

South Australia

## **Land and Business (Sale and Conveyancing) Regulations 1995**

under the *Land and Business (Sale and Conveyancing) Act 1994*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Land and Business (Sale and Conveyancing) Regulations 1995*.

### 3—Interpretation

(1) In these regulations, unless the contrary intention appears—

*acquired a relevant interest in the land* has the same meaning as in section 7 of the Act;

*Act* means the *Land and Business (Sale and Conveyancing) Act 1994*;

*council*, in relation to land being sold, means the council in whose area the land is situated;

***council search report*** means a report by a council that provides particulars and documentary material under the Act or these regulations for the purposes of the preparation of a vendor's statement in relation to land;

***Crown lease*** means a leasehold interest granted by the Crown under an Act;

***domestic partner*** means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

***prescribed body*** means a body prescribed for the purposes of section 12(2) of the Act (see regulation 15);

***property interest report*** means a report, produced by the Department for Transport, Energy and Infrastructure for the purposes of the preparation of a vendor's statement in relation to land, that includes—

- (a) particulars and documentary material provided by the Department under the Act or these regulations for the purposes of the preparation of the statement; and
  - (b) a search copy of the certificate of title to the land or, in the case of a Crown lease, a copy of the lease.
- (2) In these regulations, a reference to a form of a particular number is a reference to the form of that number set out in Schedule 1.
  - (3) In these regulations, a reference to the type size of printed or typewritten material is to be taken to be a reference to that type size when produced in Times New Roman font.

**Note—**

For definition of divisional penalties (and divisional expiation fees) see Appendix.

## **Part 2—Contracts for sale of land or businesses**

### **4—Forms**

A form set out in Schedule 1 must be completed in accordance with the instructions contained in the form and, if a form indicates that a particular document is to be attached to the form, that document must be so attached.

### **5—Qualified accountant**

For the purposes of paragraph (a) of the definition of ***qualified accountant*** in section 3 of the Act, the required qualification in accounting is membership of—

- (a) CPA Australia; or
- (b) the Institute of Chartered Accountants in Australia; or
- (c) the National Institute of Accountants; or
- (d) the Association of Taxation and Management Accountants; or
- (e) the National Tax and Accountants' Association Limited as a Fellow.

## **6—Cooling-off—form of certificate of legal practitioner as to independent advice**

For the purposes of section 5(7)(b) of the Act, the form of certificate set out in Part A of Form 3 is approved for use by a legal practitioner certifying as to the giving of independent legal advice to a purchaser before the purchaser enters into a contract for the sale of land or a small business.

## **6A—Sale of land—instalment agreements**

Pursuant to subsection (4)(b) of section 6 of the Act, that section does not apply in relation to a contract for the sale of land by the Minister for Infrastructure, or by the Land Management Corporation with respect to sale deferred purchase arrangements under the Industrial and Commercial Premises Scheme.

## **7—Sale of land—form of vendor's statement**

For the purposes of section 7(1) of the Act, a statement is in the required form if it comprises—

- (a) Parts A, B and C of Form 1; and
- (b) Part 1 of the table of particulars set out in Division 1 of the Schedule of Form 1; and
- (c) such items in Part 2 of that table as contain prescribed encumbrances or charges that affect, presently or prospectively, title to, or the possession or enjoyment of, the land subject to the sale; and
- (d) if the vendor acquired a relevant interest in the land within 12 months before the date of the contract of sale—that part of Division 2 of the Schedule of Form 1 headed "Particulars of transactions in last 12 months"; and
- (e) such other parts of Division 2 of the Schedule of Form 1 as contain the matters that affect, presently or prospectively, title to, or the possession or enjoyment of, the land subject to the sale; and
- (f) if the land subject to the sale is a community lot under the *Community Titles Act 1996* or a unit under the *Strata Titles Act 1988*—the notice in Division 3 of the Schedule of Form 1.

## **8—Sale of land—particulars required, prescribed encumbrances and prescribed matters**

For the purposes of section 7(1)(b) of the Act—

- (a) the particulars required to be set out in the vendor's statement are the particulars required by the Schedule of Form 1;
- (b) the encumbrances specified in Division 1 of the Schedule of Form 1 are prescribed encumbrances;
- (c) the matters specified in Division 2 of the Schedule of Form 1 are prescribed matters to the extent that they affect, presently or prospectively, title to, or the possession or enjoyment of, the land subject to the sale.

