

CONVEYANCING SERIES 2020

Mastering the essentials



LEGAL
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COMMITTEE



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Building a better section 32 statement

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Quote

I have no particular talent. I am merely inquisitive.

Albert Einstein

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1. Disclosure obligation and the *Sale of Land Act 1962 (Vic)* (SL Act)

Completing a satisfactory disclosure statement to meet the standards set by the Sale of Land Act 1962 (Vic) (SL Act) for every property transaction that crosses your desk requires significant legal knowledge and training backed up with good systems, processes and precedents.

This session contains details of the issues we have seen in claims and some of the important aspects of the disclosure requirements to assist those preparing section 32 statements.

Disclosure

See ss. 11, 32, 32A – 32I

- S. 30 Definitions
- S. 32J Certificates can be provided
- S. 32K Rescission where there is a breach
- S. 32L Offence to provide false or incomplete information
- S. 32O Circumstance where vendor is not required to give purchaser another section 32 statement
- S. 48A ACL and section 32 statements

New disclosure

- S.12(d) – offence to knowingly conceal material facts.

'Knowingly' replaced 'fraudulently' pursuant to the *Sale of Land Amendment Act 2019* (Vic).

New section 12A also inserted by this Act and provides that:

- (1) The Director of Consumer Affairs Victoria may make guidelines to assist vendors of land and their agents to understand what a material fact is likely to be for the purposes of section 12(d).
- (2) A court may have regard to any guidelines made under subsection (1).

2. Section 32A Financial matters

Requirement to include particulars of any charge

A new part 8B has been inserted in the *Local Government Act 1989* (Vic) pursuant to the *Building Amendment (Registration of Building Trades and Other Matters) Act 2018* (Vic) to provide for:

- councils to enter into agreements to facilitate a loan from a third-party lender to land owners or owners corporations to pay for the cost to rectify flammable cladding on buildings
- councils to declare and levy a cladding charge in relation to the loan to fund the rectification.

Part 8B commenced on 30 October 2018.

The loan to fund the rectification is treated as a service charge pursuant to the Local Government Act.

It is important to consider whether a property is affected because the current owner of the land is liable to pay any service charges (including the loan to fund the rectification), even if that owner did not own the land when the cladding rectification agreement was created.

LPLC expects that the charge will appear in the council rates notice and land information certificates.

Further information

Victorian Building Authority - Phone: [1300 815 127](tel:1300815127)

The VBA has issued a cladding rectification fact sheet which is available from the VBA website www.vba.vic.gov.au.

Cladding task force - Email: claddingtaskforce@delwp.vic.gov.au

Cladding safety Victoria – website: www.vic.gov.au/cladding-safety-victoria

The following three LPLC Key Risk checklists have been updated to refer to the new arrangements:

- sale of land – questions for the vendor
<https://lplc.com.au/checklists/sale-land-questions-vendor/>
- purchase of land – questions for the purchaser
<https://lplc.com.au/checklists/key-risk-checklist-purchase-of-land-questions-for-the-purchaser/>
- tax issues.
<https://lplc.com.au/checklists/key-risk-checklist-tax-issues/>

Action

Include details of any service charge in the section 32 statement.

Related question

Do you include details of the fire services levy in your section 32 statements?

Your comments

Legislation

Fire Services Property Levy Act 2012 (Vic)

Comment

The levy is a charge over the land. See s.19 of the *Fire Services Property Levy Act*.

Action

Check that any land information certificate from the local council includes details of the levy.

The section 32 statement should include:

- details of the levy. If using the Law Institute Victoria form of section 32 statement you need to insert details in item 1.2; and/or as applicable
- a statement to refer any purchaser to the attached land information certificate for details about the levy. Note s.32J of the SL Act states that information can be in a certificate.

3. Section 32B Insurance

Question

When should a section 32 statement include details of the vendor's insurance?

Your comments

Relevant case

Black Creek Deer Farm Pty Ltd v Australia and New Zealand Banking Group Limited [1995] VSC 179

Legislation

S.32B(a) – SL Act

Point to note

When transferring the risk to the purchaser, consider the need to delete general condition 31 (formerly GC 24).

Question

What do you include in the section 32 statement in relation to any owner builder works?

Legislation

S.32F(b) – SL Act

S.137B – *Building Act 1993* (Vic)

Points to note

Also refer to s.32J(2):

If the information required under section 32B is contained in a policy of insurance, the vendor may attach a copy of the policy or an extract of the policy to the statement for the purpose of complying with that section.

Section 11 of the SL Act also considers insurance requirements but in relation to owners corporations, s.11 provides that:

"A person cannot sell a lot affected by an owners corporation unless the vendor or the owners corporation has a current insurance policy in accordance with the Owners Corporations Act 2006. Where a lot is sold in contravention the purchaser may avoid the sale at any time before the contract is completed."

4. Section 32C Restrictions, bushfires and planning

Hot topic – New bushfire prone area wording

Section 32C(d) was amended by section 78 of the *Building Amendment (Registration of Building Trades and Other Matters) Act 2018* (Vic).

Old section

if the land is in a designated bushfire prone area within the meaning of regulations made under the *Building Act 1993*, a statement that the land is in such an area;

New section

if the land is in an area that is designated as a bushfire prone area under section 192A of the *Building Act 1993*, a statement that the land is in such an area;

Section 192A of the *Building Act* relevantly sets out the process to be followed by the Minister to determine an area which is subject, or which is likely to be subject, to bushfires is a designated bushfire prone area.

Commencement

The amendment took effect on 30 October 2018.

Action

Update your section 32 statement to include the new wording. If using the LIV form of section 32 statement you will note the change the wording in item 3.3.

Free bushfire prone report

Question

Do you obtain the free bushfire prone report from Land Channel?

Go to: <http://services.land.vic.gov.au/landchannel/content/addressSearch>

Your comments

Exercise

Background

Refer to the attached front page from a plan of subdivision, (see **Appendices, Tab 1**).

Action

What information would you include in the section 32 statement having regard to the plan?

Your comments

Legislation

S.32C(a) – Sale of Land Act

No access to property

Question

When is there no access to a property by road?

Your comments

Legislation

S.32C(c) – Sale of Land Act

5. Section 32D Notices, orders etc

Exercise

List three notices, orders, declarations, reports, recommendations, or approved proposals caught by s. 32D of the SL Act commonly seen in certificates for the sale of a residential property:

- 1.
- 2.
- 3.

Question

Which of the following do you use in your section 32 statement about notices, orders, declarations, reports, recommendations, or approved proposals caught by s. 32D of the SL Act:

- not applicable
- nil
- none to the best of the vendor's knowledge
- the vendor has no way of knowing the contents of any of the documents referred to above unless communicated to the vendor by the relevant public authority or government department
- if any as contained in the attached certificates and searches
- as follows [insert list].

Your comments

Exercise

Background

Refer to the attached Land Information Certificate extracts, (see **Appendices**)

Question

Are any of the extracts a notice, order, declaration, report, recommendation, or approved proposal caught by section 32D?

Your comments

6. Section 32E Building permits

Background

According to the VBA:

‘...An owner-builder is someone who takes responsibility for domestic building work carried out on their own land.....’

Reference

<http://www.vba.vic.gov.au/consumers/owner-builders>

Question

How do you define ‘owner builder works’?

