

# CONVEYANCING SERIES 2020

Mastering the essentials

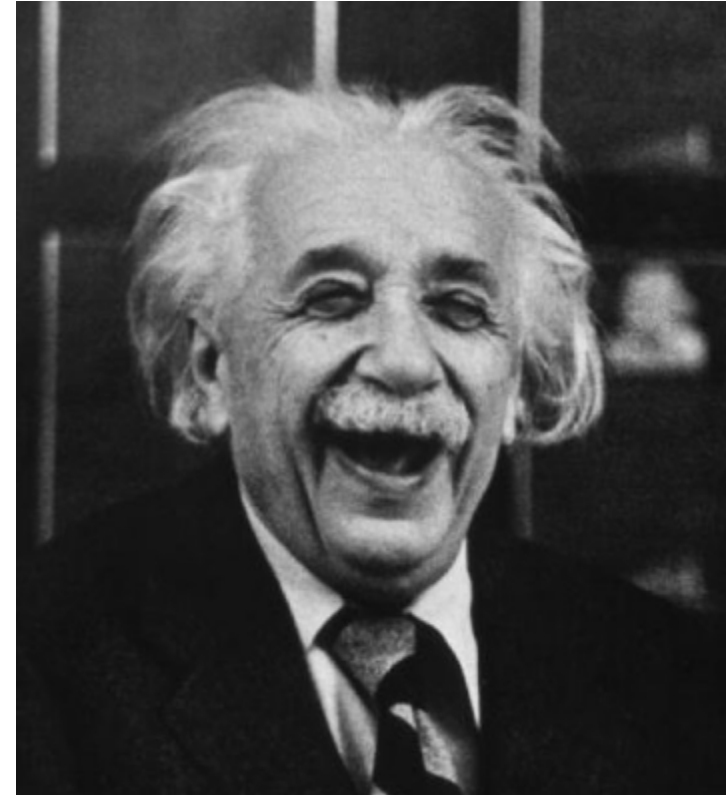
Building a better section 32 statement  
Presented by Phil Nolan, Risk Manager, LPLC



## Quote

I have no particular talent.  
I am merely inquisitive.