## 9—Sale of small business—form of vendor's statement

For the purposes of section 8(1) of the Act, a statement is in the required form if it comprises—

- (a) Parts A, B, C and D of Form 2; and
- (b) Schedule 1 of Form 2; and
- (c) if land is sold under a contract for the sale of a small business—
  - (i) Part 1 of the table of particulars set out in Form 2 Schedule 2 Division 1; and
  - (ii) such items in Part 2 of that table as contain prescribed encumbrances or charges that affect, presently or prospectively, title to, or the possession or enjoyment of, the land subject to the sale; and
  - (iii) if the vendor acquired a relevant interest in the land within 12 months before the date of the contract of sale—that part of Form 2 Schedule 2 Division 2 headed "Particulars of transactions in last 12 months"; and
  - (iv) such other parts of Form 2 Schedule 2 Division 2 as contain the matters that affect, presently or prospectively, title to, or the possession or enjoyment of, the land subject to the sale; and
  - (v) if the land subject to the sale is a community lot under the *Community Titles Act 1996* or a unit under the *Strata Titles Act 1988*—the notice in Form 2 Schedule 2 Division 3; and
- (d) if the matters set out under the heading "Particulars relating to environment protection" or the heading "Particulars relating to *Livestock Act 1997*" in Form 2 Schedule 2 Division 2 affect, presently or prospectively, the business subject to the sale—the parts of that Division that contain those matters.

## 10—Sale of small business—prescribed particulars

For the purposes of section 8(1)(b) of the Act, the prescribed particulars are—

- (a) the particulars set out in Form 2 Schedule 1; and
- (b) the particulars set out in Form 2 Schedule 2 Division 2 under the headings "Particulars relating to environment protection" and "Particulars relating to *Livestock Act 1997*" to the extent that the matters set out under those headings affect, presently or prospectively, the business the subject of the sale.

## 11—Sale of small business—form of accountant's certificate

For the purposes of section 8(2) of the Act, the certificate to be signed by or on behalf of a qualified accountant must be in the form set out in Part D of Form 2.

## 12—Sale of land—prescribed inquiries

- (1) For the purposes of section 9(1)(a) and (2)(a) of the Act, the following inquiries in relation to land subject to a sale are prescribed:
  - (a) to inquire of the vendor as to what mortgages, charges, prescribed encumbrances and prescribed matters affect, presently or prospectively, title to, or the possession or enjoyment of, the land; and

- (b) to search any title kept at the Lands Titles Registration Office on which is entered any interest that affects, presently or prospectively, title to, or the possession or enjoyment of, the land and to obtain particulars of any such interest; and
  - (c) to request the vendor to produce any document in the possession of the vendor relating to any mortgage, charge or prescribed encumbrance to which the land is subject, or relating to any prescribed matter that affects, presently or prospectively, title to, or the possession or enjoyment of, the land and to inspect any document so produced; and
  - (d) if a document referred to in paragraph (c) is no longer in the possession of the vendor, to take all practicable measures to inspect the original or a copy of such a document; and
  - (e) to inquire from the vendor and the council as to the existence of insurance under Division 3 of Part 5 of the *Building Work Contractors Act 1995* (or the repealed *Builders Licensing Act 1986*) in relation to any building work on the land; and
  - (f) to inquire—
    - (i) in relation to a charge or prescribed encumbrance specified in column 1 of table 1 in Schedule 2, of the bodies specified in column 2 opposite, whether or not the council, a statutory authority or a prescribed body has the benefit of such a charge or prescribed encumbrance over the land; and
    - (ii) in relation to a matter specified in column 1 of table 2 in Schedule 2, of the bodies specified in column 2 opposite, whether or not the matter affects, presently or prospectively, title to, or the possession or enjoyment of, the land; and
  - (g) to seek, from the vendor and the bodies specified in column 2 of the tables set out in Schedule 2, the particulars and documentary material required by the relevant part of the prescribed form of all mortgages, charges, prescribed encumbrances and prescribed matters in relation to which inquiries are made in accordance with paragraphs (a), (e) and (f); and
  - (h) if a community lot (including a strata lot) or a development lot under the *Community Titles Act 1996* or a unit under the *Strata Titles Act 1988* is being sold, to seek from the vendor and the community or strata corporation (or, where specified, the Lands Titles Registration Office) the particulars and documentary material required by the relevant part of the prescribed form in relation to the lot or unit.
- (2) In subregulation (1) a reference to the relevant part of the prescribed form is a reference to—
- (a) in the case of the sale of land not under a contract for the sale of a business—the Schedule of Form 1;
  - (b) in the case of the sale of land under a contract for the sale of a small business—Schedule 2 of Form 2.

