

# Commercial Property Joint Ventures and Vendor Finance

Russell Sparke  
Sparke Legal

[www.sparkelegal.com.au](http://www.sparkelegal.com.au)

# Disclaimer

- ▶ The information provided in this presentation is general in nature and does not address your particular circumstances. You should seek specific advice on your particular situation. The author accepts no responsibility for any loss or damage arising as the result of reliance on this information.

# What we will cover

- ▶ **Joint Ventures**
- ▶ **Vendor Finance**

# Joint Ventures

- ▶ Why - Leverage
  - ▶ Finding the deal
  - ▶ Cash or equity contribution
  - ▶ Serviceability
  - ▶ Skill or project management
- ▶ Partners
  - ▶ Integrity
  - ▶ Contribution
  - ▶ Exit Strategy

# Joint Ventures

- ▶ Structures
  - ▶ Individual
  - ▶ Company
  - ▶ Discretionary Trust
  - ▶ Unit Trust
  - ▶ SMSF
- ▶ Don't forget the Bank

# Joint Ventures

- ▶ Define the project
- ▶ Define the interests of the parties for Profits and Losses
- ▶ Define roles and obligations of parties
- ▶ Funding
  - ▶ Cash
  - ▶ Borrowings first and/or second mortgages
- ▶ No change in control

# Joint Ventures

- ▶ Agreement subject to contingency
- ▶ Development manager
- ▶ Marketing manager
- ▶ Financial manager
- ▶ Builder
- ▶ Development approvals

# Joint Ventures

- ▶ Management and meetings
- ▶ Accounts and records
- ▶ Bank account
- ▶ Distributions
  - ▶ Contributions
  - ▶ Drawings

# Joint Ventures

- ▶ Events of default
  - ▶ Disposing of an interest
  - ▶ Insolvency or bankruptcy
  - ▶ Cease or threaten to carry onUnremediable breach or not remedied within 30 days
- ▶ Buy out options on default
  - ▶ Purchase the interest of the other parties
  - ▶ Liquidate the assets
  - ▶ Value of the interest 70% to 90%
  - ▶ valuations

# Joint Ventures

- ▶ Consequences of default
  - ▶ No entitlement to voting
  - ▶ Not entitlement to distributions

# Joint Ventures

- ▶ Resolution of disputes
  - ▶ Notice of dispute giving 14 days
- ▶ if no resolution
  - ▶ Appointment of experts
- ▶ Termination of Joint Venture

# Joint Ventures

- ▶ Annexures
  - ▶ Development plan
  - ▶ Feasibility

# Vendor Finance

- ▶ Rent to Buy - Lease Options
- ▶ Option to purchase
- ▶ Contract of sale
- ▶ Residential Tenancy Agreement
- ▶ The figures
- ▶ Sandwich or back to back options
- ▶ Joint Venture with Owner to provide Rent to buy lease options
- ▶ Caveats

# Vendor Finance

- ▶ Instalment Contracts or “Wraps”
- ▶ Property Law Act 1974
- ▶ Division 4 Sections 71 - 76
- ▶ s71 Restriction on vendors right to rescind
- ▶ s73 land not to be mortgaged by vendors
- ▶ s74 right of purchaser to lodge a caveat
- ▶ s75 right to require conveyance
- ▶ s76 deposit of title deed and conveyance
- ▶ The figures

# Vendor Finance

- ▶ Deposit Finance
- ▶ Second mortgages
- ▶ The figures

# Thank You

- ▶ With 25+ years experience in Property and Commercial law Russell Sparke can help you to *minimise your risk and maximise your profit* on your investment or development project.
- ▶ Russell Sparke
- ▶ Sparke Legal
- ▶ Level 6,
- ▶ 420 George Street
- ▶ Brisbane Qld 4000
- ▶ Phone 07 3554 0135
  
- ▶ [r.sparke@sparkelegal.com.au](mailto:r.sparke@sparkelegal.com.au)
- ▶ [www.sparkelegal.com.au](http://www.sparkelegal.com.au)
- ▶ [www.conveyancingforce.com.au](http://www.conveyancingforce.com.au)