

FIELD RESOURCE

Selling an Investment Property in Queensland

Tenant rights, vacant possession, CGT, and the forms you need

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Selling a tenanted Queensland property is more complicated than selling an owner-occupied one. The first decision is whether to sell with the tenant in place or wait for vacant possession. The right answer depends on the lease type, the buyer pool, the local market, and your own tax position. This guide walks through the law, the forms, the financial considerations, and the practical decisions in the order you face them.

The first decision: vacant possession or sale with tenant

This is the strategic decision that shapes everything else. It is not a question of legal entitlement, it is a question of buyer pool.

- Sale with tenant in place: continues to generate income through campaign and settlement. Limits your buyer pool to investors and small number of owner-occupiers willing to wait.

- Sale with vacant possession: opens the buyer pool to the full owner-occupier market. Loses rental income for the gap, may incur make-good costs.

- For most Brisbane inner east family homes: vacant possession produces a higher sale price because the owner-occupier buyer pool is larger and emotionally engaged.

- For units, townhouses, and properties in primarily-investor suburbs: sale with tenant often produces a comparable result and avoids the income gap.

- The lease term materially affects the decision. A property six months into a 12-month lease has a forced timing constraint.

- Tenants with strong rental records and well-maintained properties are an asset to an investor buyer. Tenants with poor history are not.

Tenant rights under the RTRA

Queensland's Residential Tenancies and Rooming Accommodation Act (RTRA) sets out the framework. Notice periods and rights are specific and sale of the property does not override them.

- A fixed-term tenancy continues to its end date regardless of sale. The buyer takes the property subject to the existing lease.
- A periodic (month-to-month) tenancy can be ended with appropriate notice. Sale is a permitted ground for notice in some circumstances.
- Tenants must receive at least 24 hours notice in writing for any open home, photography, or inspection.
- Tenants can refuse open homes outside reasonable hours and frequency.
- Tenants are entitled to quiet enjoyment of the property during the lease.
- Rent must continue to be paid through to settlement.
- Bond remains held with the RTA throughout. Adjustments at settlement do not require bond release.
- Tenants cannot be forced to allow open homes more than once a week without consent.

Forms 9, 10, and 12 explained

Three RTA forms come into play around sale. Knowing what each one does avoids confusion later.

- Form 9: Entry Notice. Used to give tenants written notice of any entry to the property, including open homes, photography, building inspections, and pre-settlement inspections.
- Form 10: Notice to Leave. Used to end a tenancy. The notice period depends on the reason. Sale is not always a permitted reason; check the current RTRA wording or with the RTA.
- Form 12: Notice of Intention to Leave. Used by a tenant to give notice they will leave. May come into play if a tenant chooses to leave early when sale is announced.
- Forms must be filled in correctly. An incorrect form is invalid and may delay the timeline by weeks.
- Your property manager (if you have one) should handle these forms. If self-managing, allow time and check requirements with the RTA.

Open homes and entry rules

Tenant entry rules are stricter than many sellers expect. Plan the campaign around them, not against them.

- Maximum one open home per week unless the tenant agrees otherwise in writing.

- Minimum 24 hours written notice for any open home or inspection.

- Photography must follow the same notice rules.

- Tenants can be present during open homes but cannot disrupt them.

- Tenants can refuse to have their personal belongings photographed.

- A tenant who is opposed to the sale can make the campaign materially harder. Communication and small incentives (rent adjustment, bond contribution at end of lease) can help.

- A tenant who is supportive of the sale is a campaign asset.

Capital gains tax considerations

Investment property sales attract capital gains tax. The detail is your accountant's domain, but every investor seller should understand the basics before listing.

- CGT applies to the difference between sale proceeds and the cost base.
- Cost base includes purchase price, stamp duty, legal fees, capital improvements, and certain holding costs.
- A 50 percent CGT discount applies if you have held the property for at least 12 months and you are an Australian individual.
- CGT is paid in the financial year in which the contract is signed (not the year of settlement).
- For properties that were once your main residence: the partial main residence exemption may apply.
- For foreign residents: the main residence exemption does not apply, and CGT withholding rules apply at sale.
- A depreciation schedule materially affects the cost base. Keep yours up to date.
- Talk to your accountant before listing, not after.

Depreciation schedule and final tax position

Depreciation has a meaningful effect on both your annual tax position and your CGT calculation at sale. Get the documentation in order.

- A current depreciation schedule (quantity surveyor's report) should be on file from when the property was first leased.
- Depreciation claimed during ownership reduces the cost base for CGT, increasing the eventual capital gain.
- Older properties built before 1987 have limited capital works deductions but may still have plant and equipment depreciation.
- For properties purchased after 9 May 2017: second-hand plant and equipment is no longer depreciable. Capital works only.
- Talk to your quantity surveyor or accountant for an updated schedule before sale.

Land tax considerations

Land tax adjustments at settlement are a routine source of dispute. Confirm position before contract.

- Land tax is calculated annually by Queensland Revenue Office based on the unimproved land value as at 30 June each year.
- For investment properties, land tax is payable above the threshold (\$600,000 for individuals as of writing).
- At settlement, land tax for the year is typically apportioned between buyer and seller.
- Get a current land tax clearance certificate from QRO before settlement.
- If you own multiple Queensland properties, the aggregation rules can substantially increase the bill.

Timing the sale around the lease

Lease end dates create natural windows for sale. Working with the lease cycle is almost always easier than working against it.

- If the current fixed-term lease ends in the next three to six months: time the campaign to launch around the lease end, with vacant possession from a week before settlement.
- If the current lease has more than six months remaining: either negotiate an early lease break with the tenant, sell with the lease in place, or wait for the lease to end before listing.
- Negotiated lease breaks usually involve some financial offer to the tenant. Allow \$500 to \$2,000 typically.
- If selling with vacant possession: factor in two to four weeks for the property to be vacated, cleaned, and prepared for photography.
- If selling tenanted: align the marketing campaign so the buyer knows the lease end date.

Working with your property manager

A property manager can be a significant asset during sale or a meaningful drag on the process. Set expectations early.

- Notify your property manager in writing the moment you decide to sell.
- Ask the property manager to coordinate all open home and inspection access.
- Confirm the property manager will continue to manage rent collection, maintenance, and tenant communication during the campaign.
- Discuss who will issue Forms 9 and 10 if needed.
- If the property manager is from a different agency to your selling agent: agree clear lines of communication early.
- After settlement, the new owner will choose whether to retain the existing property manager. Hand over all records professionally.

Selling an investment property is a tax decision as much as a property decision. Walk through the financial position with your accountant and your selling agent before listing, and the rest of the process is mostly logistics.

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