Albert Einstein







# Legislation - *Sale of Land Act 1962* (Vic)

## Disclosure obligations

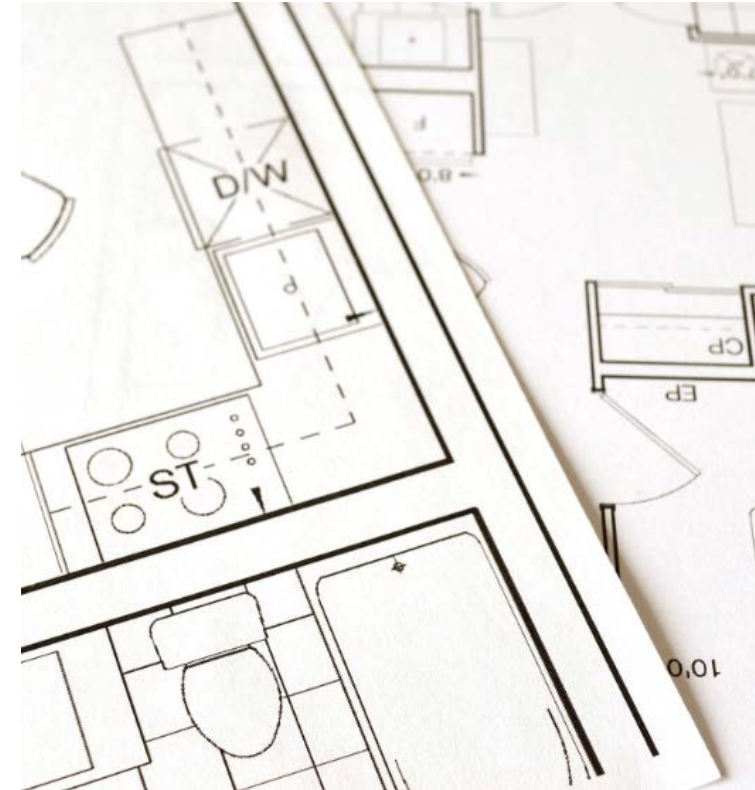
See ss. 11, 32, 32A – 32I

## New disclosure

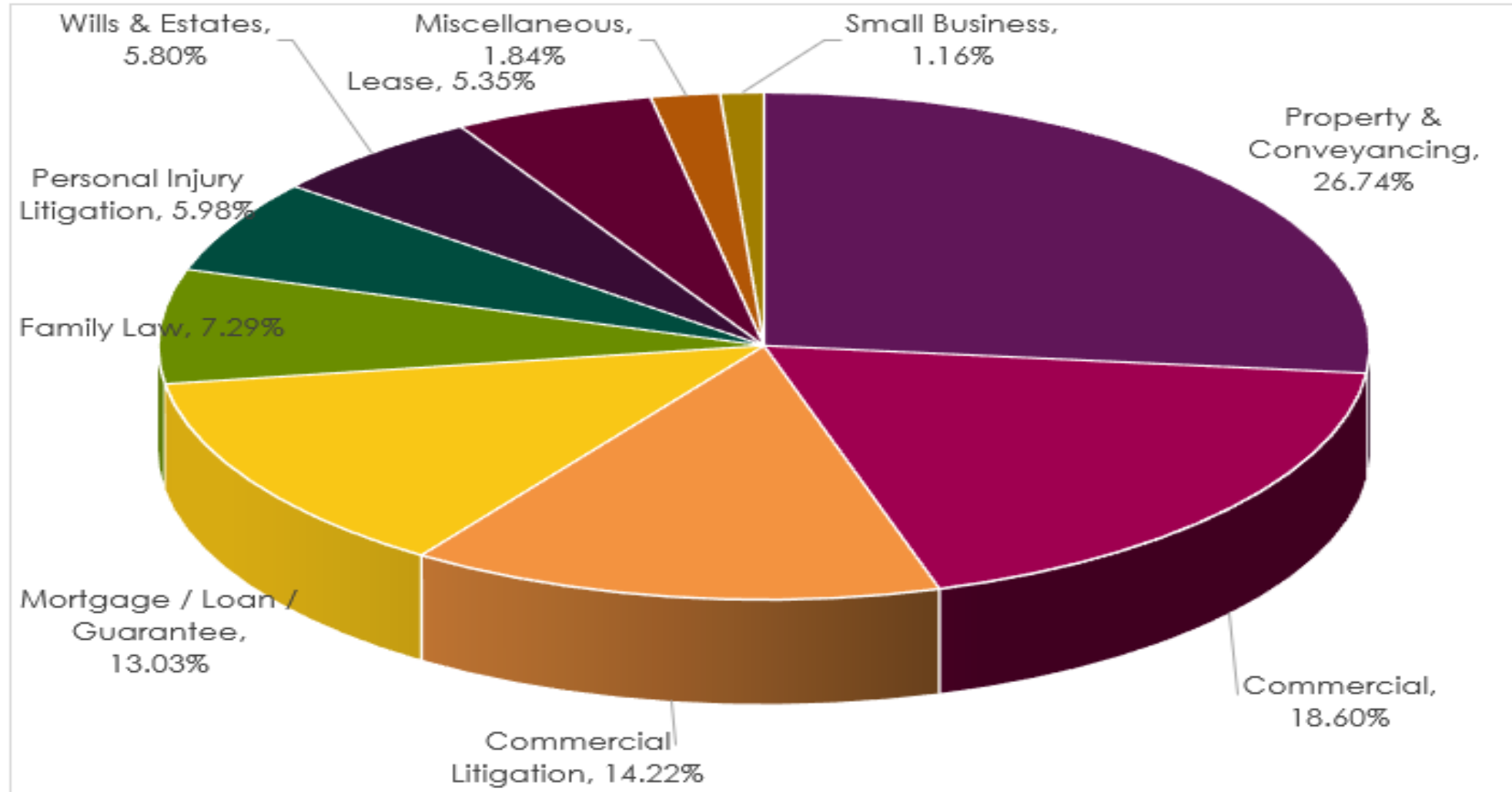
See s.12.