### **13—Sale of land—form of agent's certificate**

For the purposes of section 9(1)(b) and (2)(b) of the Act, the certificate signed by the agent must—

- (a) if land is being sold but not under a contract for the sale of a business—be in the form set out in Part D of Form 1;
- (b) if land is being sold under a contract for the sale of a small business—be in the form set out in Part E of Form 2.

### **14—Auctioneer to make statements available**

For the purposes of section 11(b) of the Act, an auctioneer must cause public advertisement of the times and places at which a vendor's statement may be inspected to be included (in the form set out in Form 4)—

- (a) in each public notice of the sale of the land or small business; or
- (b) if the sale is notified in a newspaper, magazine or other publication, to be displayed prominently, in the advertisement or block of advertisements containing the notice of the sale.

### **15—Sale of land—provision of information etc by councils, statutory authorities and prescribed bodies**

- (1) For the purposes of section 12(1), (2) and (3) of the Act, a council, statutory authority or prescribed body must provide such particulars and documentary material as regulation 12 requires to be sought from that body.
- (1a) For the purposes of section 12(2) of the Act, an administrative unit of the Public Service is a prescribed body.
- (2) For the purposes of section 12(3) of the Act, an application must be accompanied by—
  - (a) the appropriate fee set out in Schedule 3; and
  - (b) the following documents:
    - (i) in the case of an application relating to land in respect of which a certificate of title has been issued under the *Real Property Act 1886*—a copy of the original certificate of title or duplicate certificate of title;
    - (ii) in the case of an application relating to land subject to a lease granted by the Crown under an Act—a copy of the lease;
    - (iii) in any other case—a copy of a document of title that sufficiently identifies the land in relation to which the application is made.

### **15A—Prescribed notice to be given to purchaser**

For the purposes of section 13A of the Act, the prescribed notice must be printed or typewritten in not smaller than 12-point type and in the form, and contain the information, set out in Schedule 1A.

## **16—Defences**

For the purposes of section 16 of the Act—

- (a) the persons and bodies to which inquiries to obtain information are required to be made are as follows:
  - (i) for information relating to a mortgage, charge or prescribed encumbrance specified in column 1 of table 1 set out in Schedule 2—the persons and bodies specified in column 2 opposite;
  - (ii) for information relating to a matter specified in column 1 of table 2 set out in Schedule 2—the persons and bodies specified in column 2 opposite;
  - (iii) for information relating to a community lot (including a strata lot), a development lot or a community corporation under the *Community Titles Act 1996* or a unit or strata corporation under the *Strata Titles Act 1988*—the community or strata corporation (or, where Division 2 of the Schedule of Form 1 or Division 2 of Schedule 2 of Form 2 indicates that the information may be obtained from the community or strata corporation or the Lands Titles Registration Office—the community or strata corporation or the Lands Titles Registration Office);
- (b) the certificate signed by the legal practitioner must be in the form set out in Part A of Form 3;
- (c) the instrument of waiver signed by the purchaser must be in the form set out in Part B of Form 3.

## **16A—Authority to act as agent**

- (1) For the purposes of section 20(1)(c)(ii) of the Act, the prescribed number of days is 90.
- (2) For the purposes of section 20(1)(e) of the Act, a sales agency agreement must comply with the following:
  - (a) the agreement must be printed or typewritten in not smaller than 12-point type, however, variations to the sales agency agreement may be handwritten provided they are legible;
  - (b) the agreement must specify—
    - (i) the land that is the subject of the agreement (whether by street address or description sufficient to identify the land); and
    - (ii) the full names of the vendor and agent; and
    - (iii) the agent's registration number; and
    - (iv) the chattels that are included in or excluded from sale; and
    - (v) details of the circumstances in which the agent will be entitled to receive commission or fees for the sale of the land, including circumstances in which the sale may not be attributable to the agent, or may not be directly or completely attributable to the agent;



