

Sale of land — questions for the vendor

September 2024

Important information required

It is important that you answer these questions carefully and accurately as we will rely on the answers and information you provide to prepare documents and to act on your behalf in this transaction. If any of your answers are incorrect, the contract may not be enforceable, and you may be exposed to a claim for damages or other legal proceedings. If you are unsure about an answer, you should contact us to discuss.

Vendors Statement

Under section 32 of the Sale of Land Act 1962 (Vic) (SLA), a vendor of land must give to the purchaser before the contract is signed a statement signed by the vendor that includes certain prescribed information about the land sold. This is known as a "Vendor's Statement" or a "Section 32" Statement. Where a vendor supplies false or incorrect information to the purchaser in the Section 32 Statement, fails to provide all the information required to be supplied or fails to provide the Section 32 Statement to the purchaser prior to the contract being signed, the purchaser may seek to terminate the contract at any time before settlement. A purchaser may also have remedies against the vendor under the Australian Consumer Law. There may be an exception for an honest and reasonable mistake, but this may involve delay and costs associated with legal proceedings.

The Section 32 Statement is required to comply with section 32 of the SLA at the time the contract is entered into, not just at the time it is prepared. It is therefore important that you review the Section 32 Statement just prior to the signing of a contract by a purchaser to ensure it is current and accurate at that time. If it is not, or if you are unsure, you should advise us in writing and/or instruct us in writing to update it prior to signing.

The Section 32 Statement we prepare on your behalf for the sale of your property will be based on the information you provide, which we will assume are correct. If any of your answers are incorrect, the purchaser may seek to terminate the contract at any time before settlement.

Material Fact disclosure

Section 12 of the Sale of Land Act prohibits a vendor making a false statement to induce a purchaser to buy the property and section 12(d) requires the vendors of real estate to advise prospective purchasers of any material fact that may influence a purchaser's decision to buy the property. Guidelines about what is a material fact are published by Consumer Affairs and you should read them at [Preparing to sell your property - Consumer Affairs Victoria](#). A failure to disclose a material fact can result in prosecution and penalties.

| No. | Question Title | Answer |
|-------------|---|---|
| 1. | <p>If you hold a copy of the title (s) to the land being sold, please provide it.</p> <p>What is the address of the land being sold?</p> <p>Is there more than one title or property address of the land being sold?</p> <p>If you hold the original paper title(s) please provide them to us as soon as possible.</p> <p>If you do not hold the paper certificate(s) of title, please provide contact details of the bank or person who has the title(s) or electronic control of the title (ie your bank or previous solicitor)</p> | |
| 2. | <p>Is there a mortgage or caveat over the title?</p> <p>Note: Usually, a lender will register a mortgage over the title to secure repayment of any loan.</p> <p>Sometimes a lender or person claiming an interest in the land will lodge a caveat on the title to identify their claim or interest in the land. Please tell us of any known or potential caveats on the title.</p> | <p>Yes/No</p> <p>If yes, please provide:</p> <p>Name of lender/mortgagee:</p> <p>Estimate of amount required to discharge any mortgage(s):</p> <p>\$.....</p> |
| 3. | <p>Who is registered on title as the owner (name all persons if more than one)</p> <p>If the registered owner is a company, trust or charity, please provide full details. (If uncertain clarify details with your accountant)</p> <p>If the seller is different to the registered owner, please provide documentary evidence of your right to sell. (For example, your purchase agreement)</p> | <p>All individuals</p> <p>Company</p> <p>Trustee and trust</p> <p>Charity</p> |
| 4. | <p>Are any car spaces, storage lots or other areas included in the sale? Please provide details or the plan of subdivision with lot numbers for any such areas included in the sale.</p> <p>Are any car spaces subject to a congestion levy?</p> | <p>Yes/No</p> <p>Lot No.....</p> <p>Yes/No – If yes please provide details</p> |
| Land | | |
| 5. | <p>Are you aware of any failure to comply with any restrictions imposed on the land by any easement, covenant or other right?</p> <p><i>For example a garage that is built over a sewer pipe.</i></p> | <p>Yes/No</p> |

