



# Contract of sale of land

**Property: 7 Fronsac Avenue, Corio VIC 3214**

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of Conveyancers (Victorian Division)



# Contract of sale of land

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## IMPORTANT NOTICE TO PURCHASERS – COOLING-OFF

### Cooling-off period (Section 31 of the *Sale of Land Act 1962*)

You may end this contract within 3 clear business days of the day that you sign the contract if none of the exceptions listed below applies to you.

You must either give the vendor or the vendor's agent **written** notice that you are ending the contract or leave the notice at the address of the vendor or the vendor's agent to end this contract within this time in accordance with this cooling-off provision.

You are entitled to a refund of all the money you paid EXCEPT for \$100 or 0.2% of the purchase price (whichever is more) if you end the contract in this way.

### EXCEPTIONS: the 3-day cooling-off period does not apply if:

- you bought the property at a publicly advertised auction or on the day on which the auction was held; or
- you bought the land within 3 clear business days before a publicly advertised auction was to be held; or
- you bought the land within 3 clear business days after a publicly advertised auction was held; or
- the property is used primarily for industrial or commercial purposes; or
- the property is more than 20 hectares in size and is used primarily for farming; or
- you and the vendor previously signed a contract for the sale of the same land in substantially the same terms; or
- you are an estate agent or a corporate body.

## NOTICE TO PURCHASERS OF PROPERTY OFF-THE-PLAN

### Off-the-plan sales (Section 9AA(1A) of the *Sale of Land Act 1962*)

You may negotiate with the vendor about the amount of the deposit moneys payable under the contract of sale, up to 10 per cent of the purchase price.

A substantial period of time may elapse between the day on which you sign the contract of sale and the day on which you become the registered proprietor of the lot.

The value of the lot may change between the day on which you sign the contract of sale of that lot and the day on which you become the registered proprietor

## Approval

This contract is approved as a standard form of contract under section 53A of the *Estate Agents Act 1980* by the Law Institute of Victoria Limited. The Law Institute of Victoria Limited is authorised to approve this form under the *Legal Profession Uniform Law Application Act 2014*.

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**WARNING TO ESTATE AGENTS  
DO NOT USE THIS CONTRACT FOR SALES OF 'OFF THE PLAN' PROPERTIES  
UNLESS IT HAS BEEN PREPARED BY A LEGAL PRACTITIONER**

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# Contract of Sale of Land

The vendor agrees to sell and the purchaser agrees to buy the property, being the land and the goods, for the price and on the terms set out in this contract.

The terms of this contract are contained in the –

- particulars of sale; and
- special conditions, if any; and
- general conditions (which are in standard form: see general condition 6.1)

in that order of priority.

## SIGNING OF THIS CONTRACT

**WARNING: THIS IS A LEGALLY BINDING CONTRACT. YOU SHOULD READ THIS CONTRACT BEFORE SIGNING IT.**

Purchasers should ensure that they have received a section 32 statement from the vendor before signing this contract. In this contract, “section 32 statement” means the statement required to be given by a vendor under section 32 of the *Sale of Land Act 1962*.

The authority of a person signing –

- under power of attorney; or
  - as director of a corporation; or
  - as agent authorised in writing by one of the parties –
- must be noted beneath the signature.

Any person whose signature is secured by an estate agent acknowledges being given by the agent at the time of signing a copy of the terms of this contract.

**SIGNED BY THE PURCHASER:** .....

..... on ...../...../2024

**Print names(s) of person(s) signing:** To Lau for and on behalf of Fronsac Pty Ltd ACN 677977623 .....

State nature of authority, if applicable: .....

This offer will lapse unless accepted within [ ] clear business days (3 clear business days if none specified)

In this contract, “business day” has the same meaning as in section 30 of the *Sale of Land Act 1962*

**SIGNED BY THE VENDOR:** .....

..... on ...../...../2024

**Print names(s) of person(s) signing:** Jureeporn Chiem .....

State nature of authority, if applicable: .....

The **DAY OF SALE** is the date by which both parties have signed this contract.

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# Particulars of Sale

## Vendor's estate agent

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Email: \_\_\_\_\_  
Tel: \_\_\_\_\_ Mob: \_\_\_\_\_ Fax: \_\_\_\_\_ Ref: \_\_\_\_\_

## Vendor

Name: Jureeporn Chiem  
Address: 8 St Patricks Place, Tarneit VIC 3029  
ABN/ACN: \_\_\_\_\_  
Email: \_\_\_\_\_

## Vendor's legal practitioner or conveyancer

Name: Elite Conveyancing Group Pty Ltd  
Address: PO Box 669, SUNSHINE VIC 3020  
Email: info@ecgvic.com.au  
Tel: 03 9689 1866 Mob: \_\_\_\_\_ Fax: 03 8677 5428 Ref: 1685/24

## Purchaser's estate agent

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Email: \_\_\_\_\_  
Tel: \_\_\_\_\_ Mob: \_\_\_\_\_ Fax: \_\_\_\_\_ Ref: \_\_\_\_\_

## Purchaser

Name: Fronsac Pty Ltd ACN 677977623  
Address: \_\_\_\_\_  
ABN/ACN: \_\_\_\_\_  
Email: \_\_\_\_\_

## Purchaser's legal practitioner or conveyancer

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Email: \_\_\_\_\_  
Tel: \_\_\_\_\_ Mob: \_\_\_\_\_ Fax: \_\_\_\_\_ Ref: \_\_\_\_\_

## Land (general conditions 7 and 13)

The land is described in the table below –

Certificate of Title reference	being lot	on plan
Volume 11173 Folio 508	2	PS 631697L

If no title or plan references are recorded in the table, the land is as described in the section 32 statement or the register search statement and the document referred to as the diagram location in the register search statement attached to the section 32 statement

The land includes all improvements and fixtures.

**Property address**

The address of the land is: 7 Fronsac Avenue, Corio VIC 3214

**Goods sold with the land** (general condition 6.3(f)) *(list or attach schedule)*

**Payment**

Price \$ 360,000.00

Deposit \$ \_\_\_\_\_ by \_\_\_\_\_ (of which \_\_\_\_\_ has been paid)

Balance \$ \_\_\_\_\_ payable at settlement

**Deposit bond**

General condition 15 applies only if the box is checked

**Bank guarantee**

General condition 16 applies only if the box is checked

**GST** (general condition 19)

Subject to general condition 19.2, the price includes GST (if any), unless the next box is checked

- GST (if any) must be paid in addition to the price if the box is checked
- This sale is a sale of land on which a 'farming business' is carried on which the parties consider meets the requirements of section 38-480 of the GST Act if the box is checked
- This sale is a sale of a 'going concern' if the box is checked
- The margin scheme will be used to calculate GST if the box is checked

**Settlement** (general conditions 17 & 26.2)

**is due on**

unless the land is a lot on an unregistered plan of subdivision, in which case settlement is due on the later of:

- the above date; and
- the 14th day after the vendor gives notice in writing to the purchaser of registration of the plan of subdivision.

**Lease** (general condition 5.1)

At settlement the purchaser is entitled to vacant possession of the property unless the box is checked, in which case the property is sold subject to\*:

*(\*only one of the boxes below should be checked after carefully reading any applicable lease or tenancy document)*

a lease for a term ending on ..... / ..... /20..... with [.....] options to renew, each of [.....] years

OR

a residential tenancy for a fixed term ending on ..... / ..... /20.....

OR

a periodic tenancy determinable by notice

**Terms contract** (general condition 30)

This contract is intended to be a terms contract within the meaning of the *Sale of Land Act 1962* if the box is checked. *(Reference should be made to general condition 30 and any further applicable provisions should be added as special conditions)*

**Loan** (general condition 20)

This contract is subject to a loan being approved and the following details apply if the box is checked:

Lender: \_\_\_\_\_

Loan amount: no more than \_\_\_\_\_ Approval date: \_\_\_\_\_

**Building report**

General condition 21 applies only if the box is checked

**Pest report**

General condition 22 applies only if the box is checked

# Special conditions

**Instructions:** *It is recommended that when adding special conditions:*

- each special condition is numbered;
- the parties initial each page containing special conditions;
- a line is drawn through any blank space remaining on the last page; and
- attach additional pages if there is not enough space.

## 1. Land Identity

- 1.1. The Purchaser admits that the Land offered for sale and inspected by the Purchaser is identical with that described in the Title particulars given in this Contract.
- 1.2. Any fence or wall purporting to be a boundary of the Land is deemed to be on the title boundary of the Land and if a fence or wall or any part of either of them is found to be within or outside the title boundary of the Land, the Purchaser will not have any claim on that ground against the Vendor.
- 1.3. The Purchaser shall not make any requisition or claim any compensation for any alleged misdescription of the Land or deficiency in its area or measurements or call upon the Vendor to amend Title or to bear all or any part of the cost of doing so.
- 1.4. The Purchaser further acknowledges and agrees that this Contract constitutes the entire agreement between the parties and there are no conditions, warranties or other terms affecting the sale other than those embodied herein.

## 2. Condition of Land

- 2.1. The Purchaser acknowledges that the Purchaser has purchased the Property as a result of the Purchaser's own inspection or enquiries and in its present condition and state of repair subject to all faults both latent or patent except to any extent expressly provided in this Contract the Vendor has not and no person on the Vendor's behalf has made any warranty or representation in relation to those matters.
- 2.2. The Purchaser further acknowledges and agrees that the Land together with any improvements is purchased by the Purchaser:-
  - 2.2.1 as a result of the independent exercise for the Purchaser's own skill and judgment after due inspection and investigation; and
  - 2.2.2 in its present condition and state of repair with all existing patent and latent defects, infestations, contamination and dilapidation; and
  - 2.2.3 that no representation or warranty has been made or given by the Vendor or by any persons acting on behalf of the Vendor to the Purchaser or to any person acting on behalf of the Purchaser as to:
    - a. the merchantability, quality or fitness for any purpose of the land or improvements;
    - b. the freedom of the Land from defects, infestations, contamination or dilapidation;
    - c. the use to which the Land or the improvements can lawfully be put;
    - d. whether development of any description may be carried out on the land; or
    - e. whether the improvements on the Land have been built or placed there in accordance with each approval required by law for the building or placement of the same.
- 2.3 The Purchaser shall make no requisition in respect of or objection to or claim any compensation for any contamination or pollution of the Land and shall at the Purchaser's own expense comply with the requirements of each competent authority for the abatement of any pollution or the clean up or any environmental audit (or any combination of them) of the Land and shall keep the Vendor indemnified at all times against the cost of doing so.

## 3. Disclosure

- 3.1. The Purchaser acknowledges that prior to the signing or payment of any money paid under this Contract or any other document relating to this sale which is or is intended to be legally binding, they received from the Vendor's Agent a statement containing particulars specified in and otherwise complying with section 51 of the Estate Agents' Act 1980 (Vic) (if applicable), a statement pursuant to section 32 of the Sale of Land Act 1962 (Vic) and a copy of this Contract.

## 4. Public Auction (if applicable)

- 4.1. The property is offered for sale by public auction, subject to the Vendor's reserve price. the Rules for the conduct of the auction shall be set out in the copy of Schedule 1 of the *Sale of Land (Public Auctions) Regulations 2014* attached hereto.
- 4.2. The bidder to whom the property is knocked down shall immediately upon the fall of the hammer sign this Contract and pay the deposit to the Agent. If after twenty (20) minutes the deposit remains unpaid and the Contract is not signed then the Vendor may immediately or at any time thereafter resubmit the property for sale and treat with any other person or persons and the bidder shall have no right of action against the Vendor or the Auctioneer or Agent and shall not be entitled to call for a Contract of Sale of the property or have any interest legal or equitable in the property but shall be liable to pay to the Vendor on demand any deficiency in price on resale together with all costs of such resale.

## 5. Warranties and Representations

- 5.1. The Purchaser acknowledges that the Vendor's Agent has acted as Agent for the Vendor and that no representation or warranty to the Vendor or the Vendor's Agent was made with the intention or knowledge that it would be relied upon by the Purchaser and that no such information, representation or warranty has in fact been relied upon by the Purchaser, and the Purchaser further agrees that this Contract is the sole and full repository of the agreement made.



- 5.2. The Vendor will not provide a certificate of occupancy as it is not a legal requirement to do so.
- 5.3. The Purchaser will be responsible for the connection and or transfer of all services to the property and will bear all costs associated with such connection and or transfer.
- 5.4. The Vendor makes no representation that the services referred to in the Vendor Statement are adequate for the Purchaser's proposed use of the property and the Purchaser should make appropriate enquiries of service providers. The provision of services may change between Day of Sale or Date of Contract and the Settlement Date or payment of the balance of the price and the Vendor makes no representation that the provision of the services will remain the same between the Date of Sale or Date of Contract and the Settlement Date or payment of the balance price.

## **6. Planning and Other Use or Development Restriction**

- 6.1. The land is sold and the Purchaser buys subject to any and all restrictions, conditions and controls as to planning, building control, use and development under any legislation or subordinate legislation and under any order, planning scheme, regulation, by-law or permit contained in or made pursuant to any such legislation, including without limitation any planning instruments referred to in the Vendor's Statement. No such restrictions, conditions or controls (nor any breach or non-compliance with any of them) shall constitute a defect in the Vendor's title or otherwise give rise to any claim against the Vendor, and the Purchaser shall not make any requisition in respect of such matters.
- 6.2. The Purchaser acknowledges and agrees that the Vendor makes no warranties or representations about whether the Land may be used for any particular purpose, and the Purchaser acknowledges and agrees that it shall not and is not entitled to:
  - 6.2.1. take any objection or make any requisition or claim any compensation in respect of; or
  - 6.2.2. rescind, terminate or delay settlement as a consequence of the ability or in-ability to use the Land for any particular purpose.
- 6.3. General Condition 5 does not apply to this Contract.

## **7. Guarantee**

- 7.1. In the event the Purchaser is a company:
  - 7.1.1. the due performance of this Contract shall be guaranteed personally by each of the directors of the said Company and the Company shall procure that all of the directors shall execute the form of Guarantee annexed to and forming part of this Contract simultaneously with the execution of this Contract by the Purchaser; and
  - 7.1.2. each person who signs this Contract on behalf of the Purchaser will be personally liable for the due performance of the Purchaser's obligations under the Contract to the same extent as if that person had been personally named as the Purchaser in the Contract.
- 7.2. General Condition 3 does not apply to this Contract.