## Exclusion

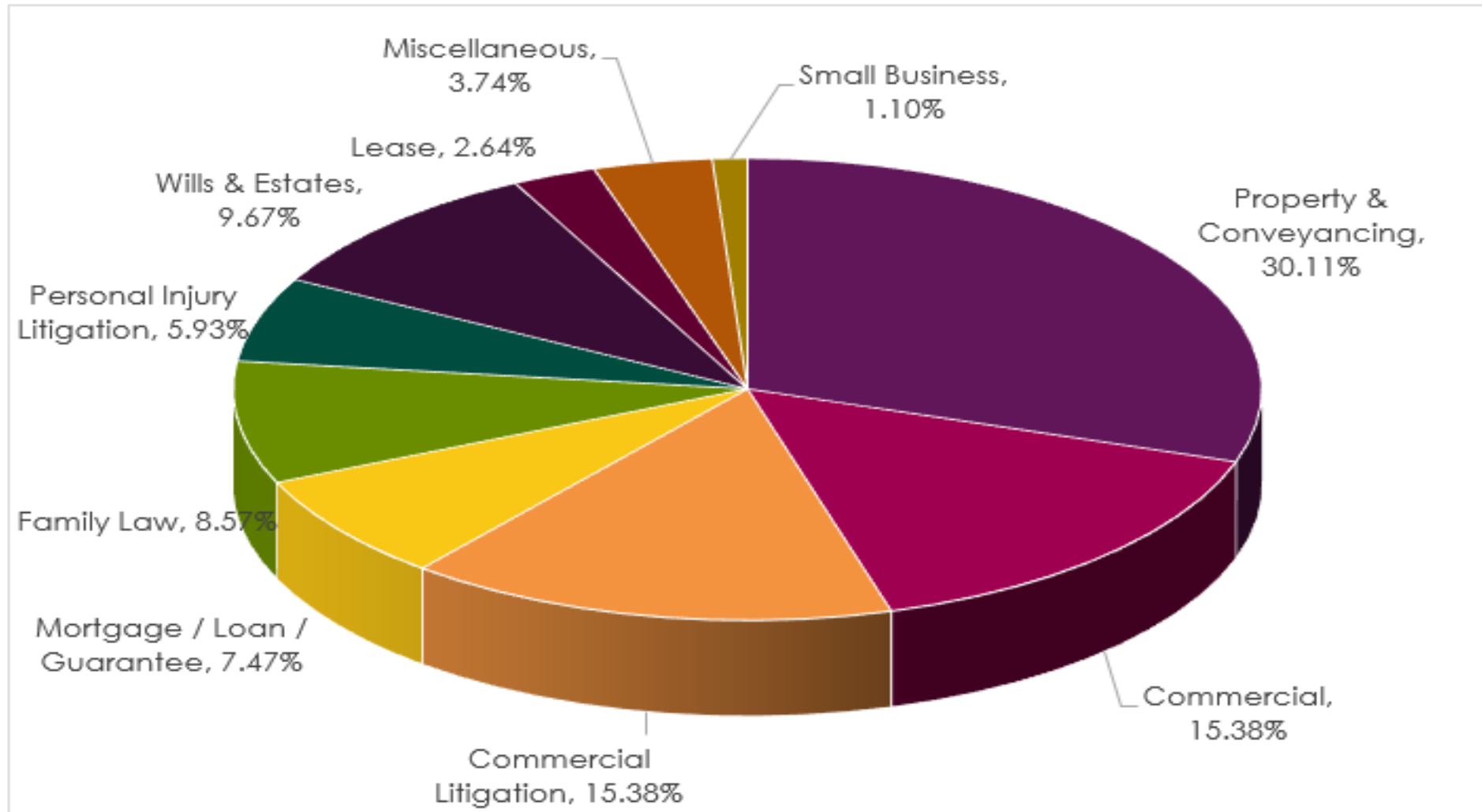
Specific disclosure for off-the-plan contracts are outside the scope of this seminar. For example, we will not consider s. 9AB – disclosure of works for off-the-plan contracts.



## Cost of claims by area 2018/19



## Number of claims by area 2018/19



## S.32A – financial matters

**New service charge –**  
flammable cladding loans

### Tip

Remember to include details of the fire services levy in your section 32 statement.

### Legislation

*Fire Services Property Levy Act 2012 (Vic)*





## S.32B - insurance

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

### Answer 1

When the contract provides that the land does not remain at the risk of the vendor.

### Answer 2

Remember to include any required insurance for owner builder works.



## S.32C(a) - easements

### Action

Refer to the attached front page from a plan of subdivision.

After page 16 in the handout.

### Zoom poll

Is including this PS sufficient information about any easements to comply with section 32C?