Note

The following works were specified by a building surveyor as works covered by the owner builder inspection report under section 137B of the *Building Act 1993* (Vic):

- installation of ceiling fans in front three rooms
- minor plastering
- painting throughout
- carpet to front two rooms
- replacement of gutter
- replacement of front fence
- construction of a shed.

The report was issued earlier this year for a residential property in the suburbs.

Your comments

Question

What advice would you give a vendor client who has done owner builders works without a building permit?

Your comments

Resources

- VBA Practice Note 32-2018 – when is a building permit required (see **Appendices, Tab 3**)
- The unknowns of owner builder insurance by Russell Cocks Sept. 2016 LIJ p.66
- Unsafe as houses Owner-builders and conveyancing by Russell Cocks Aug. 2005 LIJ p.32

7. Section 32F Owners corporation

Exercise

Background

Refer to the attached copy of a three-lot subdivision (see **Appendices, Tab 4**).

Your vendor client owns all three lots and instructs you to prepare a contract of sale and section 32 statement for the sale of lot 3.

The client informs you that the owners corporation is inactive and that they have taken out insurance in the name of the registered proprietor.

Action

List three matters you would raise with your vendor client about the owners corporation and the requirements pursuant to section 32F of the SL Act:

- 1.
- 2.
- 3.

Notes

Section 32F(2) contains a definition of 'inactive':

'.....a reference to an owners corporation that is inactive includes an owners corporation that has not, in the previous 15 months—

- (a) had an annual general meeting; and
- (b) fixed any fees; and
- (c) held any insurance.....'

To comply with s.32F a vendor may prepare a current owners corporation certificate. As an alternative to providing this signed certificate the vendor may specify the prescribed information which would have been in the owners corporation certificate and put this in the section 32 statement (i.e.; not as an attachment).

The vendor must also provide a copy of:

- the owners corporation rules. Usually the standard rules apply. Here is a link to the rules:
http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/oca2006260/sch1.html
- statement of advice and information for prospective purchasers and lot owners. This information is as prescribed pursuant to Schedule 3, Regulation 12, *Owners Corporations Regulations 2007* (Vic). You can obtain this information from Consumer Affairs Victoria.
- the resolutions of the last annual general meeting.

If there have been no meetings, consider the need to include a special condition in the contract whereby the purchaser acknowledges that the OC has not held an AGM.

See section 32F of the SL Act 1962 and section 151(4)(b)(i) and (iii) of the [Owners Corporations Act 2006](#).

The owners corporation insurance requirements are complicated. See some of the sections below.

Section 59: Reinstatement and replacement insurance

- (1) An owners corporation must take out reinstatement and replacement insurance for all buildings on the common property in accordance with this Division.
- (2) The insurance required under subsection (1) is insurance for damage to property under which the owners corporation insures for:
 - (a) the cost necessary to replace, repair or rebuild the property to a condition substantially the same, but not better or more extensive than its condition when new; and

- (b) the payment of expenses necessarily and reasonably incurred in the removal of debris and the remuneration of architects and other persons whose services are necessary, being incidental to the replacement, repair or rebuilding of the damaged property.
- (2a) The insurance required under subsection (1) includes reinstatement and replacement insurance for the owners corporation's portion of any shared services.

Comment

If there is no common property, no insurance is required pursuant to S. 59.

Section 60: Public liability insurance

- (1) An owners corporation must take out public liability insurance for the common property in accordance with this section.
- (2) The public liability insurance required under subsection (1) is insurance for any liability of the owners corporation to pay compensation in respect of:
 - (a) any bodily injury to or death or illness of a person; and
 - (b) any damage to or loss of property,
 which is sustained as a result of an occurrence or happening in connection with the common property.
- (3) The owners corporation must ensure that, for the insurance which the owners corporation holds under subsection (2), the limit of liability is a minimum of \$10 000 000, or if another amount is prescribed, that other amount, in any one claim and in the aggregate during any one period of insurance.

Section 63: Insurance not required where there is no common property

By unanimous resolution, an owners corporation may resolve that, if there is no common property, each lot owner must arrange for the lot owner's own insurance.

Further information

Here is a link to OC information on the CAV website:

<https://www.consumer.vic.gov.au/housing/owners-corporations>

Your comments

8. Section 32G GAIC

The standard LIV form of section 32 statement contains a number of items which can be selected to identify the relevant growth areas infrastructure contribution (GAIC) information which must be attached to the section 32 statement.

If using the LIV form of section 32 statement refer to item 7.

We have seen claims where the relevant GAIC certificates were not attached to the section 32 statement.

We have also seen claims where a purchaser was not advised of their right to elect to defer payment of the GAIC within three months of the trigger event taking place.

The GAIC requirements are complicated and extensive and if in doubt check the information on the SRO website here:

<https://www.sro.vic.gov.au/growth-areas-infrastructure-contribution>

Tell us about your experience with GAIC

E: phil.nolan@lplc.com.au

9. Section 32H Non-connected services

Risk management tip

Ask your vendor client whether they have:

- a septic tank
- water tank(s)
- solar panels

The LPLC key risk checklist, 'Sale of land – questions for the vendor' refers to all three.

Your comments

Relevant case

McHutchison v Asli [2017] VSC 258

Background

The section 32 statement provided that sewerage was connected to the property. There was no 'town' sewer. The property was serviced by a septic tank.

A permit for use of the septic tank which contained conditions of use was not disclosed as required by section 32D.

The estimated cost to comply with the permit was about \$400 per annum.

In accordance with section 32K the purchaser rescinded the contract for the breaches of section 32.

Decision

Justice Digby was not convinced the vendor acted honestly and reasonably and ought to be excused. In any event the purchaser was not in substantially as good a position. Orders were made for the return of the deposit and the vendor to pay the purchaser's legal costs.

10. Section 32I Evidence of title

The LPLC conveyancing FAQs currently has 12 common questions about conveyancing. You can find the FAQs here:

<https://lplc.com.au/risk-management/faqs-conveyancing/>

One FAQ is:- can a vendor sell if they are not registered on title?

As stated in the FAQs the answer is yes, but evidence of the vendor's right or power to sell the land must be contained in the section 32 statement.

See section 32I(c) of the *Sale of Land Act 1962* (Vic).

Question

What evidence would you include in a section 32 statement where a vendor is not registered on title in the following circumstances:

1. Deceased estate and no will for the registered proprietor.
2. Deceased estate where deceased is one of two registered proprietors and their manner of holding is as joint proprietors.
3. Your client purchased a property two months ago with settlement due in 90 days. The client now instructs you to act for them to sell the property with settlement to coincide with the purchase in 90 days.

Your comments

11. Section 32J Certificate notice or other document issues by a relevant authority

Background

Refer to the information below from a planning report from 'Land Channel':

<p>Department of Environment, Land, Water and Planning</p> <p>Planning Property Report from www.planning.vic.gov.au on 18 October 2018 11:01 AM</p> <p>Address: 11 MOOR STREET FITZROY 3065 Lot and Plan Number: Lot 1 TP342588 Local Government (Council): YARRA Council Property Number: 262055 Directory Reference: Melway 2B K8</p> <p>Planning Zone NEIGHBOURHOOD RESIDENTIAL ZONE (NRZ) NEIGHBOURHOOD RESIDENTIAL ZONE - SCHEDULE 1 (NRZ1)</p> <p>HERITAGE OVERLAY (HO) HERITAGE OVERLAY SCHEDULE (HO334)</p> <p>OTHER OVERLAYS Other overlays in the vicinity not directly affecting this land PARKING OVERLAY (PO)</p>

Question

Is a land channel planning property report a 'certificate, notice or other document issued by a relevant authority' for the purposes of section 32J(1)?