## **8. Nomination**

- 8.1. If the Purchaser nominates in accordance with General Condition 4, the nomination must be in the form then endorsed by the Law Institute of Victoria and submitted to the Vendor's solicitors, and if the nominee is a Company the nomination must be accompanied by a Guarantee in the form annexed to and forming part of this Contract duly executed by each of the directors of the said nominee Company.
- 8.2. The Purchaser may nominate a substitute or additional purchaser not less than 14 days prior to the settlement date and the Purchaser must pay the Vendor's costs of \$250 plus GST for each and every Nomination by the Purchaser. These costs must be included in the Statement of Adjustments and paid at settlement.
- 8.3. The Purchaser indemnifies and will keep indemnified the Vendor against all liability for the payment of any duty plus penalties and interest (if any) which becomes or may become payable in respect to any transfer or other instrument of conveyance of the whole or any part of the Land to the Purchaser or to any substituted or additional Purchaser.

## **9. Purchaser Failing to Complete**

- 9.1. The Purchaser acknowledges that the Vendor has given notice to the Purchaser that in the event that the Purchaser fails to complete the purchase of the property on the due date for settlement under the Contract, the Vendor will or may suffer the following losses, costs and expenses which the Purchaser should be required to pay, in addition to the interest chargeable on the balance of purchase moneys, in accordance with the terms of the Contract.
  - 9.1.1. the costs of obtaining bridging finance to complete the Vendor's purchase of another property and interest charged on such bridging finance; and/or
  - 9.1.2. interest payable by the Vendor under any existing mortgage over the property calculated from the due date for settlement under this Contract; and/or
  - 9.1.3. accommodation expenses necessarily incurred by the Vendor; and/or
  - 9.1.4. legal costs and expenses on a Solicitor and own client basis; and/or
  - 9.1.5. penalties payable or discounts lost by the Vendor through any delay in completion of the Vendors purchase of another property (without limiting the generality of the foregoing to include any payment of costs, interest and/or other penalties).

## **10. Interest Payable on Default**

- 10.1. If the Purchaser defaults in the payment of any monies under this Contract the Purchaser shall pay to the Vendor interest at the rate of 4% higher than the rate for the time being fixed under section 2 of the Penalty Interest Rates Act 1983 computed on the money overdue during the period of default and without limiting any other rights of the Vendor pursuant to this Contract.
- 10.2. General Condition 33 does not apply to this Contract.

## **11. Stamp Duty – Purchasers Buying Unequal Shares**

- 11.1. The Purchaser shall be liable for all stamp duty payable on the Transfer of Land and the Purchaser shall indemnify the Vendor against all claims, actions, liabilities and penalties arising under the Duties Act 2000 in connection with this Contract including any nomination of a substitute or additional Purchaser or the Transfer of Land.
- 11.2. If there is more than one Purchaser, it is the Purchasers' responsibility to ensure the Contract correctly records, at the date of sale, the proportions in which they are buying the property ("the proportions").
- 11.3. If the proportions recorded in the Transfer differ from those recorded in the Contract, it is the Purchasers' responsibility to pay any additional duty which may be assessed as a result of the variation.
- 11.4. The Purchasers fully indemnify the Vendor, the Vendor's Agent and the Vendor's Legal Practitioner against any claims or demands which may be made against any or all of them in relation to any additional duty payable as a result of the proportions in the transfer offering from those in the Contract.
- 11.5. This Special Condition will not merge on completion.

## **12. Swimming Pool (if Applicable)**

- 12.1. The Purchaser notes that the Vendor makes no warranties regarding the Swimming Pool/Spa and Fencing, and that the Purchaser is satisfied with their own inspections/investigations regarding the same.
- 12.2. In the event that an unfenced and/or non-compliant and/or unregistered swimming pool, spa or other body of water is on the land herein described, that is required to be fenced or fencing certification to be renewed or otherwise protected or compliance requirements are to be satisfied, the Purchaser warrants that it shall, at its own expense, comply with the provision of the Building Act 1993 and the Building Regulations 2006 and in particular Part 7 and any other laws or regulations requiring the provision of barriers to restrict the access by young children to the body of water and complete any works and obtain any Permit /Approvals /Certificates, etc required to ensure compliance of the relevant laws.
- 12.3. The Purchaser warrants that it shall, at its own expense obtain the Certificate of Registration for the private swimming pool/spa/other water body located on the land and the Certificate of Pool Barrier Compliance after settlement.
- 12.4. The Purchaser shall not make any objection or requisition or claim any compensation or refuse or delay payment of the whole or any part of the Price or request the Vendor to carry out any works for:
  - 12.4.1. any alleged non-compliance of the swimming pool, spa or other body of water and/or fencing with Building Act 1993 and the Building Regulations 2006 and any other laws, the Building Code of Australia or any other regulations, rules or local laws; and/or
  - 12.4.2. the state of repair, condition or quality of the swimming pool, spa or other body of water and/or fencing; and/or
  - 12.4.3. Certificate of Registration for the private swimming pool/spa/other water body and the Certificate of Pool Barrier Compliance.
- 12.5. The Purchaser hereby indemnifies and keeps indemnified the Vendor against any losses that may Occur from the Purchasers non-compliance of Special Condition 12.
- 12.6. This special condition does not merge at settlement.

## **13. Solar Panel (if applicable)**

- 13.1. The purchaser acknowledges that there are solar panels installed on the roof of the dwelling constructed on the property hereby sold, and the parties agree as follows:
  - 13.1.1. Whether or not any benefits currently provided to the vendor by agreement with the current energy supplier with respect to feed-in tariffs pass with the sale of this property is a matter for enquiry and confirmation by the purchaser;
  - 13.1.2. The purchaser agrees that they will negotiate with the current energy supplier or an energy supplier of their choice with respect to any feed-in tariffs for the electricity generated or any other benefits provided by the said solar panels and the purchaser shall indemnify and hold harmless the vendor against any claims for any benefits whatsoever with respect to the said solar panels; and
  - 13.1.3. The vendor makes no representations or warranties with respect to the solar panels in relation to their condition, state of repair, fitness for the purposes for which they were installed, their in-put to the electricity grid or any benefits arising from any electricity generated by the said solar panels.

#### **14. Self-Contained Smoke Alarms**

14.1. The purchaser acknowledges that, if the vendor has not complied with the building regulations regarding the installation of self-contained smoke alarms, the purchaser must do so at the Purchasers cost and expense.

#### **15. Foreign Acquisition**

15.1. The Purchaser warrants that in the event that he or she is a person as defined by (Section 27A) of the Foreign Acquisitions & Takeovers Act 1975 (Cth) all requirements with the Act have been observed and that any loss occasioned by a breach of such warranty shall form the basis of damages be recoverable from the Purchaser.

15.2. If the Purchaser breaches such warranty the Vendor may rescind the contract and retain the deposit and any interest and the Purchaser must indemnify, hold harmless and keep indemnified the Vendor against any loss or claim that the Vendor suffers or incurs as a result of any breach of the special condition.

#### **16. Purchaser acknowledgements**

The purchaser acknowledges that they are purchasing the property as a result of their own enquiries and inspection and not relying upon any representation made by the vendor or any other person on the vendor's behalf:

- 16.1. In its present condition and state of repair;
- 16.2. Subject to all defects latent and patent;
- 16.3. Subject to any infestations and dilapidation;
- 16.4. Subject to all existing water, sewerage, drainage and plumbing services and connections in respect of the property; and
- 16.5. Subject to any non-compliance, regardless if it is disclosed herein or not, with the Local Government Act or any Ordinance under that Act in respect of any building on the land.
- 16.6. subject to any non-compliance, regardless if it is disclosed herein or not, with any Act in respect of any building on the land.
- 16.7. Subject to any and all rubbish that may be left on the land prior to settlement.

The purchaser agrees not to seek to terminate rescind or make any objection requisition or claim for compensation arising out of any of the matters covered by this clause.

#### **17. Miscellaneous and Interpretation**

17.1. In this Contract, unless the context otherwise requires:

- 17.1.1. the singular shall be deemed to include the plural and vice versa;
- 17.1.2. where there is more than one person named as the Purchaser, all covenants, conditions, obligations, undertakings, acknowledgements and agreements on their part shall bind them jointly and severally to this Contract;
- 17.1.3. in the event of any part of this Contract being or becoming void or unenforceable or being illegal then that part shall be severed from this Contract to the extent that all parts that shall not be or become void, unenforceable or illegal shall remain in full force and effect and be unaffected by such severance; and
- 17.1.4. the provisions of this Contract shall not merge on or by virtue of settlement of this Contract.

#### **18. Building Permits**

The Purchaser(s) acknowledges that the improvements erected upon the land are sold as inspected and he/she shall not make a requisition or claim for any compensation for any structural deficiency or defect or any failure to comply with the Building Act or Victorian Building Regulations or the requirements of the relevant municipal authority for any failure to obtain a Building Permit by the Vendors.

# General conditions

## Contract signing

### 1. ELECTRONIC SIGNATURE

- 1.1 In this general condition "electronic signature" means a digital signature or a visual representation of a person's handwritten signature or mark which is placed on a physical or electronic copy of this contract by electronic or mechanical means, and "electronically signed" has a corresponding meaning.
- 1.2 The parties' consent to this contract being signed by or on behalf of a party by an electronic signature.
- 1.3 Where this contract is electronically signed by or on behalf of a party, the party warrants and agrees that the electronic signature has been used to identify the person signing and to indicate that the party intends to be bound by the electronic signature.
- 1.4 This contract may be electronically signed in any number of counterparts which together will constitute the one document.
- 1.5 Each party consents to the exchange of counterparts of this contract by delivery by email or such other electronic means as may be agreed in writing.
- 1.6 Each party must upon request promptly deliver a physical counterpart of this contract with the handwritten signature or signatures of the party and all written evidence of the authority of a person signing on their behalf, but a failure to comply with the request does not affect the validity of this contract.

### 2. LIABILITY OF SIGNATORY

Any signatory for a proprietary limited company purchaser is personally liable for the due performance of the purchaser's obligations as if the signatory were the purchaser in the case of a default by a proprietary limited company purchaser.

### 3. GUARANTEE

The vendor may require one or more directors of the purchaser to guarantee the purchaser's performance of this contract if the purchaser is a proprietary limited company.

### 4. NOMINEE

The purchaser may no later than 14 days before the due date for settlement nominate a substitute or additional person to take a transfer of the land, but the named purchaser remains personally liable for the due performance of all the purchaser's obligations under this contract.

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## Title

### 5. ENCUMBRANCES

- 5.1 The purchaser buys the property subject to:
  - (a) any encumbrance shown in the section 32 statement other than mortgages or caveats; and
  - (b) any reservations, exceptions and conditions in the crown grant; and
  - (c) any lease or tenancy referred to in the particulars of sale.
- 5.2 The purchaser indemnifies the vendor against all obligations under any lease or tenancy that are to be performed by the landlord after settlement.

### 6. VENDOR WARRANTIES

- 6.1 The vendor warrants that these general conditions 1 to 35 are identical to the general conditions 1 to 35 in the form of contract of sale of land published by the Law Institute of Victoria Limited and the Real Estate Institute of Victoria Ltd in the month and year set out at the foot of this page.
- 6.2 The warranties in general conditions 6.3 and 6.4 replace the purchaser's right to make requisitions and inquiries.
- 6.3 The vendor warrants that the vendor:
  - (a) has, or by the due date for settlement will have, the right to sell the land; and
  - (b) is under no legal disability; and
  - (c) is in possession of the land, either personally or through a tenant; and
  - (d) has not previously sold or granted any option to purchase, agreed to a lease or granted a pre-emptive right which is current over the land and which gives another party rights which have priority over the interest of the purchaser; and
  - (e) will at settlement be the holder of an unencumbered estate in fee simple in the land; and
  - (f) will at settlement be the unencumbered owner of any improvements, fixtures, fittings and goods sold with the land.

- 6.4 The vendor further warrants that the vendor has no knowledge of any of the following:
- (a) public rights of way over the land;
  - (b) easements over the land;
  - (c) lease or other possessory agreement affecting the land;
  - (d) notice or order directly and currently affecting the land which will not be dealt with at settlement, other than the usual rate notices and any land tax notices;
  - (e) legal proceedings which would render the sale of the land void or voidable or capable of being set aside.
- 6.5 The warranties in general conditions 6.3 and 6.4 are subject to any contrary provisions in this contract and disclosures in the section 32 statement.
- 6.6 If sections 137B and 137C of the *Building Act* 1993 apply to this contract, the vendor warrants that:
- (a) all domestic building work carried out in relation to the construction by or on behalf of the vendor of the home was carried out in a proper and workmanlike manner; and
  - (b) all materials used in that domestic building work were good and suitable for the purpose for which they were used and that, unless otherwise stated in the contract, those materials were new; and
  - (c) domestic building work was carried out in accordance with all laws and legal requirements, including, without limiting the generality of this warranty, the *Building Act* 1993 and regulations made under the *Building Act* 1993.
- 6.7 Words and phrases used in general condition 6.6 which are defined in the *Building Act* 1993 have the same meaning in general condition 6.6.

## 7. IDENTITY OF THE LAND

- 7.1 An omission or mistake in the description of the property or any deficiency in the area, description or measurements of the land does not invalidate the sale.
- 7.2 The purchaser may not:
- (a) make any objection or claim for compensation for any alleged misdescription of the property or any deficiency in its area or measurements; or
  - (b) require the vendor to amend title or pay any cost of amending title.

## 8. SERVICES

- 8.1 The vendor does not represent that the services are adequate for the purchaser's proposed use of the property and the vendor advises the purchaser to make appropriate inquiries. The condition of the services may change between the day of sale and settlement and the vendor does not promise that the services will be in the same condition at settlement as they were on the day of sale.
- 8.2 The purchaser is responsible for the connection of all services to the property after settlement and the payment of any associated cost.

## 9. CONSENTS

The vendor must obtain any necessary consent or licence required for the vendor to sell the property. The contract will be at an end and all money paid must be refunded if any necessary consent or licence is not obtained by settlement.

## 10. TRANSFER & DUTY

- 10.1 The purchaser must prepare and deliver to the vendor at least 7 days before the due date for settlement any paper transfer of land document which is necessary for this transaction. The delivery of the transfer of land document is not acceptance of title.
- 10.2 The vendor must promptly initiate the Duties on Line or other form required by the State Revenue Office in respect of this transaction, and both parties must co-operate to complete it as soon as practicable.

## 11. RELEASE OF SECURITY INTEREST

- 11.1 This general condition applies if any part of the property is subject to a security interest to which the *Personal Property Securities Act* 2009 (Cth) applies.
- 11.2 For the purposes of enabling the purchaser to search the Personal Property Securities Register for any security interests affecting any personal property for which the purchaser may be entitled to a release, statement, approval or correction in accordance with general condition 11.4, the purchaser may request the vendor to provide the vendor's date of birth to the purchaser. The vendor must comply with a request made by the purchaser under this condition if the purchaser makes the request at least 21 days before the due date for settlement.
- 11.3 If the purchaser is given the details of the vendor's date of birth under general condition 11.2, the purchaser must
- (a) only use the vendor's date of birth for the purposes specified in general condition 11.2; and
  - (b) keep the date of birth of the vendor secure and confidential.