EASEMENT INFORMATION				
LEGEND				
E - Encumbering Easement, Condition is Crown Grant in the Nature of an Easement or Other Encumbrance				
A - Appurtenant Easement		R - Encumbering Easement (Road)		
Easement Reference	Purpose	Width (Meters)	Origin	Land Use/Red/Via Former Of
R1	WAY, DRAINAGE, WATER SUPPLY, ELECTRICITY SUPPLY & TELEPHONE	SEE PLAN	THIS PLAN	LOTS ON THIS PLAN
E-1 + E-8	POWERLINE	8	THIS PLAN Section 43B SEC ACT 1938	SEC.V
E-2	POWERLINE	3	THIS PLAN Section 43B SEC ACT 1938	SEC.V
E-2 + E-8	WATER SUPPLY	SEE PLAN	THIS PLAN	LOTS ON THIS PLAN
E-3	WATER SUPPLY	SEE PLAN	THIS PLAN	LOTS ON THIS PLAN
E-4	WATER SUPPLY	3	THIS PLAN	LOTS ON THIS PLAN
E-4	WATER SUPPLY	3	C/E N 559035R	VOL. 9736 FOL. 434
E-5	WATER SUPPLY	3	C/E N 559035R	VOL. 9736 FOL. 434
E-5	POWERLINE	3	THIS PLAN Section 43B SEC ACT 1938	SEC.V
E-6 + E-8	POWERLINE	150	THIS PLAN Section 44 ELECTRICITY INDUSTRY ACT 1993	EASTERN ENERGY LTD.
E-6 + E-8	WATER SUPPLY	150	THIS PLAN	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 44 OF THE ELECTRICITY INDUSTRY ACT 1993	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

## S.32C(b) – bushfire prone information - *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;



## S.32D – notices, orders etc

### Zoom poll

Which of the following are commonly seen in section 32 statements?

1. Building notice
2. EPA notice
3. Planning permit
4. Occupancy permit
5. All of the above

## S.32D – notices, orders etc

### Zoom poll

Which wording do you use in your section 32 statement about notices, orders, declarations, reports, etc and caught by s.32D of the SL Act:

1. not applicable
2. nil
3. none to the best of the vendor's knowledge
4. 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
5. if any as contained in the attached certificates and searches
6. as follows [insert list]

A combination of some of the above.

## S.32D – notices, orders etc

### Action

Refer to the Land Information Certificate extracts in your handout.

### Zoom Q & A

Identify from the extracts any notice, order, declaration, report, recommendation, or approved proposal caught by section 32D and put a comment in zoom chat.

## 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 Murrindindi 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.

Green Waste Special Charge	0.00
Fire Service Property Levy	261.24

### Street Information

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.*

## S.32E – building permits for any residence

Building permits for any residence issued in respect of land to be disclosed in section 32 statement.

Practitioners contacting LPLC ask about owner builder building permits.

### Preliminary issue

How do you define 'owner builder works'?



## S.32E – building permits

### Reminder

Carefully consider what advice you need to give a vendor client who has done owner builders works without a building permit.

### Tips

- Suggest that the client engages a private building inspector.
- Recommend you obtain a building information certificate.
- Warn client if works are illegal council may issue a notice.