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| 6. | Is there access to the property by public road? (if access is over a neighbor's land or public land, please provide details) | Yes/No |
| 7. | Have you received any demand, notice, order, requirement, proposal, declaration or recommendation of a public authority or government department affecting the land? <i>For example, an order from VCAT, a street construction charge, re zoning proposal, a contamination / clean up notice or a notice about works and/or subdivision by an adjoining owner.</i> | Yes/No If yes, please provide details. |
| 8. | Is the land and buildings insured? Note, generally the property will remain at your risk until settlement. | Yes/No |
| 9. | What is the current use of the land? <i>For example a dwelling or shop or mixed use</i> | |
| 10. | Are you in occupation of the land? If currently tenanted, are you intending to sell the land with vacant possession? | Yes/No Yes/No |
| 11. | Please provide a copy of any tenancy agreement for the land and any disclosure statement issued to retail tenants. | |
| 12. | Is the property over 0.41ha in the local council municipalities of Cardinia, Casey, Hume, Melton, Mitchell, Whittlesea or Wyndham and will this sale of the land trigger payment of the Growth Areas Infrastructure Contribution? | Yes/No |
| 13. | Are you aware of any contamination that could pose a risk to human health and or the environment | Yes/No |
| 14. | Are you aware of any fencing dispute on any of the land boundaries? | Yes/No |
| 15. | Are you aware of any encroachments that affect the land? <i>For example, a neighbour's shed and/or retaining wall is partly built on your land.</i> | Yes/No |
| 16. | Have you received notice of any actual or proposed compulsory acquisition of any part of the land (such as an acquisition for road widening?) | Yes/No |
| 17. | Is the land in a bushfire prone area? | Yes/No |
| 18. | Are you aware of any easements that affect the land that are not shown on the title, title plan and/or plan of subdivision? (such as a regularly used walkway across your land) | Yes/No |

| Planning information and building works | | |
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| 19. | <p>Have any planning permits or building permits been issued or refused?</p> <p>Please provide a copy of any planning permit(s) and building permit(s) issued for the land.</p> <p>What is the expiry date for any planning permit?</p> <p>Is the property sold with plans and permits?</p> <p>Are you aware of any works that have been undertaken that would have otherwise require a building or planning permit (where a permit has not been obtained)?</p> <p>How old is the building on the land?</p> | <p>Yes/No</p> <p>Planning expiry date</p> <p>Date...../...../.....</p> <p>Yes/No</p> <p>Yes/No</p> |
| 20. | <p>Has an occupancy permit or certificate of final inspection been issued?</p> | <p>Yes/No</p> |
| 21. | <p>Are you aware of any breach of any planning and/or building permit(s) issued for the land? If yes, please provide particulars.</p> | <p>Yes/No</p> |
| 22. | <p>Is the land affected by any planning overlays?</p> <p><i>For example, is any part of the land heritage listed and/or subject to public acquisition overlay.</i></p> | |
| 23. | <p>Have you done any owner-builder works (works not completed by a registered builder)?</p> <p><i>For example, renovated a bathroom.</i></p> <p>Do you propose to do any owner-builder works before settlement?</p> <p>Note-A building and defects inspection report is required for owner builder works and insurance may also be required.</p> <p>For more information go to:</p> <p>Consumer Affairs Victoria Ph: 1300 55 81 81</p> <p>Victorian Building Authority Ph: 1300 815 127</p> | <p>Yes/No</p> <p>Yes/No</p> |
| 24. | <p>Have safety switches and smoke alarms been installed?</p> | <p>Yes/No</p> |
| 25. | <p>Is there a swimming pool/spa on the land?</p> <p>If yes:</p> <ul style="list-style-type: none"> Has a safety barrier or fence been installed? | <p>Yes/No</p> <p>Yes/No</p> |

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| | <ul style="list-style-type: none"> Has the swimming pool/spa been registered with the local council? Has a certificate of barrier compliance been obtained? <p>See <i>Building Amendment (Swimming Pool and Spa) Regulations 2019</i> (Vic)</p> <p>Further information from the VBA</p> | <p>Yes/No</p> <p>Yes/No</p> <p>If 'yes' to the above, provide a copy of these documents</p> |
| 26. | Does any building on the land contain flammable cladding? | Yes/No |
| 27. | <p>Have you entered into or are you aware of any agreement with the local council to fund the works required to rectify flammable cladding on any building(s) on the land?</p> <p>See part 8B in the <i>Local Government Act 1989</i> (Vic)</p> | Yes/No |
| Rates and taxes | | |
| 28. | <p>Please provide a copy of the current council rates notice, water rates notice and land tax notice for the land.</p> <p>If land tax is payable, is it payable at the general rate or the trust rate or absentee owner rate?</p> <p>Is any vacant residential land tax payable?</p> | <p>Copy notices attached: Yes/No.</p> <p>General rate / Trust rate/ absentee owner</p> <p>Yes/No</p> |
| 29. | <p>Have you considered the Capital Gains Tax (CGT) consequences of the sale of the land?</p> <p><i>Note- it is very important that you seek external tax / accounting advice about CGT and potential CGT, and other tax matters (as our retainer does not extend to providing tax advice).</i></p> | Yes/No |
| 30. | <p>Have you considered the Goods and Services Tax (GST) treatment of the sale of the land?</p> <p><i>(For example is the price 'plus GST', 'GST inclusive' and does the margin scheme or going concern exemption apply)</i></p> <p><i>Is the sale a taxable supply?</i></p> <p><i>Note-usually the sale of new residential premises, commercial premises and vacant land are sold on a 'plus GST' basis, however it is very important that you seek external tax / accounting advice about GST implications (as our retainer does not extend to providing tax advice).</i></p> | <p>Yes/No</p> <p>Yes/No</p> |
| 31. | Is the land zoned for commercial or industrial use (to identify commercial and industrial property tax) | Yes/No |