- 11.4 The vendor must ensure that at or before settlement, the purchaser receives—
- (a) a release from the secured party releasing the property from the security interest; or
  - (b) a statement in writing in accordance with section 275(1)(b) of the *Personal Property Securities Act 2009* (Cth) setting out that the amount or obligation that is secured is nil at settlement; or
  - (c) a written approval or correction in accordance with section 275(1)(c) of the *Personal Property Securities Act 2009* (Cth) indicating that, on settlement, the personal property included in the contract is not or will not be property in which the security interest is granted.
- 11.5 Subject to general condition 11.6, the vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property—
- (a) that—
    - (i) the purchaser intends to use predominantly for personal, domestic or household purposes; and
    - (ii) has a market value of not more than \$5000 or, if a greater amount has been prescribed for the purposes of section 47(1) of the *Personal Property Securities Act 2009* (Cth), not more than that prescribed amount; or
  - (b) that is sold in the ordinary course of the vendor's business of selling personal property of that kind.
- 11.6 The vendor is obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property described in general condition 11.5 if—
- (a) the personal property is of a kind that may or must be described by serial number in the Personal Property Securities Register; or
  - (b) the purchaser has actual or constructive knowledge that the sale constitutes a breach of the security agreement that provides for the security interest.
- 11.7 A release for the purposes of general condition 11.4(a) must be in writing.
- 11.8 A release for the purposes of general condition 11.4(a) must be effective in releasing the goods from the security interest and be in a form which allows the purchaser to take title to the goods free of that security interest.
- 11.9 If the purchaser receives a release under general condition 11.4(a) the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.
- 11.10 In addition to ensuring that a release is received under general condition 11.4(a), the vendor must ensure that at or before settlement the purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.
- 11.11 The purchaser must advise the vendor of any security interest that is registered on or before the day of sale on the Personal Property Securities Register, which the purchaser reasonably requires to be released, at least 21 days before the due date for settlement.
- 11.12 The vendor may delay settlement until 21 days after the purchaser advises the vendor of the security interests that the purchaser reasonably requires to be released if the purchaser does not provide an advice under general condition 11.11.
- 11.13 If settlement is delayed under general condition 11.12 the purchaser must pay the vendor—
- (a) interest from the due date for settlement until the date on which settlement occurs or 21 days after the vendor receives the advice, whichever is the earlier; and
  - (b) any reasonable costs incurred by the vendor as a result of the delay—  
as though the purchaser was in default.
- 11.14 The vendor is not required to ensure that the purchaser receives a release in respect of the land. This general condition 11.14 applies despite general condition 11.1.
- 11.15 Words and phrases which are defined in the *Personal Property Securities Act 2009* (Cth) have the same meaning in general condition 11 unless the context requires otherwise.

## **12. BUILDER WARRANTY INSURANCE**

The vendor warrants that the vendor will provide at settlement details of any current builder warranty insurance in the vendor's possession relating to the property if requested in writing to do so at least 21 days before settlement.

## **13. GENERAL LAW LAND**

- 13.1 The vendor must complete a conversion of title in accordance with section 14 of the *Transfer of Land Act 1958* before settlement if the land is the subject of a provisional folio under section 23 of that Act.
- 13.2 The remaining provisions of this general condition 13 only apply if any part of the land is not under the operation of the *Transfer of Land Act 1958*.

- 13.3 The vendor is taken to be the holder of an unencumbered estate in fee simple in the land if there is an unbroken chain of title starting at least 30 years before the day of sale proving on the face of the documents the ownership of the entire legal and equitable estate without the aid of other evidence.
- 13.4 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.
- 13.5 The purchaser is taken to have accepted the vendor's title if:
- (a) 21 days have elapsed since the day of sale; and
  - (b) the purchaser has not reasonably objected to the title or reasonably required the vendor to remedy a defect in the title.
- 13.6 The contract will be at an end if:
- (a) the vendor gives the purchaser a notice that the vendor is unable or unwilling to satisfy the purchaser's objection or requirement and that the contract will end if the objection or requirement is not withdrawn within 14 days of the giving of the notice; and
  - (b) the objection or requirement is not withdrawn in that time.
- 13.7 If the contract ends in accordance with general condition 13.6, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.
- 13.8 General condition 17.1 [settlement] should be read as if the reference to 'registered proprietor' is a reference to 'owner' in respect of that part of the land which is not under the operation of the *Transfer of Land Act 1958*.
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## Money

### 14. DEPOSIT

- 14.1 The purchaser must pay the deposit:
- (a) to the vendor's licensed estate agent; or
  - (b) if there is no estate agent, to the vendor's legal practitioner or conveyancer; or
  - (c) if the vendor directs, into a special purpose account in an authorised deposit-taking institution in Victoria specified by the vendor in the joint names of the purchaser and the vendor.
- 14.2 If the land sold is a lot on an unregistered plan of subdivision, the deposit:
- (a) must not exceed 10% of the price; and
  - (b) must be paid to the vendor's estate agent, legal practitioner or conveyancer and held by the estate agent, legal practitioner or conveyancer on trust for the purchaser until the registration of the plan of subdivision.
- 14.3 The deposit must be released to the vendor if:
- (a) the vendor provides particulars, to the satisfaction of the purchaser, that either:
    - (i) there are no debts secured against the property; or
    - (ii) if there are any debts, the total amount of those debts together with any amounts to be withheld in accordance with general conditions 24 and 25 does not exceed 80% of the sale price; and
  - (b) at least 28 days have elapsed since the particulars were given to the purchaser under paragraph (a); and
  - (c) all conditions of section 27 of the *Sale of Land Act 1962* have been satisfied.
- 14.4 The stakeholder must pay the deposit and any interest to the party entitled when the deposit is released, the contract is settled, or the contract is ended.
- 14.5 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.
- 14.6 Where the purchaser is deemed by section 27(7) of the *Sale of Land Act 1962* to have given the deposit release authorisation referred to in section 27(1), the purchaser is also deemed to have accepted title in the absence of any prior express objection to title.
- 14.7 Payment of the deposit may be made or tendered:
- (a) in cash up to \$1,000 or 0.2% of the price, whichever is greater; or
  - (b) by cheque drawn on an authorised deposit-taking institution; or
  - (c) by electronic funds transfer to a recipient having the appropriate facilities for receipt.
- However, unless otherwise agreed:

- (d) payment may not be made by credit card, debit card or any other financial transfer system that allows for any chargeback or funds reversal other than for fraud or mistaken payment, and
  - (e) any financial transfer or similar fees or deductions from the funds transferred, other than any fees charged by the recipient's authorised deposit-taking institution, must be paid by the remitter.
- 14.8 Payment by electronic funds transfer is made when cleared funds are received in the recipient's bank account.
- 14.9 Before the funds are electronically transferred the intended recipient must be notified in writing and given sufficient particulars to readily identify the relevant transaction.
- 14.10 As soon as the funds have been electronically transferred the intended recipient must be provided with the relevant transaction number or reference details.
- 14.11 For the purpose of this general condition 'authorised deposit-taking institution' means a body corporate for which an authority under section 9(3) of the *Banking Act 1959* (Cth) is in force.

## 15. DEPOSIT BOND

- 15.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 15.2 In this general condition "deposit bond" means an irrevocable undertaking to pay on demand an amount equal to the deposit or any unpaid part of the deposit. The issuer and the form of the deposit bond must be satisfactory to the vendor. The deposit bond must have an expiry date at least 45 days after the due date for settlement.
- 15.3 The purchaser may deliver a deposit bond to the vendor's estate agent, legal practitioner or conveyancer within 7 days after the day of sale.
- 15.4 The purchaser may at least 45 days before a current deposit bond expires deliver a replacement deposit bond on the same terms and conditions.
- 15.5 Where a deposit bond is delivered, the purchaser must pay the deposit to the vendor's legal practitioner or conveyancer on the first to occur of:
- (a) settlement;
  - (b) the date that is 45 days before the deposit bond or any replacement deposit bond expires;
  - (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
  - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.
- 15.6 The vendor may claim on the deposit bond without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the issuer satisfies the obligations of the purchaser under general condition 15.5 to the extent of the payment.
- 15.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract, except as provided in general condition 15.6.
- 15.8 This general condition is subject to general condition 14.2 [deposit].

## 16. BANK GUARANTEE

- 16.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 16.2 In this general condition:
- (a) "bank guarantee" means an unconditional and irrevocable guarantee or undertaking by a bank in a form satisfactory to the vendor to pay on demand any amount under this contract agreed in writing, and
  - (b) "bank" means an authorised deposit-taking institution under the *Banking Act 1959* (Cth).
- 16.3 The purchaser may deliver a bank guarantee to the vendor's legal practitioner or conveyancer.
- 16.4 The purchaser must pay the amount secured by the bank guarantee to the vendor's legal practitioner or conveyancer on the first to occur of:
- (a) settlement;
  - (b) the date that is 45 days before the bank guarantee expires;
  - (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
  - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.
- 16.5 The vendor must return the bank guarantee document to the purchaser when the purchaser pays the amount secured by the bank guarantee in accordance with general condition 16.4.
- 16.6 The vendor may claim on the bank guarantee without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the bank satisfies the obligations of the purchaser under general condition 16.4 to the extent of the payment.



16.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract except as provided in general condition 16.6.

16.8 This general condition is subject to general condition 14.2 [deposit].

## 17. SETTLEMENT

17.1 At settlement:

- (a) the purchaser must pay the balance; and
- (b) the vendor must:
  - (i) do all things necessary to enable the purchaser to become the registered proprietor of the land; and
  - (ii) give either vacant possession or receipt of rents and profits in accordance with the particulars of sale.

17.2 Settlement must be conducted between the hours of 10.00 am and 4.00 pm unless the parties agree otherwise.

17.3 The purchaser must pay all money other than the deposit in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.

## 18. ELECTRONIC SETTLEMENT

18.1 Settlement and lodgement of the instruments necessary to record the purchaser as registered proprietor of the land will be conducted electronically in accordance with the Electronic Conveyancing National Law. This general condition 18 has priority over any other provision of this contract to the extent of any inconsistency.

18.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgement can no longer be conducted electronically. General condition 18 ceases to apply from when such a notice is given.

18.3 Each party must:

- (a) be, or engage a representative who is, a subscriber for the purposes of the Electronic Conveyancing National Law,
- (b) ensure that all other persons for whom that party is responsible and who are associated with this transaction are, or engage, a subscriber for the purposes of the Electronic Conveyancing National Law, and
- (c) conduct the transaction in accordance with the Electronic Conveyancing National Law.

18.4 The vendor must open the electronic workspace ("workspace") as soon as reasonably practicable and nominate a date and time for settlement. The inclusion of a specific date and time for settlement in a workspace is not of itself a promise to settle on that date or at that time. The workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation.

18.5 This general condition 18.5 applies if there is more than one electronic lodgement network operator in respect of the transaction. In this general condition 18.5 "the transaction" means this sale and purchase and any associated transaction involving any of the same subscribers.

To the extent that any interoperability rules governing the relationship between electronic lodgement network operators do not provide otherwise:

- (a) the electronic lodgement network operator to conduct all the financial and lodgement aspects of the transaction after the workspace locks must be one which is willing and able to conduct such aspects of the transaction in accordance with the instructions of all the subscribers in the workspaces of all the electronic lodgement network operators after the workspace locks;
- (b) if two or more electronic lodgement network operators meet that description, one may be selected by purchaser's incoming mortgagee having the highest priority but if there is no mortgagee of the purchaser, the vendor must make the selection.

18.6 Settlement occurs when the workspace records that:

- (a) there has been an exchange of funds or value between the exchange settlement account or accounts in the Reserve Bank of Australia of the relevant financial institutions or their financial settlement agents in accordance with the instructions of the parties; or
- (b) if there is no exchange of funds or value, the documents necessary to enable the purchaser to become registered proprietor of the land have been accepted for electronic lodgement.

18.7 The parties must do everything reasonably necessary to effect settlement:

- (a) electronically on the next business day, or
- (b) at the option of either party, otherwise than electronically as soon as possible –

if, after the locking of the workspace at the nominated settlement time, settlement in accordance with general condition 18.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.

18.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.

18.9 The vendor must before settlement:

- (a) deliver any keys, security devices and codes ("keys") to the estate agent named in the contract,
- (b) direct the estate agent to give the keys to the purchaser or the purchaser's nominee on notification of settlement by the vendor, the vendor's subscriber or the electronic lodgement network operator;

- (c) deliver all other physical documents and items (other than the goods sold by the contract) to which the purchaser is entitled at settlement, and any keys if not delivered to the estate agent, to the vendor's subscriber or, if there is no vendor's subscriber, confirm in writing to the purchaser that the vendor holds those documents, items and keys at the vendor's address set out in the contract, and

give, or direct its subscriber to give, all those documents and items and any such keys to the purchaser or the purchaser's nominee on notification by the electronic lodgement network operator of settlement.

## 19. GST

- 19.1 The purchaser does not have to pay the vendor any amount in respect of GST in addition to the price if the particulars of sale specify that the price includes GST (if any).
- 19.2 The purchaser must pay to the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price if:
  - (a) the particulars of sale specify that GST (if any) must be paid in addition to the price; or
  - (b) GST is payable solely as a result of any action taken or intended to be taken by the purchaser after the day of sale, including a change of use; or
  - (c) the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on and the supply (or part of it) does not satisfy the requirements of section 38-480 of the GST Act; or
  - (d) the particulars of sale specify that the supply made under this contract is of a going concern and the supply (or a part of it) does not satisfy the requirements of section 38-325 of the GST Act.
- 19.3 The purchaser is not obliged to pay any GST under this contract until a tax invoice has been given to the purchaser, unless the margin scheme applies.
- 19.4 If the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on:
  - (a) the vendor warrants that the property is land on which a farming business has been carried on for the period of 5 years preceding the date of supply; and
  - (b) the purchaser warrants that the purchaser intends that a farming business will be carried on after settlement on the property.
- 19.5 If the particulars of sale specify that the supply made under this contract is a 'going concern':
  - (a) the parties agree that this contract is for the supply of a going concern; and
  - (b) the purchaser warrants that the purchaser is, or prior to settlement will be, registered for GST; and
  - (c) the vendor warrants that the vendor will carry on the going concern until the date of supply.
- 19.6 If the particulars of sale specify that the supply made under this contract is a 'margin scheme' supply, the parties agree that the margin scheme applies to this contract.
- 19.7 In this general condition:
  - (a) 'GST Act' means *A New Tax System (Goods and Services Tax) Act 1999* (Cth); and
  - (b) 'GST' includes penalties and interest.