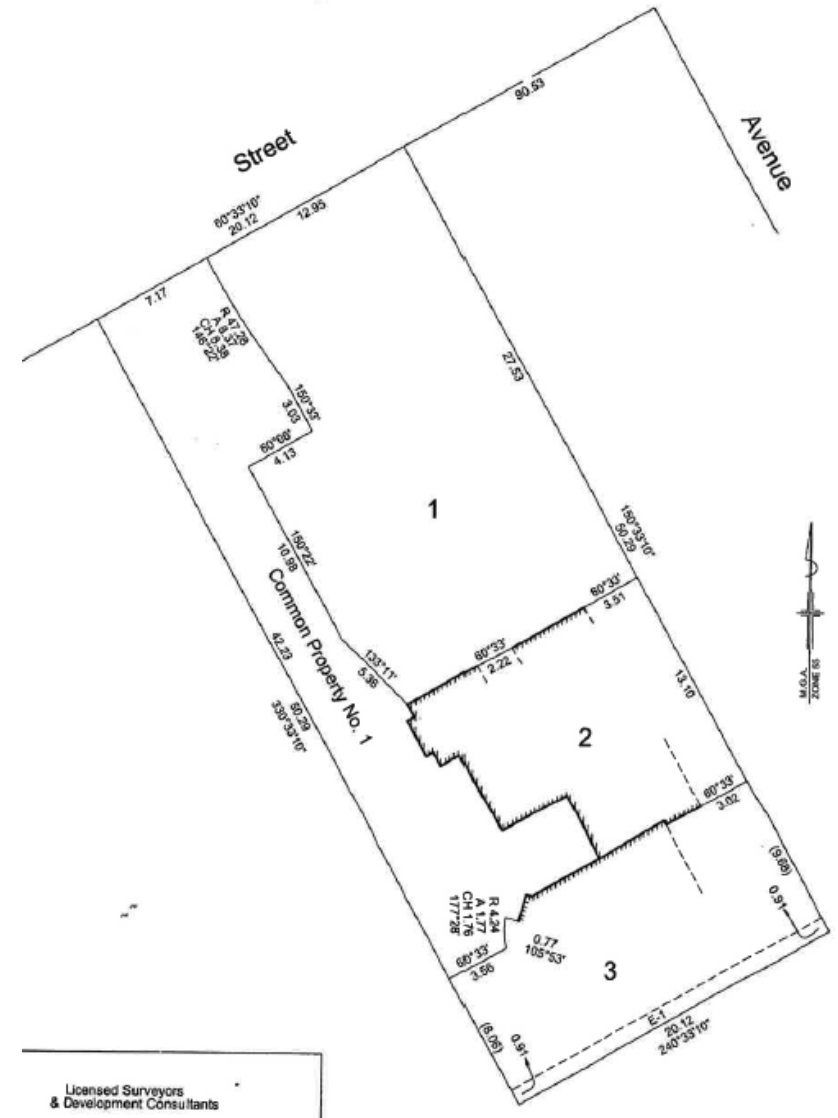


## S.32F – owners corporations issues

Refer to the attached copy of a three lot subdivision.

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.

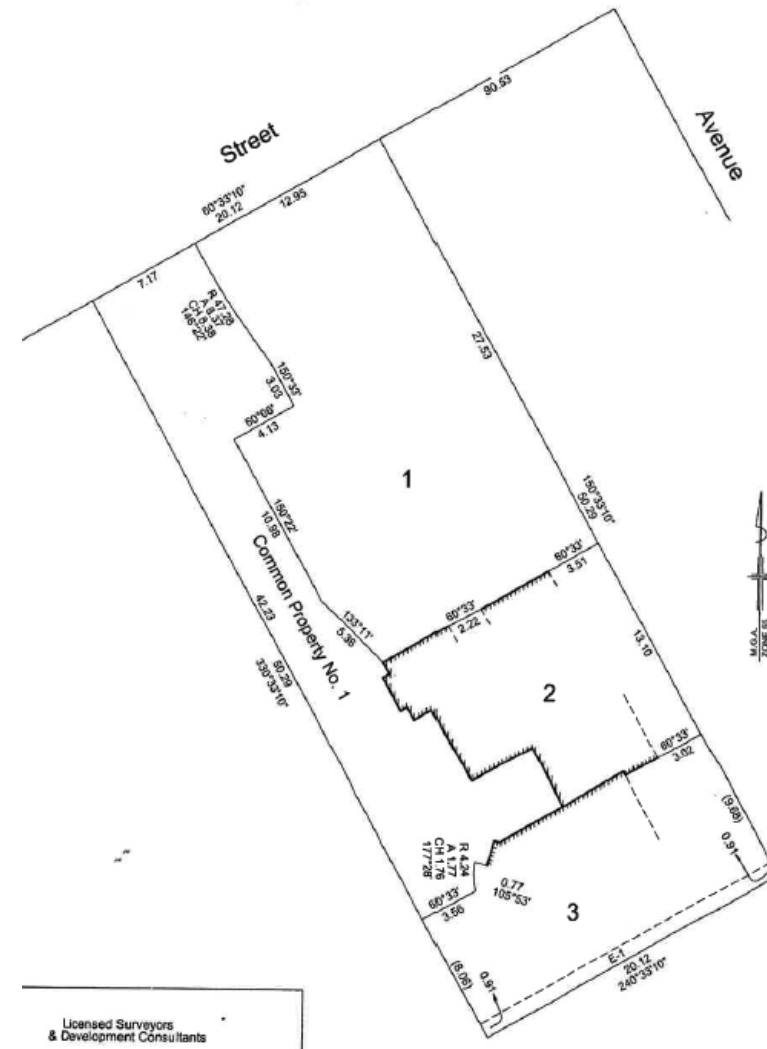
The client informs you that the owners corporation is inactive and that they have taken out insurance in the name of the registered proprietor.



## S.32F – owners corporations issues

Consider what matters you should raise with your vendor client about the owners corporation including:

1. Public liability insurance in the name of the OC.
2. Information that needs to be included in the section 32 statement.
3. Appointment of a manager.



## S.32G – GAIC

Email me about your experience with GAIC

- 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.