Your comments

12. LPLC Resources

- FAQ's – Conveyancing
<https://lplc.com.au/risk-management/faqs-conveyancing/>
- Conveyancing resources
<https://lplc.com.au/checklists/key-risk-checklist-conveyancing-resources/>
- Claim free conveyancing practice risk guide
<https://lplc.com.au/practice-risk-guides/claim-free-conveyancing-2/>
- Various checklists
<https://lplc.com.au/category/checklists/>

13. List of relevant cases

Black Creek Deer Farm Pty Ltd v Australia and New Zealand Banking Group Limited [1955] VSC 179 – consideration of standard condition in contract about property being at the risk of the vendor.

McHutchison v Asli [2017] VSC 258 – defective section 32 statement referred to 'sewer' as connected. No sewer connected vendor installed a septic treatment plant.

Silvanna Pty Ltd v Screecree Pty Ltd (Civil Claims) [2016] VCAT 678 – reminder to include full copy of any certificates / searches when including in the section 32 statement.

Fraser v Mason (Building and Property) [2019] VCAT 1009 – consideration of owner builder issues where purchaser sues vendor.

S M Ho & K W Loh & T T Low & W W Orr and Commissioner of Taxation (Taxation) [2018] AATA 3911 (16 October 20 - GST and 'substantially renovated premises')

14. Appendices index

1. Plan of subdivision 1
2. Land information certificate extracts
3. When is a building permit required, Victorian Building Authority, Practice note 32 (November 2018)
4. Plan of subdivision 2
5. Sale of land – questions for the vendor, LPLC Key Risk Checklist

PLAN OF SUBDIVISION		STAGE NO. LTO use only EDITION 3	Plan Number PS 409115 E				
Location of Land Parish: MELBOURNE SOUTH City: SOUTH MELBOURNE Township: Section: 57 Crown Allotments: 5, 5A, 6, 7 & 15 (PART) Crown Portion: LTO Base Record: Title Reference: Vol 8933 Fol 543 Last Plan Reference: C.P. 100864 Postal Address: 348 - 350 ST KILDA ROAD (at time of subdivision) MELBOURNE 3000 AMG Co-ordinates E 3213000 ZONE: 55 (of approx. centre of N 5810800 land in plan)		Council Certification and Endorsement Council Name: CITY OF MONASH Ref: 1. This plan is certified under section 6 of the Subdivision Act 1988. 2. This plan is certified under section 11(7) of the Subdivision Act 1988. Date of original certification under section 6 / / 3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988. OPEN SPACE (i) A requirement for public open space under section 18 of the Subdivision Act 1988 has/has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in Stage..... Council delegate Council seal Date / / Re-certified under section 11(7) of the Subdivision Act 1988 Council Delegate Council Seal Date / /					
Vesting of Roads and / or Reserves <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 20%;">Identifier</th> <th style="width: 80%;">Council/Body/Person</th> </tr> <tr> <td style="text-align: center;">ML</td> <td style="text-align: center;">ML</td> </tr> </table>		Identifier	Council/Body/Person	ML	ML	Notations Staging This is/are a staged subdivision Planning Permit No. Depth Limitation APPLIES, 15-24 METRES BELOW THE SURFACE TO CROWN ALLOTMENT 5A.	
Identifier	Council/Body/Person						
ML	ML						
THE COMMON PROPERTY No 1 IS ALL THE LAND IN THE PLAN EXCEPT FOR THE LOTS AND COMMON PROPERTY No 2 AND INCLUDES THE STRUCTURE OF THOSE WALLS, FLOORS AND CEILINGS WHICH DEFINE BOUNDARIES LOCATION OF BOUNDARIES DEFINED BY BUILDING :- INTERIOR FACE : ALL BOUNDARIES UPPER BOUNDARIES: UNDERSIDE OF PLASTERBOARD EXCEPT FOR THE BASEMENT AND LOWER BASEMENT LEVELS, WHERE THE UPPER BOUNDARY IS THE UNDERSIDE OF THE CONCRETE. ALL INTERNAL SERVICE DUCTS AND PIPE SHAFTS WITHIN THE BUILDING ARE DEEMED TO BE PART OF THE RELEVANT COMMON PROPERTY. THE POSITIONS OF THESE DUCTS AND SHAFTS HAVE NOT BEEN SHOWN ON THE DIAGRAMS CONTAINED HEREIN. BOUNDARIES SHOWN BY THICK CONTINUOUS LINES ARE DEFINED BY BUILDINGS		LOTS ON THIS PLAN MAY BE AFFECTED BY ONE OR MORE OWNERS CORPORATIONS. SEE OWNERS CORPORATION SEARCH REPORT(S) FOR DETAILS LOTS 1, 4 TO 7, 22 TO 25 HAVE BEEN OMITTED FROM THIS PLAN. LOT 58 CONSISTS OF TWO PARTS SURVEY: THIS PLAN IS BASED ON SURVEY. THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS No(s) 4, 5, 36 & 37 IN PROCLAIMED SURVEY AREA No.					
EASEMENT INFORMATION							
LEGEND E - Encumbering Easement, Condition in Crown Grant in the Nature of an Easement or Other Encumbrance A - Appurtenant Easement R - Encumbering Easement (Road)							
Easement Reference	Purpose	Width (Metres)	Land Benefited/in Favour Of				
R1	WAY, DRAINAGE, WATER SUPPLY, ELECTRICITY SUPPLY & TELEPHONE	SEE PLAN	LOTS ON THIS PLAN				
E-1 & E-8	POWERLINE	11	THIS PLAN Section 103B SEC ACT 1958 S.E.C.V				
E-2	POWERLINE	3	THIS PLAN Section 103B SEC ACT 1958 S.E.C.V				
E-2 & E-8	WATER SUPPLY	SEE PLAN	LOTS ON THIS PLAN				
E-3	WATER SUPPLY	SEE PLAN	LOTS ON THIS PLAN				
E-4	WATER SUPPLY	3	LOTS ON THIS PLAN				
E-4	WATER SUPPLY	3	VOL. 9736 FOL. 434				
E-5	WATER SUPPLY	3	VOL. 9736 FOL. 434				
E-5	POWERLINE	3	S.E.C.V				
E-6 & E-8	POWERLINE	150	THIS PLAN Section 103B SEC ACT 1958 EASTERN ENERGY LTD.				
E-6 & E-8	WATER SUPPLY	150	THIS PLAN Section 44 ELECTRICITY INDUSTRY ACT 1993 LOTS ON THIS PLAN				
E-6 & E-8	WATER SUPPLY	SEE PLAN	THIS PLAN LOTS ON THIS PLAN				
E-6 & E-8	POWERLINE	SEE PLAN	THIS PLAN Section 44 ELECTRICITY INDUSTRY ACT 1993 EASTERN ENERGY LTD.				
E-7	WATER SUPPLY	SEE PLAN	THIS PLAN LOTS ON THIS PLAN				
E-7	POWERLINE	SEE PLAN	THIS PLAN Section 44 ELECTRICITY INDUSTRY ACT 1993 EASTERN ENERGY LTD.				
E-8 & E-9	WAY	SEE PLAN	THIS PLAN LOTS ON THIS PLAN				
E-10	WATER SUPPLY	3	THIS PLAN LOTS ON THIS PLAN				
E-11	POWERLINE	2	THIS PLAN Section 88 OF THE ELECTRICITY INDUSTRY ACT 2000 SPI ELECTRICITY PTY. LTD.				
E-12	WAY	SEE PLAN	THIS PLAN LOTS ON THIS PLAN				
E-13	WATER SUPPLY	7	THIS PLAN LOTS ON THIS PLAN				
E-14	WATER SUPPLY	10	THIS PLAN LOTS ON THIS PLAN				
E-14	WAY	10	THIS PLAN LOT 38 ON THIS PLAN				
SURVEYORS & ENGINEERS		LICENSED SURVEYOR (PRINT) SIGNATURE DIGITALLY SIGNED DATE / / REF 62165 VERSION 1					
		THIS IS A LAND VICTORIA COMPILED PLAN FOR DETAILS SEE MODIFICATION TABLE HEREIN SHEET 1 OF 8 SHEETS THIS IS A LAND VICTORIA COMPILED PLAN ORIGINAL SHEET SIZE A3					