## 20. LOAN

- 20.1 If the particulars of sale specify that this contract is subject to a loan being approved, this contract is subject to the lender approving the loan on the security of the property by the approval date or any later date allowed by the vendor.
- 20.2 The purchaser may end the contract if the loan is not approved by the approval date, but only if the purchaser:
  - (a) immediately applied for the loan; and
  - (b) did everything reasonably required to obtain approval of the loan; and
  - (c) serves written notice ending the contract, together with written evidence of rejection or non-approval of the loan, on the vendor within 2 clear business days after the approval date or any later date allowed by the vendor; and
  - (d) is not in default under any other condition of this contract when the notice is given.
- 20.3 All money must be immediately refunded to the purchaser if the contract is ended.

## 21. BUILDING REPORT

- 21.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 21.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:
  - (a) obtains a written report from a registered building practitioner or architect which discloses a current defect in a structure on the land and designates it as a major building defect;
  - (b) gives the vendor a copy of the report and a written notice ending this contract; and
  - (c) is not then in default.
- 21.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.

- 21.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 21.5 The registered building practitioner may inspect the property at any reasonable time for the purpose of preparing the report.

## **22. PEST REPORT**

- 22.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 22.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:
- (a) obtains a written report from a pest control operator licensed under Victorian law which discloses a current pest infestation on the land and designates it as a major infestation affecting the structure of a building on the land;
  - (b) gives the vendor a copy of the report and a written notice ending this contract; and
  - (c) is not then in default.
- 22.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.
- 22.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 22.5 The pest control operator may inspect the property at any reasonable time for the purpose of preparing the report.

## **23. ADJUSTMENTS**

- 23.1 All periodic outgoings payable by the vendor, and any rent and other income received in respect of the property must be apportioned between the parties on the settlement date and any adjustments paid and received as appropriate.
- 23.2 The periodic outgoings and rent and other income must be apportioned on the following basis:
- (a) the vendor is liable for the periodic outgoings and entitled to the rent and other income up to and including the day of settlement; and
  - (b) the land is treated as the only land of which the vendor is owner (as defined in the *Land Tax Act 2005*); and
  - (c) the vendor is taken to own the land as a resident Australian beneficial owner; and
  - (d) any personal statutory benefit available to each party is disregarded in calculating apportionment.
- 23.3 The purchaser must provide copies of all certificates and other information used to calculate the adjustments under general condition 23, if requested by the vendor.

## **24. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING**

- 24.1 Words defined or used in Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953* (Cth) have the same meaning in this general condition unless the context requires otherwise.
- 24.2 Every vendor under this contract is a foreign resident for the purposes of this general condition unless the vendor gives the purchaser a clearance certificate issued by the Commissioner under section 14-220 (1) of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The specified period in the clearance certificate must include the actual date of settlement.
- 24.3 The remaining provisions of this general condition 24 only apply if the purchaser is required to pay the Commissioner an amount in accordance with section 14-200(3) or section 14-235 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) ("the amount") because one or more of the vendors is a foreign resident, the property has or will have a market value not less than the amount set out in section 14-215 of the legislation just after the transaction, and the transaction is not excluded under section 14-215(1) of the legislation.
- 24.4 The amount is to be deducted from the vendor's entitlement to the contract consideration. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.
- 24.5 The purchaser must:
- (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
  - (b) ensure that the representative does so.
- 24.6 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests and instructions that the representative must:
- (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition if the sale of the property settles;
  - (b) promptly provide the vendor with proof of payment; and
  - (c) otherwise comply, or ensure compliance, with this general condition;
- despite:
- (d) any contrary instructions, other than from both the purchaser and the vendor; and
  - (e) any other provision in this contract to the contrary.
- 24.7 The representative is taken to have complied with the requirements of general condition 24.6 if:
- (a) the settlement is conducted through an electronic lodgement network; and

- (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 24.8 Any clearance certificate or document evidencing variation of the amount in accordance with section 14-235(2) of Schedule 1 to the *Taxation Administration Act 1953* (Cth) must be given to the purchaser at least 5 business days before the due date for settlement.
- 24.9 The vendor must provide the purchaser with such information as the purchaser requires to comply with the purchaser's obligation to pay the amount in accordance with section 14-200 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The information must be provided within 5 business days of request by the purchaser. The vendor warrants that the information the vendor provides is true and correct.
- 24.10 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

## 25. GST WITHHOLDING

- 25.1 Words and expressions defined or used in Subdivision 14-E of Schedule 1 to the *Taxation Administration Act 1953* (Cth) or in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this general condition unless the context requires otherwise. Words and expressions first used in this general condition and shown in italics and marked with an asterisk are defined or described in at least one of those Acts.
- 25.2 The purchaser must notify the vendor in writing of the name of the recipient of the \*supply for the purposes of section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) at least 21 days before the due date for settlement unless the recipient is the purchaser named in the contract.
- 25.3 The vendor must at least 14 days before the due date for settlement provide the purchaser and any person nominated by the purchaser under general condition 4 with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth), and must provide all information required by the purchaser or any person so nominated to confirm the accuracy of the notice.
- 25.4 The remaining provisions of this general condition 25 apply if the purchaser is or may be required to pay the Commissioner an \*amount in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) because the property is \*new residential premises or \*potential residential land in either case falling within the parameters of that section, and also if the sale attracts the operation of section 14-255 of the legislation. Nothing in this general condition 25 is to be taken as relieving the vendor from compliance with section 14-255.
- 25.5 The amount is to be deducted from the vendor's entitlement to the contract \*consideration and is then taken to be paid to the vendor, whether or not the vendor provides the purchaser with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.
- 25.6 The purchaser must:
  - (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
  - (b) ensure that the representative does so.
- 25.7 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests relating to the payment of the amount to the Commissioner and instructions that the representative must:
  - (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition on settlement of the sale of the property;
  - (b) promptly provide the vendor with evidence of payment, including any notification or other document provided by the purchaser to the Commissioner relating to payment; and
  - (c) otherwise comply, or ensure compliance, with this general condition;
 despite:
  - (d) any contrary instructions, other than from both the purchaser and the vendor; and
  - (e) any other provision in this contract to the contrary.
- 25.8 The representative is taken to have complied with the requirements of general condition 25.7 if:
  - (a) settlement is conducted through an electronic lodgement network; and
  - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 25.9 The purchaser may at settlement give the vendor a bank cheque for the amount in accordance with section 16-30 (3) of Schedule 1 to the *Taxation Administration Act 1953* (Cth), but only if:
  - (a) so agreed by the vendor in writing; and
  - (b) the settlement is not conducted through an electronic lodgement network.
 However, if the purchaser gives the bank cheque in accordance with this general condition 25.9, the vendor must:
  - (c) immediately after settlement provide the bank cheque to the Commissioner to pay the amount in relation to the supply; and

- (d) give the purchaser a receipt for the bank cheque which identifies the transaction and includes particulars of the bank cheque, at the same time the purchaser gives the vendor the bank cheque.
- 25.10 A party must provide the other party with such information as the other party requires to:
- (a) decide if an amount is required to be paid or the quantum of it, or
  - (b) comply with the purchaser's obligation to pay the amount,
- in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The information must be provided within 5 business days of a written request. The party providing the information warrants that it is true and correct.
- 25.11 The vendor warrants that:
- (a) at settlement, the property is not new residential premises or potential residential land in either case falling within the parameters of section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) if the vendor gives the purchaser a written notice under section 14-255 to the effect that the purchaser will not be required to make a payment under section 14-250 in respect of the supply, or fails to give a written notice as required by and within the time specified in section 14-255; and
  - (b) the amount described in a written notice given by the vendor to the purchaser under section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) is the correct amount required to be paid under section 14-250 of the legislation.
- 25.12 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount, except to the extent that:
- (a) the penalties or interest arise from any failure on the part of the vendor, including breach of a warranty in general condition 25.11; or
  - (b) the purchaser has a reasonable belief that the property is neither new residential premises nor potential residential land requiring the purchaser to pay an amount to the Commissioner in accordance with section 14-250 (1) of Schedule 1 to the *Taxation Administration Act 1953* (Cth).
- The vendor is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount if either exception applies.

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## Transactional

### 26. TIME & CO OPERATION

- 26.1 Time is of the essence of this contract.
- 26.2 Time is extended until the next business day if the time for performing any action falls on a day which is not a business day.
- 26.3 Each party must do all things reasonably necessary to enable this contract to proceed to settlement, and must act in a prompt and efficient manner.
- 26.4 Any unfulfilled obligation will not merge on settlement.

### 27. SERVICE

- 27.1 Any document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party.
- 27.2 A cooling off notice under section 31 of the *Sale of Land Act 1962* or a notice under general condition 20 [loan approval], 21 [building report] or 22 [pest report] may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 27.3 A document is sufficiently served:
  - (a) personally, or
  - (b) by pre-paid post, or
  - (c) in any manner authorized by law or by the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner, whether or not the person serving or receiving the document is a legal practitioner, or
  - (d) by email.
- 27.4 Any document properly sent by:
  - (a) express post is taken to have been served on the next business day after posting, unless proved otherwise;
  - (b) priority post is taken to have been served on the fourth business day after posting, unless proved otherwise;
  - (c) regular post is taken to have been served on the sixth business day after posting, unless proved otherwise;
  - (d) email is taken to have been served at the time of receipt within the meaning of section 13A of the *Electronic Transactions (Victoria) Act 2000*.
- 27.5 In this contract 'document' includes 'demand' and 'notice', 'serve' includes 'give', and 'served' and 'service' have corresponding meanings.

## **28. NOTICES**

- 28.1 The vendor is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made before the day of sale, and does not relate to periodic outgoings.
- 28.2 The purchaser is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made on or after the day of sale, and does not relate to periodic outgoings.
- 28.3 The purchaser may enter the property to comply with that responsibility where action is required before settlement.

## **29. INSPECTION**

The purchaser and/or another person authorised by the purchaser may inspect the property at any reasonable time during the 7 days preceding and including the settlement day.

## **30. TERMS CONTRACT**

30.1 If this is a 'terms contract' as defined in the *Sale of Land Act 1962*:

- (a) any mortgage affecting the land sold must be discharged as to that land before the purchaser becomes entitled to possession or to the receipt of rents and profits unless the vendor satisfies section 29M of the *Sale of Land Act 1962*; and
- (b) the deposit and all other money payable under the contract (other than any money payable in excess of the amount required to so discharge the mortgage) must be paid to a legal practitioner or conveyancer or a licensed estate agent to be applied in or towards discharging the mortgage.

30.2 While any money remains owing each of the following applies:

- (a) the purchaser must maintain full damage and destruction insurance of the property and public risk insurance noting all parties having an insurable interest with an insurer approved in writing by the vendor;
- (b) the purchaser must deliver copies of the signed insurance application forms, the policies and the insurance receipts to the vendor not less than 10 days before taking possession of the property or becoming entitled to receipt of the rents and profits;
- (c) the purchaser must deliver copies of any amendments to the policies and the insurance receipts on each amendment or renewal as evidence of the status of the policies from time to time;
- (d) the vendor may pay any renewal premiums or take out the insurance if the purchaser fails to meet these obligations;
- (e) insurance costs paid by the vendor under paragraph (d) must be refunded by the purchaser on demand without affecting the vendor's other rights under this contract;
- (f) the purchaser must maintain and operate the property in good repair (fair wear and tear excepted) and keep the property safe, lawful, structurally sound, weatherproof and free from contaminations and dangerous substances;
- (g) the property must not be altered in any way without the written consent of the vendor which must not be unreasonably refused or delayed;
- (h) the purchaser must observe all obligations that affect owners or occupiers of land;
- (i) the vendor and/or other person authorised by the vendor may enter the property at any reasonable time to inspect it on giving 7 days written notice, but not more than twice in a year.

## **31. LOSS OR DAMAGE BEFORE SETTLEMENT**

- 31.1 The vendor carries the risk of loss or damage to the property until settlement.
- 31.2 The vendor must deliver the property to the purchaser at settlement in the same condition it was in on the day of sale, except for fair wear and tear.
- 31.3 The purchaser must not delay settlement because one or more of the goods is not in the condition required by general condition 31.2, but may claim compensation from the vendor after settlement.
- 31.4 The purchaser may nominate an amount not exceeding \$5,000 to be held by a stakeholder to be appointed by the parties if the property is not in the condition required by general condition 31.2 at settlement.
- 31.5 The nominated amount may be deducted from the amount due to the vendor at settlement and paid to the stakeholder, but only if the purchaser also pays an amount equal to the nominated amount to the stakeholder.
- 31.6 The stakeholder must pay the amounts referred to in general condition 31.5 in accordance with the determination of the dispute, including any order for payment of the costs of the resolution of the dispute.

## **32. BREACH**

A party who breaches this contract must pay to the other party on demand:

- (a) compensation for any reasonably foreseeable loss to the other party resulting from the breach; and
- (b) any interest due under this contract as a result of the breach.

# Default

## 33. INTEREST

interest at a rate of 2% per annum plus the rate for the time being fixed by section 2 of the *Penalty Interest Rates Act 1983* is payable at settlement on any money owing under the contract during the period of default, without affecting any other rights of the offended party.

## 34. DEFAULT NOTICE

4.1 A party is not entitled to exercise any rights arising from the other party's default, other than the right to receive interest and the right to sue for money owing, until the other party is given and fails to comply with a written default notice.

34.2 The default notice must:

- (a) specify the particulars of the default; and
- (b) state that it is the offended party's intention to exercise the rights arising from the default unless, within 14 days of the notice being given -
  - (i) the default is remedied; and
  - (ii) the reasonable costs incurred as a result of the default and any interest payable are paid.

## 35. DEFAULT NOT REMEDIED

35.1 All unpaid money under the contract becomes immediately payable to the vendor if the default has been made by the purchaser and is not remedied and the costs and interest are not paid.

35.2 The contract immediately ends if:

- (a) the default notice also states that unless the default is remedied and the reasonable costs and interest are paid, the contract will be ended in accordance with this general condition; and
- (b) the default is not remedied and the reasonable costs and interest are not paid by the end of the period of the default notice.

35.3 If the contract ends by a default notice given by the purchaser:

- (a) the purchaser must be repaid any money paid under the contract and be paid any interest and reasonable costs payable under the contract; and
- (b) all those amounts are a charge on the land until payment; and
- (c) the purchaser may also recover any loss otherwise recoverable.

35.4 If the contract ends by a default notice given by the vendor:

- (a) the deposit up to 10% of the price is forfeited to the vendor as the vendor's absolute property, whether the deposit has been paid or not; and
- (b) the vendor is entitled to possession of the property; and
- (c) in addition to any other remedy, the vendor may within one year of the contract ending either:
  - (i) retain the property and sue for damages for breach of contract; or
  - (ii) resell the property in any manner and recover any deficiency in the price on the resale and any resulting expenses by way of liquidated damages; and
- (d) the vendor may retain any part of the price paid until the vendor's damages have been determined and may apply that money towards those damages; and
- (e) any determination of the vendor's damages must take into account the amount forfeited to the vendor.