- (c) the agreement must contain a term by which the agent warrants that the agent will comply with all the agent's obligations under the Act and these regulations and will act in the vendor's best interests.
- (3) Auctioneers are exempt from the requirements of section 20(1) and (3) of the Act insofar as they act on behalf of a vendor or purchaser in the sale of land or a business only by performing the functions of an auctioneer, including having or exercising an auctioneer's authority to sign a contract for the sale of land or a business on behalf of the vendor or purchaser after the fall of the hammer to the highest bidder at an auction.
- (4) An agent is exempt from the requirements of section 20(1) and (3) of the Act insofar as the agent acts, in the sale of land or a business, on behalf of—
  - (a) the South Australian Housing Trust; or
  - (b) the Public Trustee.
- (5) An agent is exempt from the requirement of section 20(1)(c)(ii) of the Act to specify the duration of a sales agency agreement insofar as—
  - (a) the agent acts, in the sale of the land that is the subject of the agreement, on behalf of a vendor who carries on the business of a developer of land; and
  - (b) the land or part of the land has been subdivided by the vendor.

#### **16B—Requirements relating to offers to purchase residential land**

For the purposes of section 21(1)(a) and (2)(a) of the Act, an offer for residential land must contain the following details:

- (a) the offer must, if it is in the form of a contract of sale document, include the following statement at the head of the document printed or typewritten in not smaller than 12-point bold type:

**Notice to purchaser:**

**This is a contract for the sale of residential land. You may be bound by the terms of this contract if it is signed by both you and the vendor. You should seek independent legal advice if you are unsure about the terms contained in this contract. Contracts for the sale of land may be subject to a 2 day cooling-off period (exercisable by the purchaser) under section 5 of the *Land and Business (Sale and Conveyancing) Act 1994*;**

- (b) the offer must, in any other case—
  - (i) be headed "NOTICE OF OFFER TO PURCHASE RESIDENTIAL LAND" printed or typewritten in upper case type not smaller than 14-point followed by the following statement printed or typewritten in not smaller than 12-point bold type:

**Note:**

**This is not a contract of sale document. Both the purchaser and vendor must sign a contract of sale document before this offer becomes legally binding. An offer may be withdrawn at any time before signing a contract of sale document. Contracts of sale may also be subject to a 2 day cooling-off period (exercisable by the purchaser) under section 5 of the *Land and Business (Sale and Conveyancing) Act 1994*; and**

- (ii) include the following details, printed or typewritten in not smaller than 12-point type:
  - (A) the full name of the offeror;
  - (B) the land that is the subject of the offer (whether by street address or description sufficient to identify the land);
  - (C) the amount of the offer;
  - (D) any conditions to which the offer is subject (for example, finance, sale of another property or satisfactory building or land inspection report);
  - (E) the proposed date of settlement or length of time between the signing of the contract of sale and settlement.

### **16C—Financial and investment advice**

For the purposes of section 24B of the Act, the specified information or warnings to be given to a person in respect of financial or investment advice must be in the form set out in Schedule 2A printed or typewritten in not smaller than 12-point type.

### **16D—Agent to disclose certain benefits connected with sale or purchase**

For the purposes of section 24C(2) of the Act, the disclosure must be in the form set out in Schedule 2B printed or typewritten in not smaller than 12-point type.

### **16E—Agent to supply valuation in prescribed circumstances**

- (1) For the purposes of section 24E of the Act, the prescribed circumstances in relation to the sale of land by an agent are circumstances in which—
  - (a) the agent or a sales representative or another person employed by the agent has made unsolicited contact (other than by advertisement or mail) with the owner of the land; and
  - (b) as a result of that contact, the agent has been authorised to sell the land on behalf of the owner; and
  - (c) negotiations by the agent or sales representative for the sale of the land commence or are to commence with any person without prior advertising of the land by the agent for sale to the public.
- (2) An application for the approval of the Commissioner under section 24E(1) of the Act must be made to the Commissioner in the form approved by the Commissioner.

### **16F—Agent not to act for both purchaser and vendor of land or business**

Auctioneers are exempt from the application of section 24F of the Act insofar as they act on behalf of both a vendor and purchaser in the sale of land or a business only by performing the functions of an auctioneer, including having or exercising an auctioneer's authority to sign a contract for the sale of land or a business on behalf of the vendor or purchaser after the fall of the hammer to the highest bidder at an auction.