## S.32H - non-connected services

' .....Offering modern luxury and style with exceptional finishes, you'll also enjoy the benefits of a large separate office (with beautiful built-in timber shelving and bar), gas ducted heating and evaporative cooling throughout, an environmentally-friendly fully irrigated watering system to the front and rear gardens via the Septic Treatment Plant and a 4,500-litre rain water tank with new Onga pump.....'



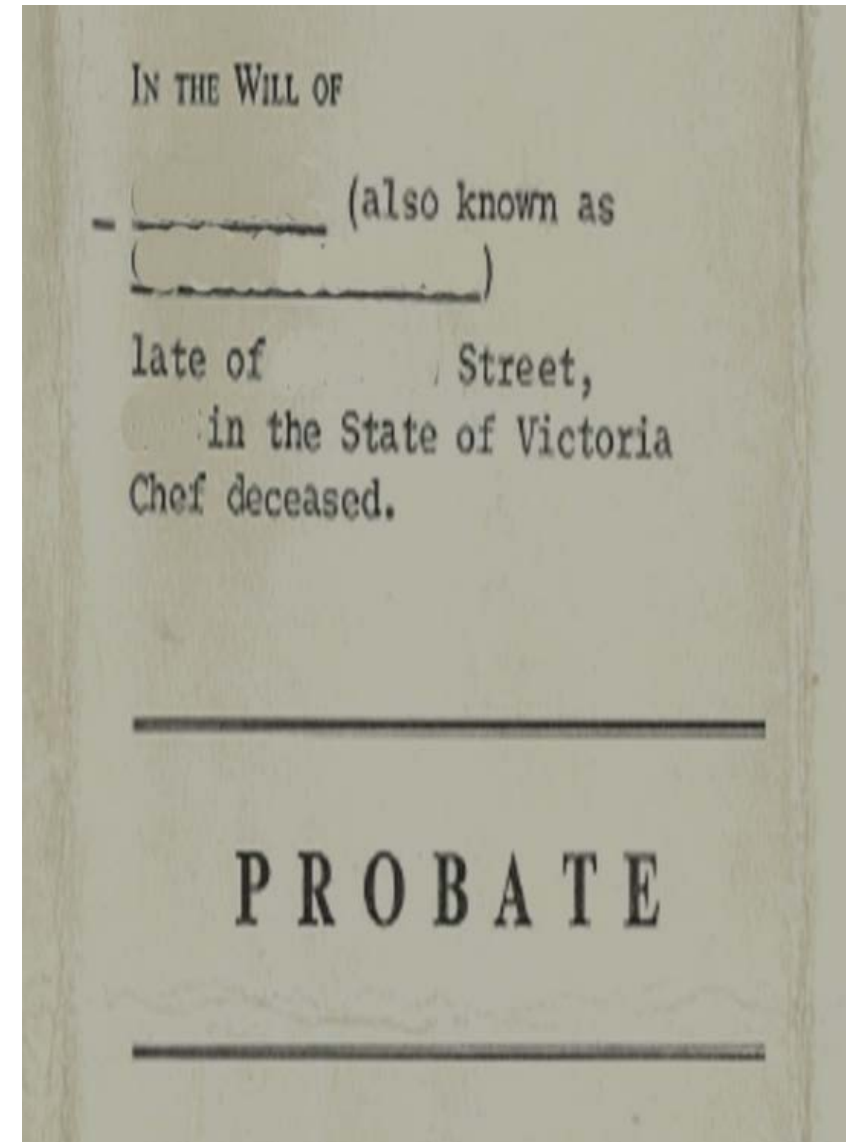
## 32I - evidence of title

### Examples

- Deceased estate.
- Survivorship application.
- On-sale before settlement.

### Solution

Include a statutory declaration in the section 32 statement explaining the evidence.



# 32J - certificate, notice or other document issued by a relevant authority

## Observation

Common to see the land channel planning property report attached to a section 32 statement as it is a 'certificate, notice or other document issued by a relevant authority' for the purposes of section 32J(1).

## Planning Property Report

from [www.planning.vic.gov.au](http://www.planning.vic.gov.au) on 10 October 2018 02:18 PM

**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

## Planning Zone

NEIGHBOURHOOD RESIDENTIAL ZONE (NRZ)

NEIGHBOURHOOD RESIDENTIAL ZONE - SCHEDULE 1 (NRZ1)

HERITAGE OVERLAY (HO)

HERITAGE OVERLAY SCHEDULE (HO334)

## OTHER OVERLAYS

Other overlays in the vicinity not directly affecting this land

PARKING OVERLAY (PO)

Checklist – attached to handout



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