35.5 The ending of the contract does not affect the rights of the offended party as a consequence of the default.

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## GUARANTEE and INDEMNITY

I/We		of	
And		of	
being the <b>Sole Director / Directors</b> of		ACN	

(Called the "Guarantors") IN CONSIDERATION of the Vendor selling to the Purchaser at our request the Land described in this Contract of Sale for the price and upon the terms and conditions contained therein **DO** for ourselves and our respective executors and administrators **JOINTLY AND SEVERALLY COVENANT** with the said Vendor and their assigns that if at any time default shall be made in payment of the Deposit Money or residue of Purchase Money or interest or any other moneys payable by the Purchaser to the Vendor under this Contract or in the performance or observance of any term or condition of this Contract to be performed or observed by the Purchaser I/we will immediately on demand by the Vendor pay to the Vendor the whole of the Deposit Money, residue of Purchase Money, interest or other moneys which shall then be due and payable to the Vendor and indemnify and agree to keep the Vendor indemnified against all loss of Deposit Money, residue of Purchase Money, interest and other moneys payable under the within Contract and all losses, costs, charges and expenses whatsoever which the Vendor may incur by reason of any default on the part of the Purchaser. This Guarantee shall be a continuing Guarantee and Indemnity and shall not be released by:-

- a) any neglect or forbearance on the part of the Vendor in enforcing payment of any of the moneys payable under the within Contract;
- b) the performance or observance of any of the agreements, obligations or conditions under the within Contract;
- c) by time given to the Purchaser for any such payment performance or observance;
- d) by reason of the Vendor assigning his, her or their rights under the said Contract; and
- e) by any other thing which under the law relating to sureties would but for this provision have the effect of releasing me/us, my/our executors or administrators.

IN WITNESS whereof the parties hereto have set their hands and seals

This  Day of  20

SIGNED SEALED AND DELIVERED by the said

Print Name

In the presence of

Director(Sign)

Witness

SIGNED SEALED AND DELIVERED by the said

Print Name

In the presence of

Director(Sign)

Witness



# Vendor GST Withholding Notice

Pursuant to Section 14-255 Schedule 1 Taxation Administration Act 1953 (Cwlth)

To: Fronsac Pty Ltd ACN 677977623,

From: Jureeporn Chiem, 8 St Patricks Place, Tarneit VIC 3029

Property Address: 7 Fronsac Avenue, Corio VIC 3214

Lot: 2 Plan of subdivision: 631697L

The Purchaser is not required to make a payment under Section 14-250 of Schedule 1 of the Taxation Administration Act 1953 (Cwlth) in relation to the supply of the above property

Dated:

Signed for an on behalf of the Vendor: *Elite Conveyancing Group Pty Ltd*

# Vendor Statement

The vendor makes this statement in respect of the land in accordance with section 32 of the *Sale of Land Act* 1962.

This statement must be signed by the vendor and given to the purchaser before the purchaser signs the contract.  
The vendor may sign by electronic signature.

The purchaser acknowledges being given this statement signed by the vendor with the attached documents before the purchaser signed any contract.

<b>Land</b>	7 FRONSAC AVENUE, CORIO VIC 3214
-------------	----------------------------------

Vendor's name	Jureeporn Chiem	Date	/ /
Vendor's signature	_____		

Purchaser's name	To Lau for and on behalf of Fronsac Pty Ltd ACN 677977623	Date	/ /
Purchaser's signature	_____		

## 1. FINANCIAL MATTERS

### 1.1 Particulars of any Rates, Taxes, Charges or Other Similar Outgoings (and any interest on them)

(a)  Their total does not exceed: \$4,500.00

### 1.2 Particulars of any Charge (whether registered or not) imposed by or under any Act to secure an amount due under that Act, including the amount owing under the charge

Not Applicable

### 1.3 Terms Contract

This section 1.3 only applies if this vendor statement is in respect of a terms contract where the purchaser is obliged to make 2 or more payments (other than a deposit or final payment) to the vendor after the execution of the contract and before the purchaser is entitled to a conveyance or transfer of the land.

Not Applicable

### 1.4 Sale Subject to Mortgage

This section 1.4 only applies if this vendor statement is in respect of a contract which provides that any mortgage (whether registered or unregistered), is NOT to be discharged before the purchaser becomes entitled to possession or receipts of rents and profits.

Not Applicable

## 2. INSURANCE

### 2.1 Damage and Destruction

This section 2.1 only applies if this vendor statement is in respect of a contract which does NOT provide for the land to remain at the risk of the vendor until the purchaser becomes entitled to possession or receipt of rents and profits.

Not Applicable

### 2.2 Owner Builder

This section 2.2 only applies where there is a residence on the land that was constructed by an owner-builder within the preceding 6 years and section 137B of the Building Act 1993 applies to the residence.

Not Applicable

## 3. LAND USE

### 3.1 Easements, Covenants or Other Similar Restrictions

(a) A description of any easement, covenant or other similar restriction affecting the land (whether registered or unregistered):

Not Applicable

(b) Particulars of any existing failure to comply with that easement, covenant or other similar restriction are:

Not Applicable

### 3.2 Road Access

There is NO access to the property by road if the square box is marked with an 'X'

### 3.3 Designated Bushfire Prone Area

The land is in a designated bushfire prone area within the meaning of section 192A of the *Building Act* 1993 if the square box is marked with an 'X'

### 3.4 Planning Scheme

Attached is a certificate with the required specified information.

**4. NOTICES**

**4.1 Notice, Order, Declaration, Report or Recommendation**

Particulars of any notice, order, declaration, report or recommendation of a public authority or government department or approved proposal directly and currently affecting the land, being a notice, order, declaration, report, recommendation or approved proposal of which the vendor might reasonably be expected to have knowledge:

Not Applicable

**4.2 Agricultural Chemicals**

There are NO notices, property management plans, reports or orders in respect of the land issued by a government department or public authority in relation to livestock disease or contamination by agricultural chemicals affecting the ongoing use of the land for agricultural purposes. However, if this is not the case, the details of any such notices, property management plans, reports or orders, are as follows:

NIL

**4.3 Compulsory Acquisition**

The particulars of any notices of intention to acquire that have been served under section 6 of the *Land Acquisition and Compensation Act 1986* are as follows:

NIL

**5. BUILDING PERMITS**

Particulars of any building permit issued under the *Building Act 1993* in the preceding 7 years (required only where there is a residence on the land):

Not Applicable

**6. OWNERS CORPORATION**

This section 6 only applies if the land is affected by an owners corporation within the meaning of the *Owners Corporations Act 2006*.

Not Applicable

**7. GROWTH AREAS INFRASTRUCTURE CONTRIBUTION (“GAIC”)**

Words and expressions in this section 7 have the same meaning as in Part 9B of the *Planning and Environment Act 1987*.

Not Applicable

**8. SERVICES**

The services which are marked with an 'X' in the accompanying square box are NOT connected to the land:

Electricity supply <input type="checkbox"/>	Gas supply <input type="checkbox"/>	Water supply <input type="checkbox"/>	Sewerage <input type="checkbox"/>	Telephone services <input type="checkbox"/>
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**9. TITLE**

Attached are copies of the following documents:

9.1  (a) Registered Title

A Register Search Statement and the document, or part of a document, referred to as the 'diagram location' in that statement which identifies the land and its location.

**10. SUBDIVISION**

**10.1 Unregistered Subdivision**

This section 10.1 only applies if the land is subject to a subdivision which is not registered.

Not Applicable

**10.2 Staged Subdivision**

This section 10.2 only applies if the land is part of a staged subdivision within the meaning of section 37 of the

*Subdivision Act 1988.*

- (a) Attached is a copy of the plan for the first stage if the land is in the second or subsequent stage.
- (b) The requirements in a statement of compliance relating to the stage in which the land is included that have Not been complied With are As follows:

NIL

- (c) The proposals relating to subsequent stages that are known to the vendor are as follows:

NIL

- (d) The contents of any permit under the Planning and Environment Act 1987 authorising the staged subdivision are:

NIL

### 10.3 Further Plan of Subdivision

This section 10.3 only applies if the land is subject to a subdivision in respect of which a further plan within the meaning of the *Subdivision Act 1988* is proposed.

Not Applicable

## 11. DISCLOSURE OF ENERGY INFORMATION

*(Disclosure of this information is not required under section 32 of the Sale of Land Act 1962 but may be included in this vendor statement for convenience.)*

Details of any energy efficiency information required to be disclosed regarding a disclosure affected building or disclosure area affected area of a building as defined by the *Building Energy Efficiency Disclosure Act 2010* (Cth)

- (a) to be a building or part of a building used or capable of being used as an office for administrative, clerical, professional or similar based activities including any support facilities; and
- (b) which has a net lettable area of at least 1000m<sup>2</sup>; (but does not include a building under a strata title system or if an occupancy permit was issued less than 2 years before the relevant date):

Not Applicable

## 12. DUE DILIGENCE CHECKLIST

*(The Sale of Land Act 1962 provides that the vendor or the vendor's licensed estate agent must make a prescribed due diligence checklist available to purchasers before offering land for sale that is vacant residential land or land on which there is a residence. The due diligence checklist is NOT required to be provided with, or attached to, this vendor statement but the checklist may be attached as a matter of convenience.)*

Is attached

## 13. ATTACHMENTS

*(Any certificates, documents and other attachments may be annexed to this section 13)*

*(Additional information may be added to this section 13 where there is insufficient space in any of the earlier sections)*

*(Attached is an "Additional Vendor Statement" if section 1.3 (Terms Contract) or section 1.4 (Sale Subject to Mortgage) applies)*

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# Due diligence checklist

## What you need to know before buying a residential property

Before you buy a home, you should be aware of a range of issues that may affect that property and impose restrictions or obligations on you, if you buy it. This checklist aims to help you identify whether any of these issues will affect you. The questions are a starting point only and you may need to seek professional advice to answer some of them. You can find links to organisations and web pages that can help you learn more, by visiting the [Due diligence checklist page on the Consumer Affairs Victoria website](http://consumer.vic.gov.au/duediligencechecklist) (consumer.vic.gov.au/duediligencechecklist).

## Urban living

### Moving to the inner city?

High density areas are attractive for their entertainment and service areas, but these activities create increased traffic as well as noise and odours from businesses and people. Familiarising yourself with the character of the area will give you a balanced understanding of what to expect.

### Is the property subject to an owners corporation?

If the property is part of a subdivision with common property such as driveways or grounds, it may be subject to an owners corporation. You may be required to pay fees and follow rules that restrict what you can do on your property, such as a ban on pet ownership.

## Growth areas

### Are you moving to a growth area?

You should investigate whether you will be required to pay a growth areas infrastructure contribution.

## Flood and fire risk

### Does this property experience flooding or bushfire?

Properties are sometimes subject to the risk of fire and flooding due to their location. You should properly investigate these risks and consider their implications for land management, buildings and insurance premiums.

## Rural properties

### Moving to the country?

If you are looking at property in a rural zone, consider:

- Is the surrounding land use compatible with your lifestyle expectations? Farming can create noise or odour that may be at odds with your expectations of a rural lifestyle.
- Are you considering removing native vegetation? There are regulations which affect your ability to remove native vegetation on private property.
- Do you understand your obligations to manage weeds and pest animals?

### Can you build new dwellings?

Does the property adjoin crown land, have a water frontage, contain a disused government road, or are there any crown licences associated with the land?

### Is there any earth resource activity such as mining in the area?

You may wish to find out more about exploration, mining and quarrying activity on or near the property and consider the issue of petroleum, geothermal and greenhouse gas sequestration permits, leases and licences, extractive industry authorisations and mineral licences.

## Soil and groundwater contamination

### Has previous land use affected the soil or groundwater?

You should consider whether past activities, including the use of adjacent land, may have caused contamination at the site and whether this may prevent you from doing certain things to or on the land in the future.

(04/10/2016)

## **Land boundaries**

### **Do you know the exact boundary of the property?**

You should compare the measurements shown on the title document with actual fences and buildings on the property, to make sure the boundaries match. If you have concerns about this, you can speak to your lawyer or conveyancer, or commission a site survey to establish property boundaries.

## **Planning controls**

### **Can you change how the property is used, or the buildings on it?**

All land is subject to a planning scheme, run by the local council. How the property is zoned and any overlays that may apply, will determine how the land can be used. This may restrict such things as whether you can build on vacant land or how you can alter or develop the land and its buildings over time.

The local council can give you advice about the planning scheme, as well as details of any other restrictions that may apply, such as design guidelines or bushfire safety design. There may also be restrictions – known as encumbrances – on the property's title, which prevent you from developing the property. You can find out about encumbrances by looking at the section 32 statement.

### **Are there any proposed or granted planning permits?**

The local council can advise you if there are any proposed or issued planning permits for any properties close by. Significant developments in your area may change the local 'character' (predominant style of the area) and may increase noise or traffic near the property.

## **Safety**

### **Is the building safe to live in?**

Building laws are in place to ensure building safety. Professional building inspections can help you assess the property for electrical safety, possible illegal building work, adequate pool or spa fencing and the presence of asbestos, termites, or other potential hazards.

## **Building permits**

### **Have any buildings or retaining walls on the property been altered, or do you plan to alter them?**

There are laws and regulations about how buildings and retaining walls are constructed, which you may wish to investigate to ensure any completed or proposed building work is approved. The local council may be able to give you information about any building permits issued for recent building works done to the property, and what you must do to plan new work. You can also commission a private building surveyor's assessment.

### **Are any recent building or renovation works covered by insurance?**

Ask the vendor if there is any owner-builder insurance or builder's warranty to cover defects in the work done to the property.

## **Utilities and essential services**

### **Does the property have working connections for water, sewerage, electricity, gas, telephone and internet?**

Unconnected services may not be available, or may incur a fee to connect. You may also need to choose from a range of suppliers for these services. This may be particularly important in rural areas where some services are not available.

## **Buyers' rights**

### **Do you know your rights when buying a property?**

The contract of sale and section 32 statement contain important information about the property, so you should request to see these and read them thoroughly. Many people engage a lawyer or conveyancer to help them understand the contracts and ensure the sale goes through correctly. If you intend to hire a professional, you should consider speaking to them before you commit to the sale. There are also important rules about the way private sales and auctions are conducted. These may include a cooling-off period and specific rights associated with 'off the plan' sales. The important thing to remember is that, as the buyer, you have rights.