### 16G—Restriction on obtaining beneficial interest where agent authorised to sell or appraises property

- (1) For the purposes of section 24G(5) of the Act—
  - (a) the Commissioner may approve the obtaining by the agent or sales representative of a beneficial interest in the land or business on application by the agent or sales representative to the Commissioner in the form approved by the Commissioner; and
  - (b) the Commissioner may require the applicant to provide the Commissioner with specified information to enable the Commissioner to determine the application, verified, if the Commissioner so requires, by statutory declaration; and
  - (c) the Commissioner may refuse the application—
    - (i) if the applicant has not provided the information required by the application or the Commissioner; or
    - (ii) if, in the opinion of the Commissioner—
      - (A) the information provided by the applicant is inaccurate, incomplete or calculated to mislead; or
      - (B) the agent or sales representative is not acting in the best interests of the vendor; or
      - (C) the vendor is likely to suffer detriment as a result of the transaction; or
    - (iii) if, in the case of an application relating to the obtaining by an agent or sales representative of a beneficial interest in land, the agent or sales representative has not—
      - (A) arranged a formal written valuation of the land, at the agent's or sales representative's own expense, by a person authorised to carry on business as a land valuer under the *Land Valuers Act 1994* and approved by the Commissioner; and
      - (B) furnished the vendor with a copy of the land valuer's report.
- (2) For the purposes of paragraph (e) of the definition of *associate* in section 24G(11) of the Act, a relationship between the agent or sales representative and a person is prescribed if the agent or sales representative will, to the knowledge of the agent or sales representative, receive a benefit from the other person in connection with a transaction or dealing relating to the land or business subsequent to the agent or sales representative successfully negotiating the sale of the land or business for the vendor.
- (3) An agent is exempt from the requirements of section 24G(1) and (9) of the Act in relation to the obtaining of a beneficial interest in land or a business that the agent is authorised to sell if—
  - (a) the beneficial interest is obtained as a result of the sale of the land or business; and
  - (b) the sale is by public auction that satisfies the requirements of subregulation (7).

- (4) A sales representative employed by an agent is exempt from the requirements of section 24G(2) of the Act in relation to the obtaining of a beneficial interest in land or a business that the agent is authorised to sell if—
- (a) the beneficial interest is obtained as a result of the sale of the land or business; and
  - (b) the sale is by public auction that satisfies the requirements of subregulation (7).
- (5) An agent is exempt from the requirements of section 24G(3) of the Act in relation to the obtaining of a beneficial interest in land or a business that the agent appraises if—
- (a) the beneficial interest is obtained as a result of the sale of the land or business following the appraisal; and
  - (b) the sale is by public auction that satisfies the requirements of subregulation (7).
- (6) A sales representative is exempt from the requirements of section 24G(3) of the Act in relation to the obtaining of a beneficial interest in land or a business that the sales representative appraises if—
- (a) the beneficial interest is obtained as a result of the sale of the land or business following the appraisal; and
  - (b) the sale is by public auction that satisfies the requirements of subregulation (7).
- (7) A public auction of land or a business satisfies the requirements of this subregulation if details of the auction have been advertised, at least once per week over a period of at least 2 consecutive weeks immediately before the auction, in a newspaper circulating generally throughout the State or the area in which the land or business is situated.

### **16H—Prescribed standard conditions for auctions of residential land**

For the purposes of section 24I of the Act, the conditions set out in Schedule 2C are prescribed standard conditions for an auction conducted by an agent for the sale of residential land, binding as between—

- (a) the vendor and the purchaser; and
- (b) the vendor and the auctioneer; and
- (c) the bidders and the auctioneer.

### **16I—Preliminary actions and records required for auctions of residential land**

- (1) For the purposes of section 24J(1)(b) of the Act, all prescribed standard conditions for an auction conducted by an agent for the sale of residential land must be audibly announced by the auctioneer to the members of the public attending the auction immediately before the commencement of the auction.
- (2) For the purposes of section 24J(1)(c), (e) and (j) of the Act—
- (a) the following details relating to an auction must be included in the auction record before the commencement of the auction:

- (i) the street address of the land or a description of the land sufficient to identify it;
  - (ii) the full name of the vendor, the responsible agent and the auctioneer;
  - (iii) the date and time of the auction;
  - (iv) for the bidders register—
    - (A) the full name and address of each person intending to bid at the auction (subject to the requirements of paragraph (c)); and
    - (B) a general description of the proof of identity produced by the person in accordance with paragraph (c) and the signature of the agent verifying that the agent has sighted it; and
    - (C) if the intending bidder is proposing to bid on behalf of another person, the full name and address of the other person and a statement that the intending bidder is proposing to bid on behalf of that person;
- (b) the following details relating to bidding or subsequent events must be entered in the auction record:
- (i) for the bidders register if the auction is interrupted in order to register a further person as an intending bidder in the register—
    - (A) the full name and address of the person (subject to the requirements of paragraph (c)); and
    - (B) a general description of the proof of identity produced by the person in accordance with paragraph (c) and the signature of the agent verifying that the agent has sighted it; and
    - (C) if the intending bidder is proposing to bid on behalf of another person, the full name and address of the other person and a statement that the intending bidder is proposing to bid on behalf of that person; and
  - (ii) if the land is sold at the auction—
    - (A) the full name and address of the purchaser; and
    - (B) the amount for which the land was sold;
  - (iii) if the land is passed in at the auction but the auctioneer, on the same day, conducts further negotiations for the sale of the land with a person by whom, or on whose behalf, a bid for the land was made at the auction (whether or not resulting in a sale)—
    - (A) the full name and address of that person; and
    - (B) the amounts offered by that person for the land during those negotiations; and
    - (C) in the case of a resulting sale of the land on that day to that person—the amount for which the land was sold;
- (c) details of an intending bidder must not be entered in the bidders register unless—

- (i) the intending bidder has produced to the agent proof of his or her identity in the form of a drivers licence, passport, credit or debit card or gas, electricity or telephone account or similar document or card issued to the person; and
  - (ii) if the intending bidder is proposing to bid on behalf of another person, the bidder has—
    - (A) provided to the agent a written authority to so act signed by the other person; and
    - (B) produced to the agent proof of the other person's identity in the form of a drivers licence, passport, credit or debit card or gas, electricity or telephone account or similar document or card issued to the other person, or, in the case of a body corporate, the certificate of the body's incorporation.
- (3) For the purposes of subregulation (2)(c)(ii), an authority or proof of identity may be an original document or a photocopy, facsimile copy or electronically scanned copy of the original document.
- (4) There are exemptions from the application of section 24J(3) of the Act as follows:
  - (a) the responsible agent or, if a different person, the auctioneer is exempt insofar as the agent or auctioneer—
    - (i) discloses or makes use of information in the auction record relating to a person accepted by the auctioneer as having made the highest bid above the reserve price for a purpose connected with the auction or sale of the land on behalf of the vendor; or
    - (ii) discloses to the vendor the name of a person registered in the bidders register (whether as a bidder or a person on whose behalf bids may be made); or
    - (iii) discloses or makes use of information in the auction record as permitted by section 24J(3) of the Act;
  - (b) the vendor is exempt insofar as the vendor discloses or makes use of information in the auction record disclosed to the vendor under this regulation;
  - (c) a person who has the auction record or has had access to it is exempt insofar as the person does anything with respect to the record, or information in it, for the purposes of the administration or enforcement of the Act or as required or authorised by a court or tribunal constituted by law.

### **16J—Collusive practices at auctions of land or businesses**

For the purposes of section 24L(3) of the Act, notice of the material parts of that section—

- (a) must, in the case of the sale of residential land by auction—
  - (i) include the information set out in the form in Schedule 2D printed or typewritten in not smaller than 12-point type; and
  - (ii) be supplied to each intending bidder when the person's details are being taken for entry in the bidders register; and

- (b) must, in the case of the sale by auction of any other land or a business—
  - (i) include the information set out in the form in Schedule 2D; and
  - (ii) be audibly announced by the auctioneer to the members of the public attending the auction immediately before the auction commences.

## **Part 3—Dual representation**

### **17—Circumstances in which conveyancer may act for both parties**

- (1) For the purposes of section 30 of the Act, a conveyancer is authorised to act for both the transferor and transferee, or the grantor and grantee, of property or rights under a transaction if—
  - (a) the transferor and transferee or the grantor and grantee (in this Part referred to as *both parties*)—
    - (i) are related to one another by blood, adoption or marriage; or
    - (ii) are domestic partners one of the other; or
    - (iii) are bodies corporate that are related to each other for the purposes of the *Corporations Act 2001* of the Commonwealth; or
    - (iv) are a proprietary company and a person who is a shareholder or director of that company; or
    - (v) are registered as the proprietors of the relevant land as tenants in common or joint tenants with one another; or
    - (vi) carry on business in partnership with each other; or
  - (b) the conveyancer has obtained from both parties a written acknowledgment, or general authority, in the form set out in Schedule 4.
- (2) However, a conveyancer is not authorised to act for both parties to a transaction if the conveyancer is subject to a conflict of interest in relation to the transaction.