LR USE ONLY

 STATEMENT OF COMPLIANCE/
 EXEMPTION STATEMENT

RECEIVED



DATE: 6/08/2010

 THIS IS A LAND
 VICTORIA
 COMPILED PLAN

 FOR DETAILS SEE
 MODIFICATION TABLE
 HEREIN

SHEET 1 OF 8 SHEETS

 THIS IS A LAND VICTORIA
 COMPILED PLAN

ORIGINAL SHEET SIZE

A3

Land Information Certificate extracts

Council will from time to time use Special Charge Schemes to update or construct Council Infrastructure. You are advised to contact the Murrumbidgee Shire Council on (03) 5772 0333 and check with the Engineering Department to confirm whether there are any proposals to implement a Special Charge Scheme which may affect this property.

Street Information

Green Waste Special Charge	0.00
Fire Service Property Levy	261.24

Properties abutting unmade streets may be liable for street construction charges should a private street construction scheme be implemented.

- Any notice or orders under *Local Government Act 1958 or 1989*, or Local Law or By Law - **NOT APPLICABLE**

Notations regarding subject property:

In accordance with Council resolution dated 19 March 2007, regarding an increase of dwellings to this site, the owners and occupiers of the dwelling/s hereby approved are not eligible to receive "Resident Parking Permits". For your reference Planning Permit 991/13 was issued on 22 July 2015.

Please note: The details appearing on this certificate are for the parent assessment which is now subject to a supplementary valuation and pro rata rating. Lot 2G of PS 23844 is not yet separately rated.

4. SPECIFIED FLOOD LEVEL:

There is no specified flood level within the meaning of Regulation 6.2 of the Building Regulations.

Please note that a Community Infrastructure Levy for a dwelling must be paid to Council prior to the issue of a building permit.

- A notice may be/has been served on the owner to clear a potential fire hazard non-compliance with this notice will result in a charge being levied. Council's Local Law No. 3 requires the owners of the land shall keep it free of vegetation and any other materials which are likely to constitute a fire hazard. Enquires to Local Laws on (03) 9518 3555.

ENVIRONMENT PROTECTION AUTHORITY NOTICE

Please be advised that if Council records indicate that this property is contaminated it will be noted in the Grey Area below.

IMPORTANT NOTICE REGARDING RESIDENT PARKING PERMITS

This notice applies to any new dwelling that is part of a new multi dwelling development of 2 or more dwellings and must be included in any Section 32 statement.

In circumstances where a dwelling within a new multi dwelling development is to be rented out; this notice should be attached to any tenancy agreement.

Council has areas that are experiencing significant problems with car parking and this has resulted in the implementation of parking permit schemes.

Any new resident of any new multi dwelling development will not be entitled to a resident parking permit. New multi dwelling developments have the required number of car parking spaces on site or because of the proximity to public transport, Council accepted a justification to reduce or waive the normal parking requirements.

This updates the previous Practice Note-2016-32 issued January 2016.

Purpose

This practice note provides guidance on where a building permit is not required for building work.

Background

Buildings must be constructed to meet minimum standards of safety and amenity as set out in the Building Act 1993 (the Act), the Building Regulations 2018 (the Regulations) and National Construction Code (NCC).

The building permit process is intended to ensure that the building work when constructed complies with the Act, Regulations, NCC and relevant Australian Standards and the building or structure is suitable to occupy or use.

The building permit is required to include detailed documentation which demonstrates that the building work will comply with the Act, Regulations and NCC. The building permit process also requires inspections of the work and the issuing of an occupancy permit or certificate of final inspection.

Some building work is of such a minor nature that the protections and advantages that a building permit provides are not necessary or will not be achieved. Schedule 3 of the Regulations sets out the building work that is exempt from the requirement for a building or occupancy permit.

Requirement for a building permit

Sections 16 and 16B of the Act make it an offence to:

- carry out building work without a building permit that is in force;

- carry out building work that is not in accordance with the building permit issued for the work;
- carry out building work that is not in accordance with the Act or the Regulations.

These offences do not apply if the building work is exempted by the Act or the Regulations.

Where a court finds that there has been a breach of section 16 of the Act a maximum penalty of 500 penalty units for a natural person and 2500 penalty units for a company can be imposed.

Where a court finds that a person has breached section 16B of the Act because they were in the business of building and knew a building permit was required, a maximum penalty of 600 penalty units or 5 years in prison or both for a natural person or 3000 penalty units for a body corporate, can be imposed.

Exemptions – Schedule 3

Schedule 3 of the Regulations lists items of building work, structures or buildings that do not require a building or occupancy permit.

Column 2 of the table in Schedule 3 describes the type of building or building work which is exempted from a building or occupancy permit.

Column 3 of Schedule 3 describes the parts of the Regulations that the building or building work is exempted from. For example, for item 10 there is a reference in column 3 to All Parts except regulation 89(1) and Schedule 6. This means that no building permit is required, but that the fence height requirements of regulation 89(1) and Schedule 6 – Planning Schemes (as applicable) must still be complied with.

Work that will not adversely affect structure or safety

Several items in Schedule 3 exempt work from the requirement for a building and occupancy permit if the building work will not adversely affect the structural soundness of the building and will not adversely affect the safety of the public or occupiers of the building. These terms should be interpreted to apply to the construction process and the completed building.

An example, even if the finished building will be structurally sound, if during construction there will be an adverse effect on any structural element or on the safety of the public or occupiers then the exemption does not apply. This means that any building work which involves work to structural or load bearing elements of an existing building, regardless of cost, will require a building permit. This would also apply to the removal of internal walls which contribute to the lateral stability of a building.

Construction of a Pergola

One of the exemptions from the requirement for a building permit is for the construction of a pergola. A pergola is defined in regulation 5 to mean an open structure that is unroofed but may have a covering of open weave permeable material.

A pergola is exempt by item 16 of Schedule 3, providing it is:

- not more than 20m² in floor area; and
- not more than 3.6m in height; and
- located no further forward on the allotment than the front wall of the building to which it is appurtenant; or
- located no further forward than 2.5m of the front wall of the building to which it is appurtenant.

Note: A shade structure and/or shade sail that has a permeable covering (*open weave shade cloth or open lattice*) that satisfies the above criteria would come within the definition of a pergola and be exempt from the requirement for a building permit.

