Diligence Condition](#)
2. [Building Report Condition](#)
3. [LIM Report Condition](#)

I am buying off the plans and do not know my settlement date. What should I do?

Normally, you will confirm you have pre-approval and then satisfy your finance condition. But, because settlement may not occur for a few years, you need to wait for the property to be built.

Once finance has been arranged it cannot be unarranged. You do not get the opportunity closer to settlement to tell the seller *"Sorry I now can't get finance my situation has changed"*

It is up to you as the purchaser to make sure your finance will still be available at the settlement date. This is why using a mortgage broker is extremely beneficial, especially for long settlements. A change in your circumstances may impact your finance pre-approval and a mortgage broker can help you create a plan to make sure you will still have finance at settlement and can impact the drawdown of your loan to purchase the property.