### **18—Conveyancer must cease to act if conflict of interest arises**

- (1) If, in the course of acting for both parties to a transaction, the conveyancer becomes subject to a conflict of interest in relation to the transaction, the conveyancer must notify both parties in writing and cease to act in the matter.  
Penalty: Division 7 fine.
- (2) However, if both parties agree in writing that the conveyancer may continue to act for one of them, the conveyancer may continue to act for that party.

## 19—Meaning of conflict of interest

For the purposes of this Part, a conveyancer is subject to a conflict of interest in relation to a transaction if—

- (a) the duties owed by the conveyancer to one party to the transaction conflict with the duties owed by the conveyancer to the other party to the transaction (for example, if the conveyancer is obliged, in fulfilling his or her duty to one party, to withhold information or advice from the other party that, by reason of the conveyancer's duty to that other party, he or she should not withhold); or
- (b) the conveyancer has a personal or pecuniary interest in the transaction arising otherwise than from the conveyancer's services as a conveyancer in respect of the transaction.

## Part 4—Miscellaneous

### 20—Keeping of records

For the purposes of section 37A(2) of the Act, if a person who is required to keep a document or record under Part 4 or 4A of the Act uses a computer program for the purpose, the person must ensure that—

- (a) an electronic copy of the document or record is made within 24 hours of the making, receipt or variation of the document or record; and
- (b) an electronic copy of all the documents and records is made at least once in each month and kept so as to be protected against deterioration, loss, theft and unauthorised access, modification or use; and
- (c) before any information is deleted from the computer records, a hard copy of the information is made and kept by the person as part of the person's records; and
- (d) an up-to-date electronic copy of the computer program is made and kept so as to be protected against deterioration, loss, theft and unauthorised access, modification or use.

## Schedule 1—Contracts for sale of land or businesses—forms

### Form 1—Vendor's statement (section 7)

*Land and Business (Sale and Conveyancing) Act 1994*

#### Contents

Preliminary

Part A—Parties and land

Part B—Purchaser's cooling-off rights and proceeding with the purchase

Part C—Statement with respect to required particulars

†Part D—Certificate with respect to prescribed inquiries by registered agent

Schedule



## Preliminary

### To the purchaser:

The purpose of a statement under section 7 of the *Land and Business (Sale and Conveyancing) Act 1994* is to put you on notice of certain particulars concerning the land to be acquired.

If you intend to carry out building work on the land, change the use of the land or divide the land, you should make further inquiries to determine whether this will be permitted. For example, building work may not be permitted on land not connected to a sewerage system or common drainage scheme if the land is near a watercourse, dam, bore or the River Murray and Lakes.

The *Aboriginal Heritage Act 1988* protects any Aboriginal site or object on the land. Details of any such site or object may be sought from the "traditional owners" as defined in that Act.

If you desire additional information, it is up to you to make further inquiries as appropriate.

### Instructions to the vendor for completing this statement:

† means strike out or omit the Part, Division, Particulars or item if not applicable.

\* means strike out or omit the option that is not applicable.

If there is insufficient space to provide any particulars required, continue on attachments.

## Part A—Parties and land

- 1 Purchaser:  
Address:
- †2 Purchaser's registered agent:  
Address:
- 3 Vendor:  
Address:
- †4 Vendor's registered agent:  
Address:
- 5 Date of contract (if made before this statement is served):
- 6 Description of the land:  
*[Identify the land including any certificate of title reference]*

## Part B—Purchaser's cooling-off rights and proceeding with the purchase

### To the purchaser:

#### Right to cool-off

(section 5)

#### 1—Right to cool-off and restrictions on that right

You may notify the vendor of your intention not to be bound by the contract for the sale of the land UNLESS—

- (a) you purchased by auction; or
- (b) you purchased on the same day as you, or some person on your behalf, bid at the auction of the land; or

- (c) you have, before signing the contract, received independent advice from a legal practitioner and the legal practitioner has signed a certificate in the prescribed form as to the giving of that advice; or
- (d) you are a body corporate; or
- (e) the contract is made by the exercise of an option to purchase not less than 5 clear business days after the grant of the option and not less than 2 clear business days after service of this form; or
- (f) the sale is by tender and the contract is made not less than 5 clear business days after the day fixed for the closing of tenders and not less than 2 clear business days after service of this form; or
- (g) the contract also provides for the sale of a business that is not a small business.

## **2—Time for service**

The cooling-off notice must be served—

- (a) if this form is served on you before the making of the contract—before the end of the second clear business day after the day on which the contract was made; or
- (b) if this form is served on you after the making of the contract—before the end of the second clear business day from the day on which this form is served.