Any pergola, including a shade sail or shade structure that falls within the exemption in item 16 must still be designed and constructed to resist applied loads and to ensure it does not adversely affect any building to which it is attached.

Repair, renewal or maintenance

Repair, renewal or maintenance of a part of an existing building, (*such as replacing rotted weatherboards, or replacing wall, ceiling or floor lining, retiling a bathroom or kitchen*) is exempt from the requirement to obtain a building permit under item 3 of Schedule 3 provided the building work:

- will not adversely affect the structural soundness of the building, will not increase or decrease the floor area or height of the building and is not underpinning or replacement of footings and does not include the removal or alteration of any element of the building that is contributing to the support of any other element of the building; and
- uses materials commonly used for the same purpose as the material being replaced; and
- will not adversely affect the safety of the public or occupiers of the building; and
- will not adversely affect an essential safety measure relating to the building.

Alterations to a building

Alterations to a building are exempt from the requirement to obtain a building permit by item 4 of Schedule 3 if the building work:

- will not adversely affect the structural soundness of the building and will not increase or decrease the floor area or height of the building; is not underpinning or replacement of footings and does not include the removal or alteration of any element of the building that is contributing to the support of any other element of the building; and
- will not adversely affect the safety of the public or occupiers of the building; and
- will not project beyond the street alignment; and

- is not work carried out on, or in connection with, a building included on the Heritage Register; and
- is not work in relation to, and will not adversely affect, an essential safety measure.

Construction of a freestanding building

Construction of a freestanding Class 10a building (a shed, carport or garage) is exempt from the requirement to obtain a building permit by item 1 of Schedule 3 providing it:

- has a floor area not exceeding 10m²; and
- is not more than 3m in height, or no more than 2.4m in height within 1m of the boundary; and
- if appurtenant to a building of another Class on the same allotment is located no further forward on the allotment than the front wall of the building to which it is appurtenant; and
- if it is the only Class 10a building and is not appurtenant to another building of another Class on the same allotment, is set back at least 9m from the front street alignment and at least 2m from each side street alignment; and
- is not constructed of masonry.

Where a freestanding Class 10a building is proposed to be located over an easement or relevant authorities service pipe, the *Water Act 1989* and/or *Local Government Act 1989* require that consent is obtained from the relevant authority prior to the construction of the building.

Some Class 10a buildings may still require a planning permit to be constructed (e.g. in a heritage overlay area).

Demolition of a freestanding building

Demolition of a freestanding Class 10 building such as a shed, carport or garage is exempt from obtaining a building permit under item 2 of Schedule 3 provided that the Class 10 building:

- is not constructed of masonry; and
- does not exceed 40m² in floor area; and

- will not adversely affect the safety of the public or occupiers of the building; and
- is not work carried out on or in connection with, a building included on the Heritage Register.

Some Class 10 buildings may still require a planning permit to be demolished (e.g. in a heritage overlay area).

Class 10b structures constructed for displaying a sign

A Class 10b structure that is built for the purpose of displaying a sign is exempt from the requirement to obtain a building permit by item 12 of Schedule 3 provided it:

- is less than 3.0m from a street and does not exceed 1m above natural ground level, or
- not less than 3m from a street and does not exceed 8m above natural ground level and 6 square meters in display area.

Where a sign is to be attached to an existing Class 10b structure which was not constructed for the purposes of displaying a sign, the exemption in item 12 does not apply (e.g. flag pole, tower or antenna.)

Where the exemption in item 12 applies, the Class 10b structure should be designed and constructed to ensure structural soundness.

Where a sign is to be attached to an existing Class 10b structure constructed for the purpose of displaying a sign, the structure should be assessed to ensure that it will structurally withstand the load of the new sign.

Real estate signs

A temporary free-standing sign such as a real estate for sale or lease sign that is self-supporting will usually be exempt from the requirement for a building permit on the basis that it is a **temporary structure** under item 7 of schedule 3.

Real estate signs that are attached to buildings that are not Class 10b structures are **not** exempted from the requirement to obtain a building permit.

What is building work?

A building permit is only required for building work. The Act defines building work as work for or in connection with the construction, demolition or removal of a building.

The word **construct**, in relation to a building is defined in the Act to include:

- build, re-build, erect or re-erect the building; and
- repair the building; and
- make alterations to the building; and
- enlarge or extend the building; and
- place or relocate the building on land.

Building work that falls within the above definitions, is building work that requires a building permit, except where specifically exempted under schedule 3

Excavation works

Excavation work that is being carried out in connection with and for the purpose of facilitating the construction of a building or structure on the land, is in connection with the construction of a building and is therefore building work.

A Building permit is not required for excavations that are not connected with building work and therefore do not come within the definition of building work.

Further, excavations that are connected with building work that is exempt from the requirement for a building permit, would also not require a building permit.

An example: Excavations associated with landscaping, retaining walls that are less than 1m in height, footings to sheds and pergolas or similar that are exempt from requiring a building permit do not require a building permit. (Refer to the table below)

Civil engineering and infrastructure work, carried out in relation to a subdivision that is comprised of earthworks, road works, installation of drainage, sewer and water reticulation infrastructure does not require a building permit. This work is also exempted from the requirements of the *Domestic Building Contracts Act 1995*.

Value of building work

The value of building work is not relevant to whether or not any of the exemptions in Schedule 3 apply.

If building work is exempt from the requirement for a building permit, it may still be subject to the *Domestic Building Contracts Act 1995*. Under that Act, if the contract price for carrying out of domestic building work is more than \$16,000 the builder:

- must enter into a major domestic building contract with the owner; and
- must be registered under the Building Act 1993; and
- must hold required insurance for the work.

The provisions of the *Domestic Building Contracts Act 1995* do not apply to an owner who carries out the work.

Case Studies - Solar roof PV panels

The following case studies describe examples of typical building work and whether they are exempt from the requirement for a building permit or any technical provisions.

Rooftop solar panels are considered attachments to a building and therefore they are not building work and do not require a building permit except where structural alteration to the roof frame is required to support the installation of the panels.

Where solar panels are proposed to be attached to a building on the Heritage Register, approval under the *Heritage Act 2017* or a planning permit may be required.

The installation of solar panels will impose additional loads on existing roof structures. Fixings may also adversely affect existing roof structures. Different onsite conditions including roof covering, roof pitch, type of framing and wind loads will need to be considered before solar panels are installed.

An assessment of the support structure by an engineer or other suitably qualified person should occur so that all loading conditions, installation and fixing methods are considered.

Table 1

Examples of common types of building work are included in the table below.

Note: A planning permit or approval may be required, regardless of whether a building permit is required.