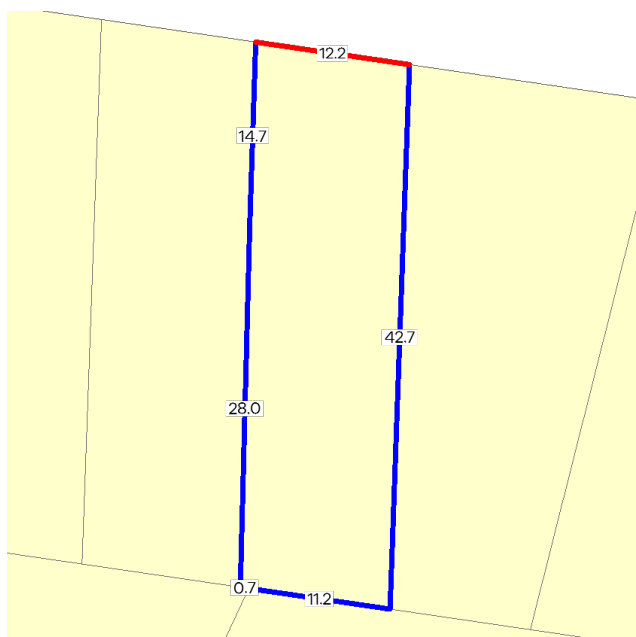
## PROPERTY DETAILS

Address: **7 FRONSAC AVENUE CORIO 3214**  
Lot and Plan Number: **Lot 2 PS631697**  
Standard Parcel Identifier (SPI): **2\PS631697**  
Local Government Area (Council): **GREATER GEELONG**  
Council Property Number: **287912**  
Directory Reference: **Melway 432 B9**

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

## SITE DIMENSIONS

All dimensions and areas are approximate. They may not agree with those shown on a title or plan.



**Area:** 511 sq. m

**Perimeter:** 109 m

For this property:

— Site boundaries

— Road frontages

Dimensions for individual parcels require a separate search, but dimensions for individual units are generally not available.

Calculating the area from the dimensions shown may give a different value to the area shown above

For more accurate dimensions get copy of plan at [Title and Property Certificates](#)

## UTILITIES

Rural Water Corporation: **Southern Rural Water**  
Urban Water Corporation: **Barwon Water**  
Melbourne Water: **Outside drainage boundary**  
Power Distributor: **POWERCOR**

## STATE ELECTORATES

Legislative Council: **WESTERN VICTORIA**  
Legislative Assembly: **LARA**

## PLANNING INFORMATION

Property Planning details have been removed from the Property Reports to avoid duplication with the Planning Property Reports from the Department of Transport and Planning which are the authoritative source for all Property Planning information.

The Planning Property Report for this property can found here - [Planning Property Report](#)

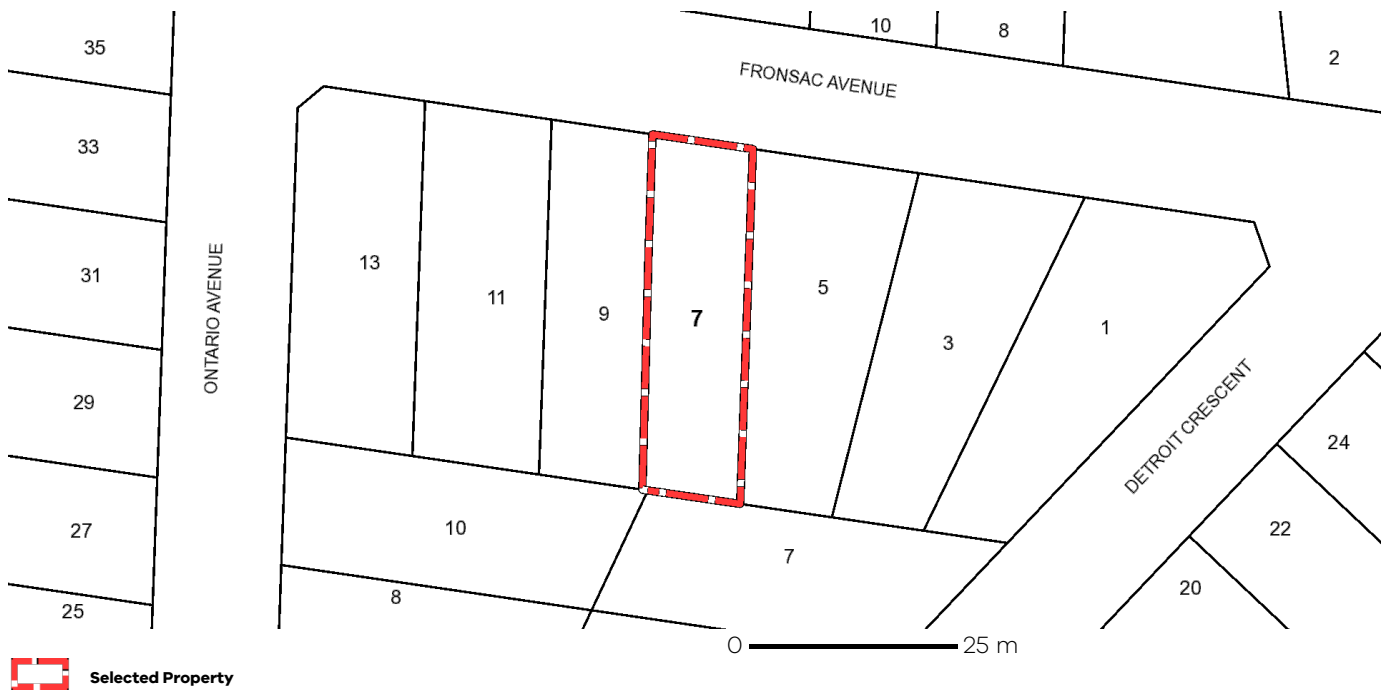
Planning Property Reports can be found via these two links

**Vicplan** <https://mapshare.vic.gov.au/vicplan/>

**Property and parcel search** <https://www.land.vic.gov.au/property-and-parcel-search>



## Area Map



From [www.planning.vic.gov.au](http://www.planning.vic.gov.au) at 03 June 2024 10:21 PM

## PROPERTY DETAILS

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

[Planning Scheme - Greater Geelong](#)

## UTILITIES

Rural Water Corporation: **Southern Rural Water**  
 Urban Water Corporation: **Barwon Water**  
 Melbourne Water: **Outside drainage boundary**  
 Power Distributor: **POWERCOR**

## STATE ELECTORATES

Legislative Council: **WESTERN VICTORIA**  
 Legislative Assembly: **LARA**

## OTHER

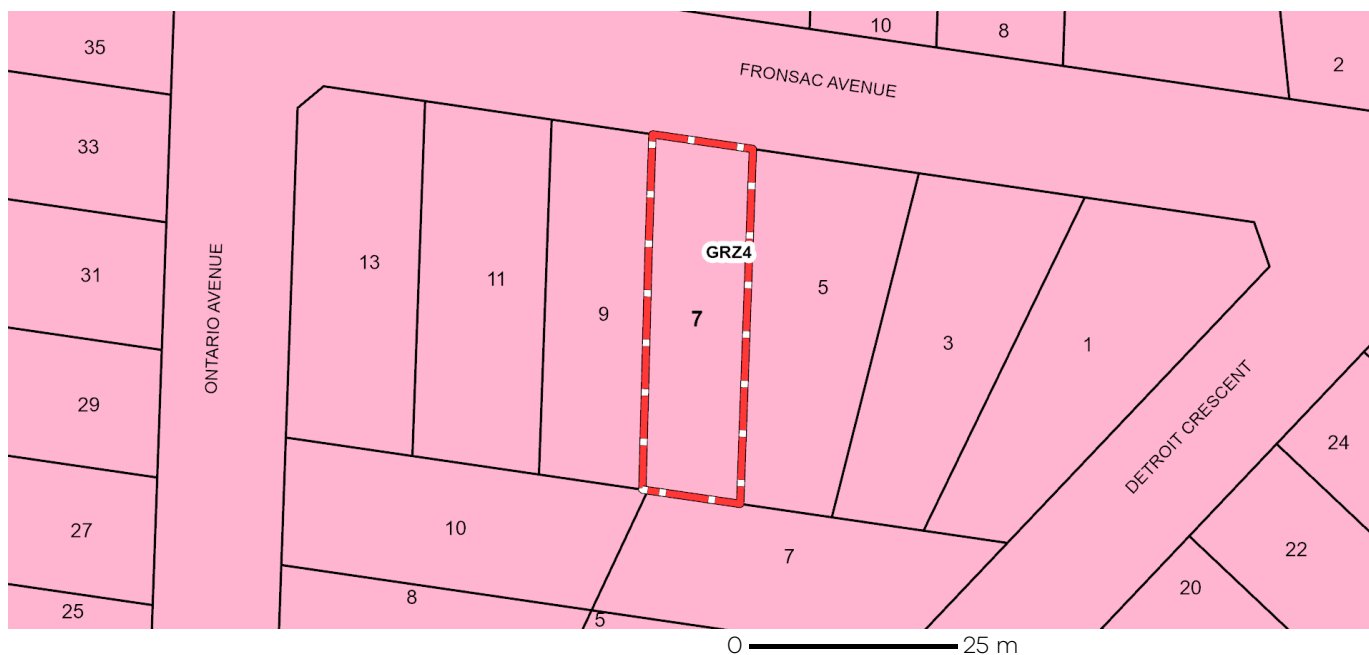
Registered Aboriginal Party: **Wadawurrung Traditional Owners  
Aboriginal Corporation**

[View location in VicPlan](#)

## Planning Zones

[GENERAL RESIDENTIAL ZONE \(GRZ\)](#)

[GENERAL RESIDENTIAL ZONE - SCHEDULE 4 \(GRZ4\)](#)



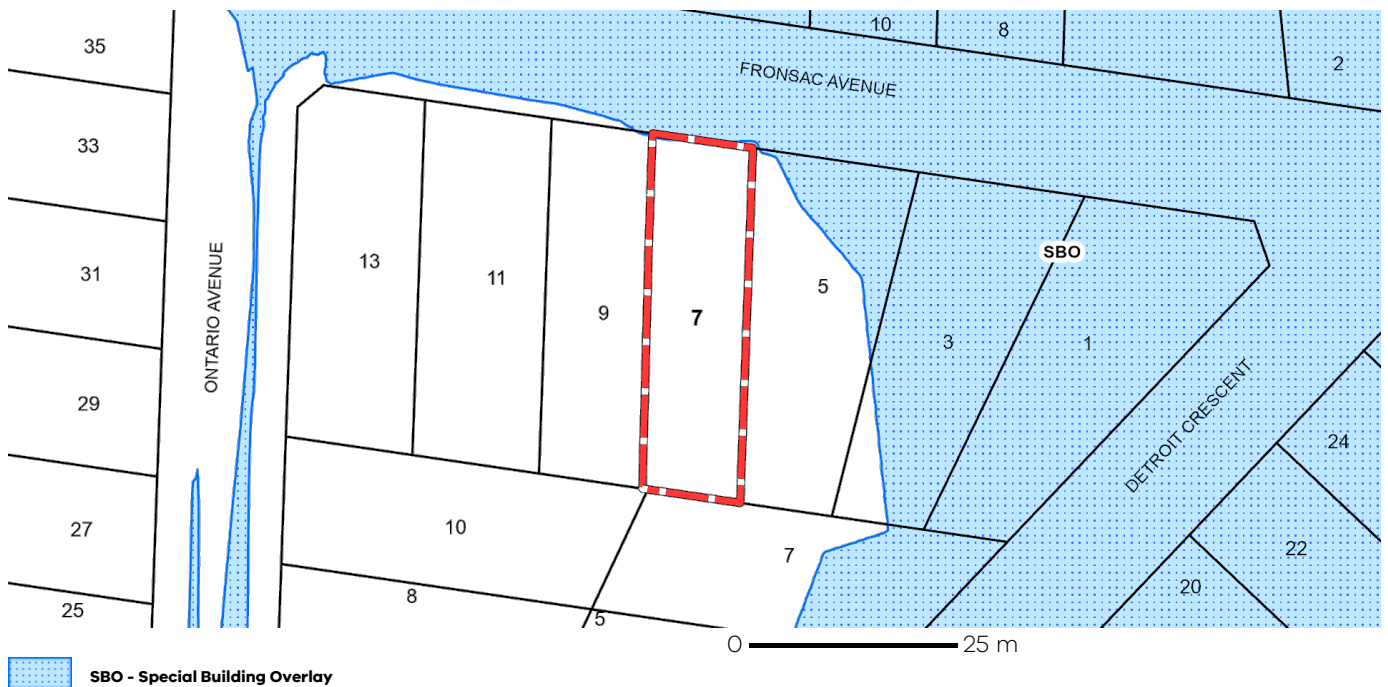
**GRZ - General Residential**

Note: labels for zones may appear outside the actual zone - please compare the labels with the legend.

## Planning Overlay

[SPECIAL BUILDING OVERLAY \(SBO\)](#)

[SPECIAL BUILDING OVERLAY SCHEDULE \(SBO\)](#)



Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

## Further Planning Information

Planning scheme data last updated on 29 May 2024.

A **planning scheme** sets out policies and requirements for the use, development and protection of land. This report provides information about the zone and overlay provisions that apply to the selected land. Information about the State and local policy, particular, general and operational provisions of the local planning scheme that may affect the use of this land can be obtained by contacting the local council or by visiting <https://www.planning.vic.gov.au>

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the **Planning and Environment Act 1987**. It does not include information about exhibited planning scheme amendments, or zonings that may affect the land. To obtain a Planning Certificate go to Titles and Property Certificates at Landata - <https://www.landata.vic.gov.au>

For details of surrounding properties, use this service to get the Reports for properties of interest.