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| 32. | <p>Is there any proposal to re zone the land and have you considered any issues in relation to the windfall gains tax (WGT)?</p> <p>For example, could the land be rezoned and become subject to the WGT.</p> | Yes/No |
| Services | | |
| 33. | <p>Please circle the services connected to the land (or details of alternate supply)?</p> <p>Electricity (mains connection) Gas (mains connection) Water (mains connection)</p> <p>Advise details if rural water, water tank(s)/dam or other than mains water supply</p> <p>Sewerage (mains connection) Septic tank and treatment plant in use Telephone/communications</p> <p><i>Note- 'Connected' is not defined in the Sale of Land Act 1962 (Vic). A service is connected where at the date the purchaser signs the contract of sale the service can be used.</i></p> | |
| 34. | If water tanks have been installed, are they included in the sale? | Yes/No |
| 35. | Have solar panels been installed? | Yes/No |
| Owners corporation | | |
| 36. | <p>Is the land sold part of one or more owners corporation?</p> <p>please provide owners corporation manager contact details.</p> <p>Is any owners corporation 'inactive'?</p> <p>Does the owners corporation have insurance?</p> <p>Do you lease or licence any common property, or are you aware of any other party doing so?</p> <p><i>Note- s.11 of the Sale of Land Act 1962 may apply which gives a purchaser the right to rescind if the required owners corporation insurance is not in place.</i></p> | <p>Yes/No</p> <p>Manager/secretary -</p> <p>Name:</p> <p>Address:</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> |

| Goods | | |
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| 37. | What goods and chattels are included in the sale? (things not fixed to the land such as an outdoor setting) | List included goods (things that stay): Are there any fixed items that you propose to remove? |
| 38. | Are the goods included in the sale affected by a security interest on the Personal Property Securities Register (C'th)? | Yes/No |
| About you | | |
| 39. | Does the land owner have an Australian Business Number (ABN)? Are you selling this property as part of your business? | Yes – ABN..... No Yes/No |
| 40. | Are you acting as an attorney for this sale? | Yes/No If yes, please provide a copy of the Power of Attorney. |
| 41. | For a company or corporate vendor, who is authorised to give instructions and sign documents? | |
| 42. | Are you acting as an executor, trustee, guardian or administrator in regard to ownership of the land. If so, provide a copy of the trust deed / probate or other details. | Yes/No |
| 43. | Please provide the full name and date of birth of each person registered on the title or to be registered before completing this sale. Note-We are required by law to provide this information to various government agencies and may be required to provide them to a purchaser's representative for the purpose of checking the Personal Property Securities Register. | |
| 44. | Are you a foreign resident for tax purposes? A foreign resident means a person who is not a resident of Australia for the purposes of the <i>Income Tax Assessment Act 1936</i> (C'th) | Yes/No Usually, part of the purchase price of a foreign resident vendor will be withheld and paid to the Australian Taxation Office. |
| 45. | Is there anything else you want to tell us about your land that you think may affect a sale? | Yes/No If yes, please contact us to discuss |

| Selling agent | | |
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| 46. | <p>Have you appointed a selling agent?</p> <p>If you are not using a selling agent, have you given any proposed purchaser the prescribed due diligence checklist?</p> <p>A penalty may apply for the failure to give this checklist.</p> | <p>Yes/No</p> <p>If yes please provide:</p> <p>Name:</p> <p>Tel:</p> <p>Email:</p> <p>Yes/No</p> |
| 47. | <p>Has an auction date been set?</p> | <p>Yes/No</p> <p>If yes, please provide date...../...../.....</p> |
| About the purchaser (if known) | | |
| 48. | <p>Is the purchaser related to the vendor?</p> | <p>Yes/No</p> |
| 49. | <p>Is the purchaser a subsidiary/holding company in relation to the vendor?</p> | <p>Yes/No</p> |
| 50. | <p>Is the property owned by a trust? If so, is the purchaser likely to be a beneficiary of this trust?</p> | <p>Yes/No</p> <p>Yes/No</p> |
| 51. | <p>Have you granted any option to purchase the land?</p> | <p>Yes/No</p> |
| 52. | <p>Does any tenant or other person have a right of first refusal to buy the land or is consent from a third party required to sell the land?</p> | <p>Yes/No</p> |
| 53. | <p>Will the purchaser be given occupation or possession before settlement, or will there be multiple instalment payments? (this may create a 'terms contract')</p> <p>Note, If a terms contract of sale is created then an additional vendor's statement and other requirements must be complied with or the contract may not be enforceable.</p> | <p>Yes/No</p> |
| Any questions | | |
| 54. | <p>Please submit any questions or make contact to discuss.</p> | |

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Signed by or on behalf of the vendor (note authority to sign if not the registered owner)