Common types of building work	Building permit required?	Must still comply with (see notes)
Additions Additions to a dwelling or any other building.	Yes	3
Alterations Structural alterations to a dwelling or any other building. Removal of or alteration to a load-bearing part or a part contributing to the support of a building. (e.g. a wall supporting a ceiling and /or roof propping or required for bracing the structure against wind or movement). Remodelling of a bathroom or kitchen, replacement of internal wall and ceiling linings and replacement of external wall cladding (like for like) that does not include structural alterations.	Yes Yes No	3 3 6
Carports/garages Construction of a garage/carport. Demolition of freestanding garage/carport, not constructed of masonry, not more than 40m ² in floor area, is not a building on the Heritage Register and the work will not adversely affect the safety of the public or occupiers of the building.	Yes No	3 Nil
Cubby house Children's timber or plastic cubby or play house 10m ² or less in area, 3m or less in height, setback 1m or more from the boundary and located no further forward than the front wall of the dwelling.	No	4
Decks Attached to a building irrespective of size or forming part of a swimming pool surround. Detached timber deck constructed as part of the amenity of a dwelling.	Yes Yes	3 9

Common types of building work	Building permit required?	Must still comply with (see notes)
<u>Fences</u>		
Construction of a side or boundary fence 2m high and not within 3m of a street alignment.	No	2
Construction of a brick front fence 1.2m high and not within 9m of a point of intersection of street alignments. (except where Regulation 89(1) and schedule 6 apply.)	No	2
Construction of a timber front fence not more than 1.5m in height and not with 9m of a point of intersection of street alignments (except where Regulation 89(1) and schedule 6 apply.)	No	2
Construction of a side or boundary fence more than 2m high.	Yes	3
Construction of a fence that is more than 1.0m high, within 9m of the point of intersection of street alignments.	Yes	3
Construction of a chain wire tennis court fence.	No	Nil
<u>Hail netting</u>		
Hail netting that is permeable and used for agricultural purpose supported on posts not greater than 3m in height with tensioned cables fixed to the ground.	No	Nil
<u>Masts/antennas/satellite dishes</u>		
Height more than 3m above the highest point of a building.	Yes	3
Not attached to a building and height more than 8m above the ground.	Yes	3
<u>Re-blocking</u>		
Re-blocking, restumping or underpinning of an existing building.	Yes	3
<u>Retaining Walls</u>		
Constructed on or near site boundaries where there is a risk of damage to adjoining property.	Yes	3
Construction of a retaining wall 1m or more in height.	Yes	3, 8
Construction of a retaining less than 1m not associated with other building work or with protection of adjoining property.	No	Nil

Common types of building work	Building permit required?	Must still comply with (see notes)
<u>Roofing</u>		
Replacement of corrugated iron roofing with concrete or terracotta roofing tiles.	Yes	3
Replacement of concrete or terracotta roofing tiles with corrugated iron roofing. (This can affect the wind uplift on the roof structure).	Yes	3, 6
Replacement of corrugated iron roofing with similar corrugated iron sheeting (e.g. Colorbond) and no replacement of structural battens.	No	6
Replacement of corrugated iron roofing with another pre-finished metal sheeting which requires the installation of structural battens.	Yes	3, 6
<u>Sheds associated with a single dwelling</u>		
Erection of a freestanding shed, 10m ² or less in area, 3m or less in height, setback 1m or more from the boundary and located no further forward than the front wall of the single dwelling.	No	4
Erection of a shed more than 10m ² in area.	Yes	3, 7
<u>Real estate agent signs</u>		
Free standing, self-supporting for sale or lease sign not more than 6m ² in area.	No	Nil
For sale or lease sign located on a shop verandah.	Yes	3
<u>Swimming pools/spas</u>		
Construction of a swimming pool/or spa greater than 300mm in depth.	Yes	3
A relocatable swimming pool that is erected temporarily in an area enclosed by an approved safety barrier.	No	Nil
Note: All swimming pool safety barriers require a building permit.		
<u>Verandahs</u>		
Construction of a verandah attached to any building.	Yes	3
<u>Windows</u>		
Replacement of windows with similar type windows, where no structural alterations are required.	No	5
Installation of 'bay' or 'corner' type windows, where structural alterations are required.	Yes	3
<u>Wood heater</u>		
Installation of a wood heater (solid fuel burning appliances) – installation by a plumber is required.	No	6

Reference notes

Note 1: NCC Series Volume One Building Code of Australia Class 2 – 9 buildings and Volume One Class 1 and 10 buildings (includes structural safety, fire rating and health and amenity requirements, as applicable).

Note 2: Must still comply with Regulation 89 (1) and Schedule 6. A building permit is required where the fence height does not comply with the maximum height specified in the schedule to a zone of a planning scheme and a report and consent is obtained.

Note 3: Must comply with all provisions of the Act and Regulations. The process of issuing a building permit determines this.

Note 4: Required Reporting Authority or other relevant consent obtained as part of a building permit where over an easement.

Note 5: Glass must be suitable for the particular use.

Note 6: Plumbing work needs to be undertaken by a licensed or registered plumber.

Note 7: The exemption contains a number of criteria which must all be met in order to gain the exemption. By complying with a single item noted in the example does not necessarily mean that an exemption would apply.

Note 8: Where a retaining structure is required under the planning scheme or a planning permit for a residential subdivision, the construction work is not domestic building work as the Domestic Building Contracts Regulations exempts such retaining structures.

Note 9: Must meet siting, safety and structural provisions.

Further information

Want to know more?

If you have a technical enquiry, please email technicalenquiry@vba.vic.gov.au or call 1300 815 127.

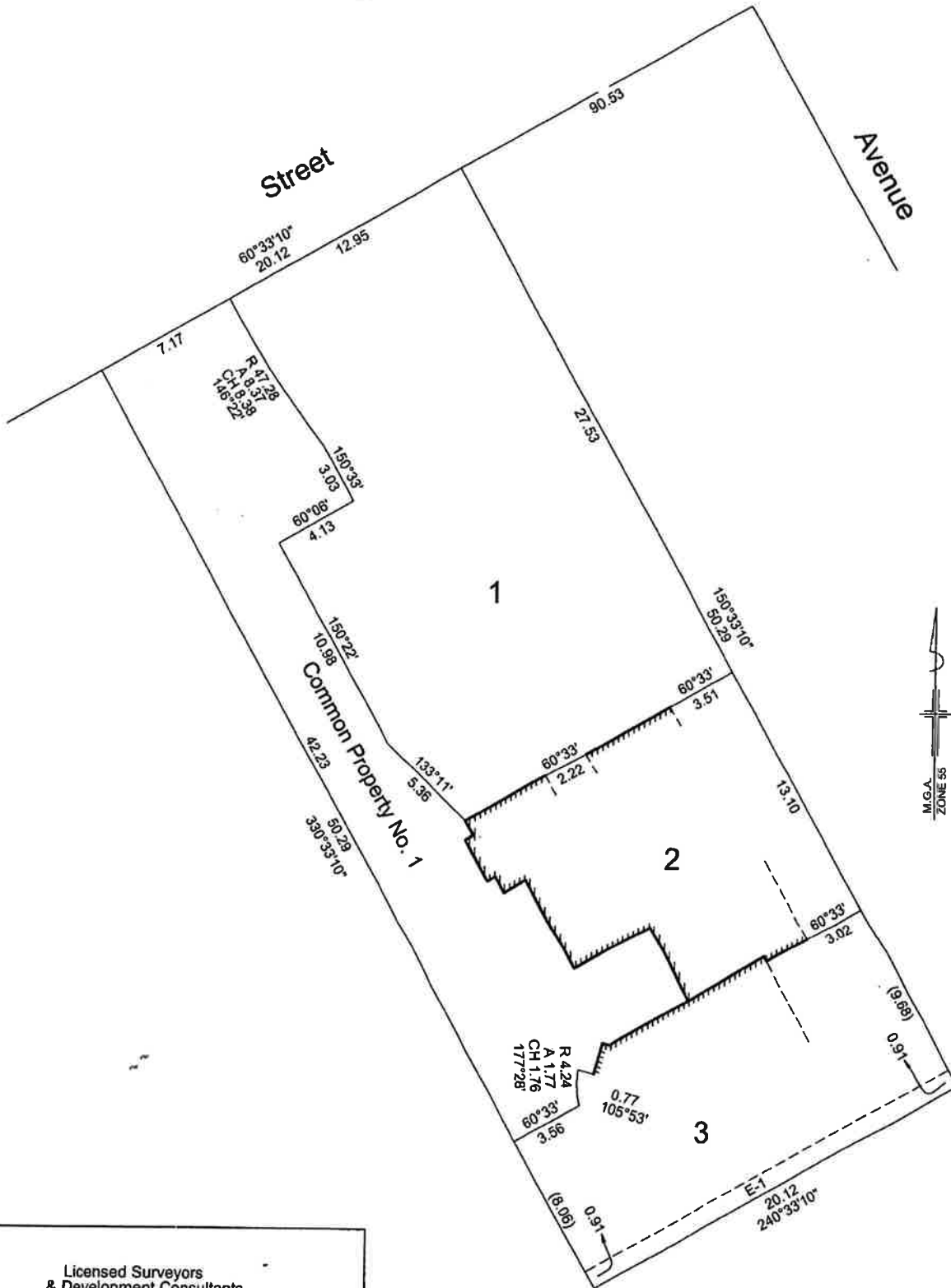
Victorian Building Authority
733 Bourke Street Docklands VIC 3008