To view planning zones, overlay and heritage information in an interactive format visit <https://mapshare.maps.vic.gov.au/vicplan>

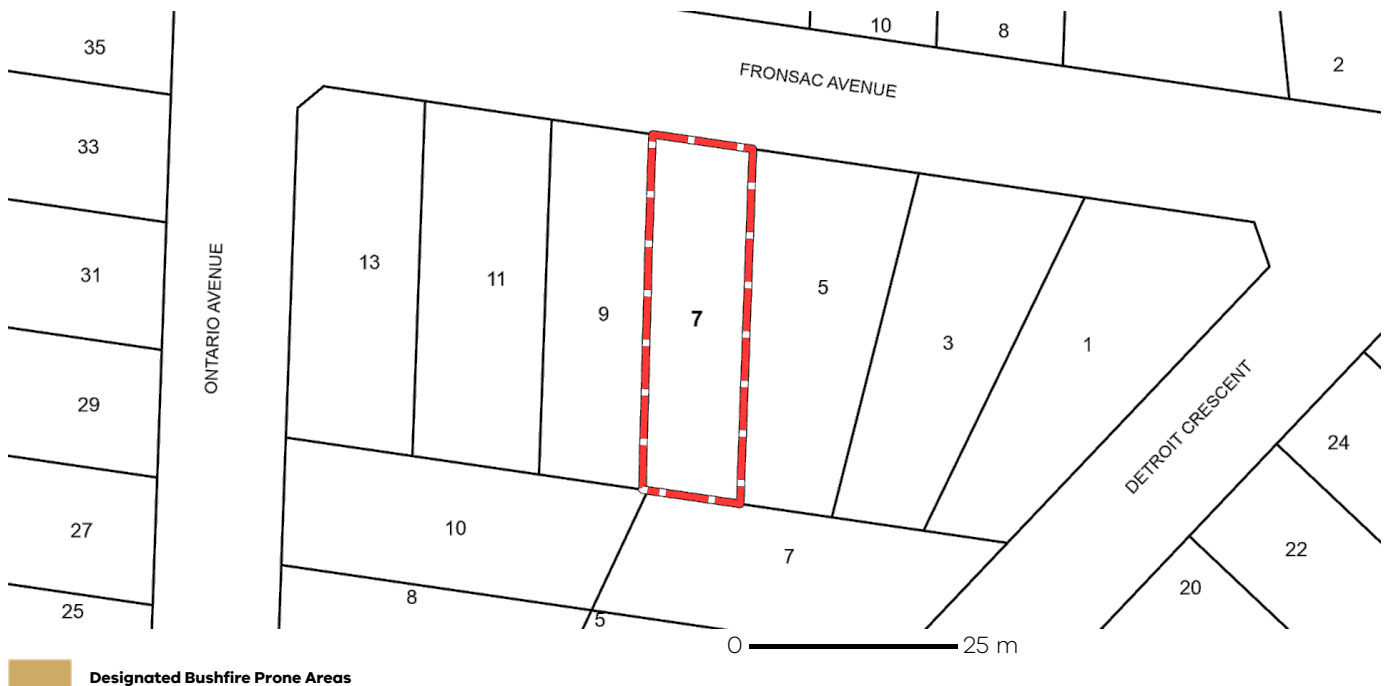
For other information about planning in Victoria visit <https://www.planning.vic.gov.au>

## Designated Bushfire Prone Areas

**This property is not in a designated bushfire prone area.**  
**No special bushfire construction requirements apply. Planning provisions may apply.**

Where part of the property is mapped as BPA, if no part of the building envelope or footprint falls within the BPA area, the BPA construction requirements do not apply.

Note: the relevant building surveyor determines the need for compliance with the bushfire construction requirements.



Designated BPA are determined by the Minister for Planning following a detailed review process. The Building Regulations 2018, through adoption of the Building Code of Australia, apply bushfire protection standards for building works in designated BPA.

Designated BPA maps can be viewed on VicPlan at <https://mapshare.vic.gov.au/vicplan/> or at the relevant local council.

Create a BPA definition plan in [VicPlan](#) to measure the BPA.

Information for lot owners building in the BPA is available at <https://www.planning.vic.gov.au>.

Further information about the building control system and building in bushfire prone areas can be found on the Victorian Building Authority website <https://www.vba.vic.gov.au>. Copies of the Building Act and Building Regulations are available from <http://www.legislation.vic.gov.au>. For Planning Scheme Provisions in bushfire areas visit <https://www.planning.vic.gov.au>.

## Native Vegetation

Native plants that are indigenous to the region and important for biodiversity might be present on this property. This could include trees, shrubs, herbs, grasses or aquatic plants. There are a range of regulations that may apply including need to obtain a planning permit under Clause 52.17 of the local planning scheme. For more information see [Native Vegetation \(Clause 52.17\)](#) with local variations in [Native Vegetation \(Clause 52.17\) Schedule](#)

To help identify native vegetation on this property and the application of Clause 52.17 please visit the Native Vegetation Information Management system <https://nvim.delwp.vic.gov.au/> and [Native vegetation \(environment.vic.gov.au\)](http://Native%20vegetation%20(environment.vic.gov.au)) or please contact your relevant council.

You can find out more about the natural values on your property through NatureKit [NatureKit \(environment.vic.gov.au\)](http://NatureKit%20(environment.vic.gov.au))

## REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

Page 1 of 1

VOLUME 11173 FOLIO 508

Security no : 124115518532G  
Produced 03/06/2024 09:59 PM

### LAND DESCRIPTION

Lot 2 on Plan of Subdivision 631697L.  
PARENT TITLE Volume 08639 Folio 188  
Created by instrument PS631697L 27/11/2009

### REGISTERED PROPRIETOR

Estate Fee Simple  
Sole Proprietor  
JUREEPORN CHIEM of 8 ST PATRICK PLACE TARNEIT VIC 3029  
AN675131H 23/03/2017

### ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AN675132F 23/03/2017  
WESTPAC BANKING CORPORATION

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

### DIAGRAM LOCATION

SEE PS631697L FOR FURTHER DETAILS AND BOUNDARIES

### ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 7 FRONSAC AVENUE CORIO VIC 3214

### ADMINISTRATIVE NOTICES

NIL

eCT Control 12690B WESTPAC BANKING CORPORATION (63)  
Effective from 23/03/2017

DOCUMENT END



# Imaged Document Cover Sheet


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Document Type	<b>Plan</b>
Document Identification	<b>PS631697L</b>
Number of Pages (excluding this cover sheet)	<b>3</b>
Document Assembled	<b>03/06/2024 21:59</b>

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© State of Victoria. This publication is copyright. No part may be reproduced by any process except in accordance with the provisions of the Copyright Act 1968 (Cth) and for the purposes of Section 32 of the Sale of Land Act 1962 or pursuant to a written agreement. The information is only valid at the time and in the form obtained from the LANDATA® System. None of the State of Victoria, LANDATA®, Secure Electronic Registries Victoria Pty Ltd (ABN 86 627 986 396) as trustee for the Secure Electronic Registries Victoria Trust (ABN 83 206 746 897) accept responsibility for any subsequent release, publication or reproduction of the information.

The document is invalid if this cover sheet is removed or altered.

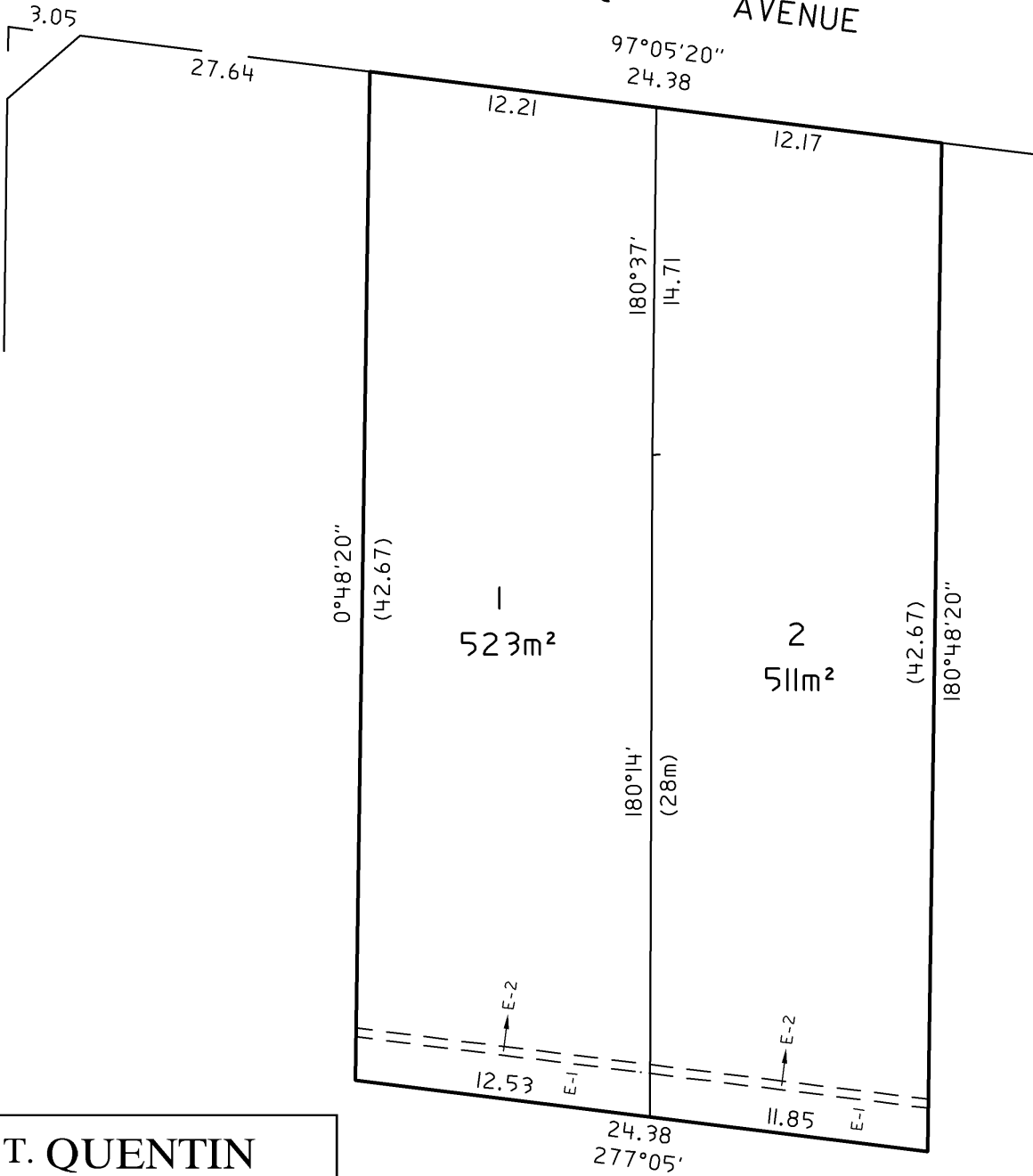
	<b>PLAN OF SUBDIVISION</b>	<b>EDITION 1</b>	PLAN NUMBER <b>PS 631697L</b>		
<b>LOCATION OF LAND</b> PARISH: MOORPANYAL TOWNSHIP: - SECTION: - CROWN ALLOTMENT: 166 (PART) CROWN PORTION: - TITLE REFERENCES: VOL.8639 FOL.188 LAST PLAN REFERENCE/S: LP59049 (LOT 103) POSTAL ADDRESS: 7-9 FRONSAC AVENUE (At time of subdivision) CORIO 3214 MGA Co-ordinates E 268 480 ZONE: 55 (of approx centre of land in plan) N 5 782 030		<b>COUNCIL CERTIFICATION AND ENDORSEMENT</b> COUNCIL NAME: 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					
IDENTIFIER	COUNCIL/BODY/PERSON	<b>NOTATIONS</b>			
NIL	NIL	STAGING This is / is not a staged subdivision Planning permit No.			
		DEPTH LIMITATION DOES NOT APPLY The land being subdivided is enclosed within thick continuous lines.			
<b>THIS IS A SPEAR PLAN.</b>					
SURVEY THIS PLAN IS / IS NOT BASED ON SURVEY THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS No(s) IN PROCLAIMED SURVEY AREA No					
<b>EASEMENT INFORMATION</b>			<b>LRS</b>		
<b>Legend:</b> E - Encumbering Easement, Condition in Crown Grant in the Nature of an Easement or Other Encumbrance A - Appurtenant Easement R - Encumbering Easement (Road)			STATEMENT OF COMPLIANCE EXEMPTION STATEMENT		
IMPLIED EASEMENTS PURSUANT TO SECTION 12(2) OF THE SUBDIVISION ACT 1988 AFFECT ALL THE LAND IN THIS PLAN.			RECEIVED <b>FORM 25</b>  <b>DATE 20 / 11 / 2009</b>		
Subject Land	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of	<b>PLAN REGISTERED</b> TIME 9 : 11 AM DATE 27 / 11 / 2009 ROB Mc BAIN Assistant Registrar of Titles
E-1	DRAINAGE	1.83	LP59049	LOTS ON LP59049	
E-1	SEWERAGE	1.83	LP59049	LOTS ON LP59049	
E-1	PIPELINE or ANCILLARY PURPOSES	1.83	THIS PLAN	BARWON REGION WATER CORPORATION	
E-2	PIPELINE or ANCILLARY PURPOSES	0.37	THIS PLAN	BARWON REGION WATER CORPORATION	
SHEET 1 OF 2 SHEETS					
 54 CORIO STREET, P.O. BOX 919, GEELONG 3220 TELEPHONE (03) 5229 2011 FAX (03) 5229 2909			LICENSED SURVEYOR (PRINT) GRANT STQUENTIN SIGNATURE ..... DATE / / REF 10520/09 VERSION 04		DATE / / COUNCIL DELEGATE SIGNATURE ORIGINAL SHEET SIZE A3

PLAN OF SUBDIVISION	STAGE No <del>          </del>	PLAN NUMBER <b>PS631697L</b>
---------------------	-----------------------------------	---------------------------------

MGA94  
ZONE 55

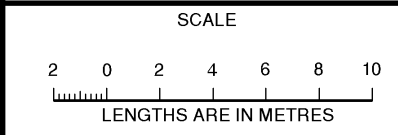
ONTARIO AVENUE

FRONSAC AVENUE



**ST. QUENTIN**

Surveyors · Town Planners · Development Consultants  
54 CORIO STREET, P.O. BOX 919, GEELONG 3220  
TELEPHONE (03) 5229 2011 FAX (03) 5229 2909



ORIGINAL SCALE SHEET SIZE  
1:200 A3

LICENSED SURVEYOR(PRINT).....  
SIGNATURE..... DATE / /  
REF 10520/09 VERSION 04

SHEET 2  
DATE / /  
COUNCIL DELEGATE SIGNATURE



## **Plan of Subdivision PS631697L**

### **Certification by Council (Form 5)**

SUBDIVISION (PROCEDURES) REGULATIONS 2000

SPEAR Reference Number: S004627C

Plan Number: PS631697L

Council Name: City of Greater Geelong

Council Reference Number 1: 9183

Surveyor's Plan Version: 04

#### **Certification**

This plan is certified under section 6 of the Subdivision Act 1988

#### **Public Open Space**

A requirement for public open space under section 18 of the Subdivision Act 1988

Has not been made

Digitally signed by Council Delegate: Bree Thorn

Organisation: City of Greater Geelong

Date: 24/09/2009



# Statement of lands for period 1 January 2024 to 31 December 2024

Assessment number: 70844280  
 Level of value date: 1 January 2023

Lands owned as at midnight 31 December 2023 — Where a property was sold after 31 December, the vendor (seller) is still liable for the land tax.  
 Any adjustment (pro-rata) of the assessed amount is a private arrangement between the buyer and seller.