www.vba.vic.gov.au

PLAN OF SUBDIVISION

STAGE No.

PLAN NUMBER
PS



Licensed Surveyors
& Development Consultants

ORIGINAL

SCALE SHEET
SIZE
1:200 A3

LICENSED SURVEYOR(PRINT)

SIGNATURE

REF 7869

VERSION

DATE 24/6/09

4

SHEET 2

DATE 1/07/2009

COUNCIL DELEGATE SIGNATURE

Land Information Certificate extracts

Private Street/Drainage Schemes – section 163 of the Local Government Act 1989

Private street scheme under the provisions of (within the meaning of section 575(1) of the Local Government Act 1958) that now are prescribed under section 163 of the Local Government Act 1989:

Total liability: \$Nil

(all debts relating to this legislation will be shown under the particulars on the front of the certificate)

Note: The following are important notes relating to this property.

The property is not subject to a reduction in rates because of the application of the Cultural & Recreational Land Act 1963.

The property is not liable to become rateable under Section 173 or 174A of the Local Government Act 1989 unless shown.

The property is not subject to a requirement for recreational purposes under Section 18 of the Subdivision Act 1988 or the Local Government Act 1958 unless this is shown.

The Local Government Act 1989 Section 175 requires all arrears/interest/legal fees to be paid in full immediately upon settlement and refers to the purchases' responsibilities for payments upon becoming the owner of the land.

Please note that any overdue amount will continue to accrue interest until payment in full is received by Council.

	YES/NO
♦ The land is recreational land under the Cultural and Recreational Lands Act 1963 and there is Potential liability for ten years back rates if the land ceases to be recreational land.	No

Directions to clear properties under Moreland City Council General Local Law 2007, Part Two, Section 17, may be issued to owners of properties within the Municipality at all times throughout the year. Although there may be no charge shown on this Certificate, it is possible that a property related charge will exist by the settlement date.

The Local Government Act 1989 requires a Notice of Acquisition be submitted to ensure Purchasers correct name and address details are held by Council. Council can not accept liability for incorrect addresses when notification in writing has not been supplied.

General Notes:

Supplementary Valuations are conducted by Council when a property's characteristics change. Examples of this (but not exclusive) are: A building is altered, erected, or demolished. A property is amalgamated, subdivided, rezoned, part sold, or affected by road construction. As a result of this, an Adjusted Valuation may be returned in due course and a subsequent rate adjustment may be levied within the financial year.

ADDITIONAL INFORMATION

Flood Level Information

A Flood level has **not** been designated by Council under the Building Regulation 1994, advice on whether a flood level has been determined which affects this property should be sought from Melbourne Water.

Other (If Applicable)

Detached Dwelling

G. At the time of writing there are no monies owed in relation to the land under section 94(5) of the *Electricity Industry Act 2000*.

Notices and Orders issued as described above:

NOTE: Directions to clear FIRE HAZARDS will be issued to all owners of vacant land during the high fire danger period. Although there may be no charge shown on this Certificate it is possible that a charge will exist by the settlement date.

Instructions

- ☐ Please circle yes or no as applicable.
- ☐ Please provide the additional information as indicated e.g. a copy of your title(s).
- ☐ If you do not know the answer or are unable to provide the additional information please insert the words 'not known'.
- ☐ Please sign where indicated at the foot of the final page and forward this completed list and all necessary information to the sender.

No.	Question Title	Answer
1.	<p>Please provide a copy of the title(s) to the land and the address.</p> <p>Who has control of the certificate(s) of title to the land being sold?</p> <p>If you hold the original paper title(s) you must provide them to us prior to settlement to be handed by us at settlement to the purchaser's representative. The paper title(s) must be destroyed or made invalid and an electronic title created when the transaction is conducted electronically.</p> <p>If you do not hold the paper certificate(s) of title, please provide contact details of the person who has the title(s) ie your bank.</p>	<p>The address for the land is –</p>
2.	<p>Do you have a mortgage over the title?</p> <p>Note:</p> <p>Usually a lender will register a mortgage over the title to secure repayment of any loan.</p> <p>Sometimes a lender will lodge a caveat so you also need to tell us of about any 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>Are you the registered proprietor of the land?</p> <p>If not, please provide documentary evidence of your right to sell. <i>For example a copy of the contract of sale.</i></p> <p>Proof of identity is required in accordance with the Model Participation Rules issued by ARNECC</p>	<p>Yes/No</p>

Key Risk Checklist

	<p>You need to provide to us two proof of identity documents and one must be a current photo ID.</p> <p>Please also sign and return the attached client authorisation form if the sale will be conducted electronically.</p>	
4.	<p>Are any car spaces, storage lots or other areas included in the sale? Please provide the plan of subdivision lot numbers for any such areas included in the sale. 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 by any easement, covenant or right?</p> <p><i>For example a garage that is built over a sewer pipe.</i></p>	Yes/No
6.	Is there access to the property by road?	Yes/No
7.	<p>Have you received any demand, notice, order, requirement, proposal, declaration or recommendation of a public authority or government department affecting the land?</p> <p><i>For example, an order from VCAT, a street construction charge, or a notice about works and/or subdivision by an adjoining owner.</i></p>	<p>Yes/No</p> <p>If yes, please provide details.</p>
8.	Is the land insured?	<p>Yes/No</p> <p>If yes, please provide full particulars of your insurance cover.</p>
9.	<p>What is the current use of the land?</p> <p><i>For example a dwelling or shop.</i></p>	
10.	Are you in occupation of the land?	Yes/No
11.	Please provide a copy of any tenancy agreement for the land and any disclosure statement issued to retail tenants.	
12.	Will the sale of the land trigger payment of the Growth Areas Infrastructure Contribution?	Yes/No
13.	Do you know of any obligation on the owner or occupier of the land to give notice of any contamination of the land?	Yes/No
14.	Are you aware of any fencing dispute with your neighbour(s)?	Yes/No

Key Risk Checklist

15.	Are you aware of any encroachments that affect the land? For example a neighbour's shed and/or retaining wall is partly built on your land.	Yes/No
16.	Have you received notice of any intended compulsory acquisition of any part of the land such as 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?	Yes/No
Planning information and building works		
19.	<p>Have any planning permits been issued or refused?</p> <p>Please provide a copy of any planning permit(s) and building permit(s) issued for the land. What is the expiry date for the permit(s)?</p>	<p>Yes/No</p> <p>Date...../...../.....</p> <p>Date...../...../.....</p>
20.	<p>Is the land affected by any planning overlays?</p> <p>For example is any part of the land heritage listed and/or subject to public acquisition overlay.</p>	Yes/No
21.	Has an occupancy permit or certificate of final inspection been issued?	Yes/No
22.	How old is any building on the land?	
23.	<p>Have you done any owner-builder works?</p> <p>For example renovated a bathroom.</p> <p>Do you propose to do any owner-builder works before settlement?</p> <p>According to Consumer Affairs Victoria you are an owner-builder if you:</p> <ol style="list-style-type: none"> 1. <i>intend to use your own skills to build, extend or renovate a home that you live in or intend to live in or</i> 2. <i>intend to manage tradespeople to do work on a home that you live in or intend to live in</i> 3. <i>are a registered builder who builds, extends or renovates a home on their own property.</i> <p>For more information go to: http://www.consumer.vic.gov.au/housing-and-accommodation/building-and-renovating/checklists/owner-builders or contact Consumer Affairs Victoria on</p>	<p>Yes/No</p> <p>Yes/No</p>

Key Risk Checklist



LEGAL
PRACTITIONERS'
LIABILITY
COMMITTEE

	1300 55 81 81 and/or the Victorian Building Authority on 1300 815 127.	
24.	Have safety switches and smoke alarms been installed?	Yes/No
25.	Are you aware of any breach of any planning and/or building permit(s) issued for the land? If yes, please provide particulars. A building and defects inspection report is required for owner builder works and insurance may also be required.	Yes/No
26.	Is there a swimming pool/spa on the land? If yes – has it been fenced?	Yes/No Yes/No
Rates and taxes		
27.	Please provide a copy of the current council rates notice, water rates notice and land tax notice for the land. If land tax is payable is it payable at the usual rate or the trust rate and until what date has it been paid?/...../..... Is any vacant residential land tax payable?	Copy notices attached: Yes/No. Please select: Usual rate or Trust rate Yes/No
28.	Have you considered the Capital Gains Tax (CGT) consequences of the sale of the land?	Yes/No
29.	Have you considered the GST treatment of the sale of the land? For example is the price 'plus GST', 'GST inclusive' and does the margin scheme apply or is the sale a going concern or the sale of a farm. Usually the sale of new residential premises, commercial premises and vacant land are sold on a 'plus GST' basis	Yes/No
30.	Have you considered the duty (formerly known as stamp duty) consequences in regards to the sale of the land? <i>An exemption might apply – for example if you are transferring the land to a spouse.</i> <i>Note also that usually no exemption applies when transferring to family members.</i>	Yes/No
31.	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? See part 8B in the <i>Local Government Act 1989 (Vic)</i>	Yes/No

Key Risk Checklist

Services		
32.	<p>Please circle the services listed below which are not connected to the land:</p> <p>Electricity</p> <p>Gas</p> <p>Water (are water tank(s) in use) - Yes/No If yes – provide details:</p> <p>Sewerage (is a septic tank in use) - Yes/No If yes – provide details:</p> <p>Telephone/communications</p> <p>'Connected' is not defined in the <i>Sale of Land Act</i> 1962 (Vic). A service is connected where at the date the purchaser signs the contract of sale the service can be used.</p>	Name of supplier:
33.	If water tanks have been installed are they included in the sale?	Yes/No
34.	Have solar panels been installed?	Yes/No Details..... e.g. solar panels for hot water supply
Owners corporation		
35.	<p>Is any owners corporation 'inactive'?</p> <p>If active, please provide owners corporation contact details.</p> <p>Does the owners corporation have insurance? (s.11 of the <i>Sale of Land Act</i> 1962 may apply)</p>	Yes/No Manager/secretary - Name: Address: Yes/No
Goods		
36.	<p>What goods are included/excluded from the sale?</p> <p>Goods are also known as 'chattels'. Goods are not fixed to the land. Goods usually included in the sale of land are 'window furnishings, dishwasher, light fittings and clothes line'.</p>	List included goods: List excluded goods:
37.	Are the goods included in the sale affected by a security interest on the Personal Property Securities Register (Cwlth)?	Yes/No
About you		
38.	Does the land owner have an Australian Business	Yes – ABN.....

Key Risk Checklist

	Number (ABN)?	No
39.	Are you acting as an attorney for this sale?	Yes/No If yes, please provide a copy of the Power of Attorney.
40.	For a corporate vendor, who is authorised to give instructions, sign the contract/vendor's statement/transfer?	
41.	Are you acting as an executor, trustee, guardian or administrator in regards to ownership of the land?	Yes/No
42.	Please provide the date of birth of each person registered on the title (ie the vendor) and any person to be registered on the title. We are required by law to provide this information to various government agencies and may be required to provide to a purchaser's representative for the purpose of checking the Personal Property Securities Register./...../..... /...../.....
43.	Is the property the subject of a specific gift under your Will?	Yes/No
44.	Are you a foreign resident? 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> (Cwlth)	Yes/No If yes, a purchaser may be required to withhold and remit to the Australian Taxation Office 10 per cent of the market value (usually the price) for contracts entered into until 30 June 2017 and 12.5 per cent for contracts entered into from 1 July 2017.
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		
46.	Have you appointed a selling agent? If you are not using a selling agent have you given any proposed purchaser the prescribed due diligence checklist? A penalty may apply for the failure to give this checklist.	Yes/No If yes please provide: Name: Tel: Email: Yes/No

Key Risk Checklist

47.	Has an auction date been set?	Yes/No If yes, please provide date...../...../.....
48.	Have you agreed to sell the land to your selling agent or the agent's employee or relative? Refer to section 55 and 55A of the <i>Estate Agents Act 1980</i> (Vic) for the process to be followed.	Yes/No
49.	Do you have an electronic signature? If yes, will you sign the section 32 statement using your electronic signature?	Yes/No Yes/No
About the purchaser		
50.	Is the purchaser related to the vendor?	Yes/No
51.	Is the purchaser a subsidiary/holding company in relation to the vendor?	Yes/No
52.	Is the property owned by a trust? If so, is the purchaser likely to be a beneficiary of this trust?	Yes/No Yes/No
53.	Have you granted any option to purchase the land?	Yes/No
54.	Does any tenant or other person have a right of first refusal to buy the land?	Yes/No
55.	Will the purchaser be given occupation or possession before settlement? If a terms sale an additional vendor's statement is required.	Yes/No
Settlement		
56.	All keys, access cards any alarm pin number(s) must be handed over at settlement.	
57.	The purchaser is entitled to inspect the land on one occasion usually during the week prior to settlement.	
58.	Where would you like correspondence sent after settlement?	
59.	Do you agree to us deducting our legal fees from the settlement proceeds?	Yes/No
60.	Do you agree to a valuer inspecting the land on behalf of the purchaser prior to settlement?	Yes/No
Any questions		
61.	Please attach a list of any questions you have in regards to the sale.	

Key Risk Checklist



LEGAL
PRACTITIONERS'
LIABILITY
COMMITTEE

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Signed by or on behalf of the vendor

*** Client authorisation form to be completed and attached**