Item	Address/Municipality	Land ID/References	Single holding tax <sup>†</sup>	Proportional tax <sup>††</sup>	Taxable value
1	9 FRONSAC AVE, CORIO, 3214 GREATER GEELONG	015440592 1 S631697	\$1,470.00	\$1,895.43	\$340,000
2	FRONSAC AVE, CORIO, 3214 GREATER GEELONG	017388542 2 S631697	\$1,470.00	\$1,895.43	\$340,000
3	UNIT 36, 18-34 SYME ST, WILLIAMSTOWN, 3016 HOBSONS BAY	026881060 86 S412104 36 S412104	\$500.00	\$418.11	\$75,000
4	8 ST PATRICKS PL, TARNEIT, 3030 WYNDHAM	029192795 121 S444697	N/A	N/A	\$0 PPR
Plus	Your interest in Joint Ownership (Client No. 90506592) With MR DAMIAN CHIEM in the following items of Land: Note: Only your share of the Site Value is shown				
5	363 BLACKBURN RD, BURWOOD EAST, 3151 WHITEHORSE	010966810 7 L33849	\$1,995.00	\$2,871.03	\$515,000 (50.0%)
<b>Total taxable value</b>					<b>\$1,270,000</b>

## Penalties for failing to notify of errors and omissions

You must ensure that the information contained in your land tax assessment is correct to avoid penalties. If any land you own is omitted from this assessment or is incorrectly specified as exempt, you must **notify us within 60 days** of the issue of this assessment. If you have not already, you must also notify us if you hold land as trustee for a trust or if you are an absentee owner. Penalties may apply if you do not make a required notification. You can request an amendment to your assessment or notify us of changes by visiting [sro.vic.gov.au/assessment](http://sro.vic.gov.au/assessment)

## Explanation of codes (for details, go to [sro.vic.gov.au/codes](http://sro.vic.gov.au/codes))

<sup>†</sup> SINGLE HOLDING TAX	<sup>††</sup> PROPORTIONAL TAX	PPR
This is the amount of tax you would pay on the one property.	This is the tax applicable to the specific land as a proportion of the total land tax liability of your assessment.	Land Tax Principal Place of Residence exemption

Tax Invoice/Statement



Account number  
**69000001 00109910**

Payment due  
**31 January 2024**

Total amount due  
**\$ 190.73**



594325-001 001001(4282) R  
J Chiem  
C/- Envision Real Estate  
75 Vaughan Ch  
WYNDHAM VALE, VIC 3024



**Your account summary**

**Service Address: 7 FRONSAC AVE CORIO 3214**

Previous balance	\$190.73 DR
Payments/adjustments	\$190.73 CR
Your balance	\$0.00
New charges	\$190.73 DR
<b>Total</b>	<b>\$190.73 DR</b>

From 1 July, we are reducing prices in real terms so our customers do not experience the full impact of CPI.

While CPI is 7%, our prices will increase by 6%. This means an owner-occupier using on average 160kL per year will see an increase of \$5.42 per month.

Renters using the same amount will see an increase of \$1.80 per month. The adjustments are in line with our 2023-2028 Price Submission, approved by the Essential Services Commission, which outlines prices for water and sewerage, service standards and investments in infrastructure and operations.

Following extensive community engagement, our Price Submission – our 5-year promise to customers – reflects what our customers value most: protecting the environment, supporting customers when they need it and providing reliable and affordable services.

If you have a Centrelink Pension or Health Care Card, or Department of Veterans Affairs Gold Card, you may be eligible for a discount. Contact us for details.

## We're here to help you with your water bill

If you're concerned about being able to pay your water bill, we offer extra support and flexibility to suit your situation. We have numerous customer support options available and can tailor an option to suit your individual needs.

For more information, please call us on 1300 656 007 between 8 am and 6 pm, Monday to Friday.

We'll put you in touch with a specialist who'll deal with your enquiry promptly and sensitively.

Get in touch,  
**we're here to help.**

www.barwonwater.vic.gov.au

2023-24

# FOURTH RATE INSTALMENT NOTICE



ABN 18 374 210 672

All items are GST free.



024-3024 (2066)

J Chiem  
C/- Envision Real Estate Vic  
75 Vaughan Chase  
WYNDHAM VALE VIC 3024

**4th Instalment** **\$336.85**  
Due by **31 May 2024**

Rate No. **81523**

Property 7 Fronsac Avenue, CORIO VIC 3214  
511m2 Lot 2 PS 631697

Rates and Charges **4th Instalment Total Due** **\$336.85**

### INTEREST

The 2023-24 penalty interest rate of 10% is chargeable on all arrears and overdue amounts.

Please be aware that this notice may not include transaction after **1 May 2024**.

### HARDSHIP

If you are unable to make payment by the due date or are experiencing hardship, please contact us on 03 5272 5272 or email:

[contactus@geelongcity.vic.gov.au](mailto:contactus@geelongcity.vic.gov.au)

Issued 6 May 2024

### PAYMENT METHODS

#### ONLINE OR BY PHONE



Online: [www.geelongaustralia.com.au/rates](http://www.geelongaustralia.com.au/rates)  
Phone: **1300 858 058** Ref: **81523**

A payment processing fee of 0.25 per cent applies for payments by Visa and Mastercard.



#### BPAY

Billers Code: **17475**  
Ref: **1000 0081 5233**

Payment via internet or phone banking, from your cheque or savings account, Visa and Mastercard. No processing fee applicable.



#### DIRECT DEBIT

Call 5272 5272 for an application form, or go to [www.geelongaustralia.com.au](http://www.geelongaustralia.com.au)



#### CENTREPAY

Use Centrepay to make regular deductions from your Centrelink payment. Centrepay is a voluntary and easy payment option. Go to [servicesaustralia.gov.au/centrepay](http://servicesaustralia.gov.au/centrepay) for more information.



#### IN PERSON

Pay at any Australia Post outlet or visit us at Wurriki Nyal 137-149 Mercer St, Geelong

**4th Instalment**

**\$336.85**



Post Billpay



\*877 815233

Council Use



# Material Fact Guidelines

## Sale of Land Act 1962

### Section 12(d)

The *Sale of Land Amendment Act 2019* (Amendment Act) was passed by the Victorian Parliament on 28 May 2019 and received the Royal Assent on 4 June 2019. The Amendment Act makes a number of amendments to the *Sale of Land Act 1962* (the Act), including an amendment to section 12(d) of the Act.

#### Purpose

Section 12A of the Act (as amended) says:

*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).*

*A court may have regard to any guidelines made under subsection (1).*

The purpose of these guidelines is to assist vendors of land and their agents (including estate agents) to understand what a **material fact** is likely to be under section 12(d) of the Act.

#### Context

Section 12(d) of the Act (as amended) provides:

*Any person who, with the intention of inducing any person to buy any land—*

*(d) makes or publishes any statement promise or forecast which he knows to be misleading or deceptive or **knowingly** conceals any material facts or recklessly makes any statement or forecast which is misleading or deceptive*

*shall be guilty of an offence against this Act...*

The penalty for breaching section 12(d) of the Act is 120 penalty units or up to 12 months imprisonment.

The Amendment Act replaces the word “fraudulently” with “knowingly”. The previous wording of section 12(d) of the Act reflected the common law tort of deceit where, although a vendor or agent is generally not required to advise a potential purchaser of any serious defects in the property of which they are aware, they cannot fraudulently (meaning, knowingly with intent to deceive) actively conceal defects. In addition, a vendor may commit the tort of deceit if they fail to answer any question about the structural soundness or quality of the property honestly and completely.

The change to section 12(d) means that it is an offence if a vendor or agent knowingly conceals a material fact about land for sale, with the intention of inducing a potential purchaser to buy the land. It is not necessary to show that anything active was done to conceal the material fact, although doing so knowingly will still be an offence. It is sufficient if a vendor or agent withholds a material fact which the vendor or agent knows to be material, with the intention of inducing a potential purchaser to buy the land.

As amended, section 12(d) of the Act supports a purchaser to make a fully informed decision before they buy land.

Commonly, some information about a property for sale may only be known to the person who has owned and/or occupied that property, and may not be known to potential purchasers even if they have personally inspected the property.

This information imbalance makes it essential for the vendor or their agent to be obliged to disclose material facts known to them to a potential purchaser of the land.

### **What is a material fact?**

A material fact is a fact that would be important to a potential purchaser in deciding whether or not to buy any land. In the context of a proposed sale of land, a material fact is one that influences a purchaser in deciding whether or not to buy any land at all, or to buy land only at a certain price.

A fact is not inuendo, gossip or mere speculation. However, an opinion may be a "material fact", if it is an expert opinion that is honestly held on reasonable grounds, and the vendor or agent have knowledge of that expert opinion.

Failure to disclose a fact alone is not sufficient to establish an offence under s12(d). The fact must be material. A fact can be 'material' in two ways:

1. Generally: a fact that an average, reasonably informed purchaser with a fair-minded understanding of the property market, including the role of an estate agent, would generally regard as material in their decision to buy land (examples are provided below).
2. Specifically: if a fact about land is known by the vendor (or the vendor's agent, including an estate agent) to be important to a specific purchaser, it can be material, even if other agents and consumers would not generally consider that fact to be important or of significance to them. This knowledge could arise if (for example) a particular purchaser:
  - a) asks a specific question about the land of the vendor or the vendor's agent (including their estate agent), and/or
  - b) where a purchaser informs the vendor/agent of their intended use of the land.

Further indications which would be relevant to determining whether something is a material fact include:

- whether the fact is only known by the vendor
- the reaction of other potential purchasers to the fact, including whether knowledge of the fact may impact a potential purchaser's willingness to buy land, and
- whether the fact results in the property being in a rare or unusual category or position.

Vendors or agents who have knowledge of material facts cannot rely on purchasers becoming aware of them through making 'usual inquiries' or following the Due Diligence Checklist to avoid disclosure. General examples of material facts about land which are known to the vendor or agent but which may not be obvious to a potential purchaser include (but are not limited to) circumstances where:

- prior tests or investigations have revealed (or the vendor or agent otherwise knows of) a defect in the structure of the building, a termite infestation, combustible cladding, asbestos (including loose-fill asbestos insulation) or contamination through prior uses of the land,
- the underlying cause of an obvious physical defect is not readily apparent upon inspection (for example, whilst a large uncovered crack in a wall would be obvious to a purchaser upon inspection, the underlying reason for the crack, such as defective stumping, may not);
- there has been a significant event at the property, including a flood, or a bushfire,
- there is a history of pesticide use in the event the property had been used for horticulture or other agricultural purposes,
- there are restrictions on vehicular access to a property that are not obvious during a property inspection (such as truck curfews or where access is via an easement that is not apparent on the Certificate of Title or plans),
- facts about the neighbourhood surrounding the property which may not be immediately apparent upon inspection (such as sinkholes, surface subsidence, development proposals) that would likely affect the use and enjoyment of the property to a greater extent than the usual

disturbances and inconveniences of occupying land of the kind and in the local area of the land being sold,

- building work or other work done without a required building permit, planning permit or that is otherwise illegal,
- the property during the current or previous occupation has been the scene of a serious crime or an event which may create long-term potential risks to the health and safety of occupiers of the land, such as:
  - extreme violence such as a homicide
  - use for the manufacture of substances such as methylamphetamine, or
  - a defence or fire brigade training site involving the use of hazardous materials.

There is a community expectation that homicides that have occurred at a property be disclosed to potential purchasers. Other known acts of extreme violence should be disclosed if a potential purchaser makes a specific enquiry. While these circumstances may not be a physical barrier to the use of the property, they may materially affect a purchaser's decision to buy the land.

Defects and damage arising from prior significant events of the kind specified above, and contamination from prior uses of the land will not be considered material if they have been fully remediated, and no further repairs or other works (including ongoing work) will need to be carried out in the future. However, if a potential purchaser asks a specific question relating to defects and damage arising from prior significant events, or from contamination arising from prior uses of the land, those questions must still be answered by the vendor fully and frankly and to the best of the vendor's knowledge.

Positive enhancements or improvements made to a property such as renovations are likely to be disclosed in the course of marketing land for sale. Positive information about land for sale, if withheld, is not of its nature the kind of information which is likely to "induce" a sale.

### **When to disclose material facts**

Estate agents (or vendors where they are not using an estate agent) should disclose all known material facts to potential purchasers as soon as they indicate that they are considering purchasing the property. They must also make continuing disclosure if further material facts become known until the property is sold.

Generally, material facts will not be concealed from purchasers if they are disclosed:

- in marketing material or information statements; or
- in a section 32 statement or contract of sale; or
- on a physical inspection of the property where they are clearly visible; or
- by specific disclosures made to particular purchasers in the course of negotiations; or
- before the start of a public auction.

However, specific disclosure of a material fact to a particular purchaser will be required where the vendor or agent knows that the material fact has not come to the attention of the purchaser by other means.

Vendors are not required or expected to carry out tests and investigations of the property to determine if there are any unknown problems that ought to be disclosed, other than as may be required to prepare a section 32 statement.

However, if a potential purchaser asks a vendor or a vendor's agent a question about a property, before that property is sold, the vendor or the vendor's agent must answer that question fully and frankly and to the best of their knowledge.

If the vendor or a vendor's agent has no knowledge of the matters raised by the potential purchaser, they can advise that potential purchaser that they do not know.

### **What should vendors do?**

Vendors should prepare the property for inspection by potential purchasers without taking any steps to hide defects or any other important feature which would otherwise come to the attention of someone doing an inspection. They should carefully consider all information known to them or disclosed to them by their solicitor or conveyancer after having conducted the usual searches and inquiries for a section 32 statement and disclose any known material facts to their estate agent prior to the marketing of the property. Vendors should answer all inquiries about the property put to the vendor by purchasers through their agent as fully and frankly as possible.

If vendors disclose material facts to their estate agent for the purpose of answering questions asked by potential purchasers, acting reasonably and diligently, they have discharged their obligation to not knowingly conceal material facts, and the burden of disclosure of those material facts falls upon the estate agent.

If the vendor is selling the property without an estate agent, the vendor should answer all questions about the property put to them by purchasers as fully or frankly as possible in the circumstances.

### **What should estate agents do?**

Estate agents should discuss with vendors any material facts that are likely to be the subject of statements or representations by the estate agent in the course of marketing the property. During this process, it is important for the estate agent to inspect the property, read the section 32 statement and contract and gather information from the vendor and their solicitor or conveyancer on aspects of the property which are material to the market to assist them in accurately and honestly representing the property.

The estate agent should answer all inquiries by purchasers as fully and frankly as possible in the circumstances, including by referring those inquiries back to the vendor or the vendor's solicitor or conveyancer as necessary and diligently following up those responses.

These pro-active steps are also required of estate agents under the Estate Agent (Professional Conduct) Regulations 2018 which require an estate agent to act fairly, honestly, in good faith and in the vendor's best interests. It is also best practice if the estate agent provides potential purchasers with a copy of the section 32 statement and contract of sale at open for inspections and via email as early as possible in the marketing campaign.