However, if this form is not served on you at least 2 clear business days before the time at which settlement takes place, the cooling-off notice may be served at any time before settlement.

## **3—Form of cooling-off notice**

The cooling-off notice must be in writing and must be signed by you.

## **4—Methods of service**

The cooling-off notice must be—

- (a) given to the vendor personally; or
- (b) posted by registered post to the vendor at the following address:  
(being the vendor's last known address); or
- (c) transmitted by fax to the following fax number:  
(being a number provided to you by the vendor for the purpose of service of the notice); or
- (d) left for the vendor's agent (with a person apparently responsible to the agent) at, or posted by registered post to the agent at, the following address:  
(being \*the agent's address for service under the *Land Agents Act 1994*/an address nominated by the agent to you for the purpose of service of the notice).

**Note—**

Section 5(3) of the *Land and Business (Sale and Conveyancing) Act 1994* places the onus of proving the giving of the cooling-off notice on the purchaser. It is therefore strongly recommended that—

- (a) if you intend to serve the notice by leaving it for the vendor's agent at the agent's address for service or an address nominated by the agent, you obtain an acknowledgment of service of the notice in writing;
- (b) if you intend to serve the notice by fax, you obtain a transmission report in relation to the sending of the fax.

## **5—Effect of service**

If you serve such a cooling-off notice on the vendor, the contract will be taken to have been rescinded at the time when the notice was served. You are then entitled to the return of any money you paid under the contract other than—

- (a) the amount of any deposit paid if the deposit did not exceed \$100; or
- (b) an amount paid for an option to purchase the land.

## **Proceeding with the purchase**

If you wish to proceed with the purchase—

- (a) it is strongly recommended that you take steps to make sure your interest in the property is adequately insured against loss or damage;
- (b) pay particular attention to the provisions in the contract as to time of settlement—it is essential that the necessary arrangements are made to complete the purchase by the agreed date—if you do not do so, you may be in breach of the contract;
- (c) you are entitled to retain the solicitor or registered conveyancer of your choice.

## **Part C—Statement with respect to required particulars**

(section 7(1))

### **To the purchaser:**

\*I/We,  
of

being the \*vendor(s)/person authorised to act on behalf of the vendor(s) in relation to the transaction state that the Schedule contains all particulars required to be given to you pursuant to section 7(1) of the *Land and Business (Sale and Conveyancing) Act 1994*.

Date:

Signed:

## **†Part D—Certificate with respect to prescribed inquiries by registered agent**

(section 9)

### **To the purchaser:**

I,  
certify \*that the responses/that, subject to the exceptions stated below, the responses to the inquiries made pursuant to section 9 of the *Land and Business (Sale and Conveyancing) Act 1994* confirm the completeness and accuracy of the particulars set out in the Schedule.  
Exceptions:

Date:

Signed:

\*Vendor's/Purchaser's agent

\*Person authorised to act on behalf of \*Vendor's/Purchaser's agent

## **Schedule—Division 1—Particulars of mortgages, charges and prescribed encumbrances affecting the land**

**(section 7(1)(b))**

**Note—**

Section 7(3) of the Act provides that this statement need not include reference to charges arising from the imposition of rates or taxes less than 12 months before the date of service of the statement.

All the particulars required by column 3 of the table below in relation to a mortgage, charge or prescribed encumbrance referred to in column 1 must be set out in column 3 unless—

- (a) a copy of a document is attached to this statement and—
  - (i) all the required particulars are contained in that document; and
  - (ii) those parts of the document that contain the required particulars are identified in column 3; or
- (b) the mortgage, charge or prescribed encumbrance—
  - (i) is one of the following items in the table:
    - (A) under the heading "General"—
      - Lease, agreement for lease, tenancy agreement or licence
      - Mortgage of land;
    - (B) under the heading "Other"—
      - Caveat
      - Lien or notice of a lien
      - Charge of any kind affecting the land (not included in another item); and
  - (ii) is registered on the certificate of title to the land; and
  - (iii) is to be discharged or satisfied prior to or at settlement.

**Table of particulars**

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
<b>Part 1—Items that must be included in statement</b>		
<i>[If an item is not applicable strike it out or write "NOT APPLICABLE" or "N/A" in column 1.]</i>		
<b>General</b>		
Easement (whether over the land or annexed to the land) Note—"Easement" includes rights of way and party wall rights.	*YES/NO	Description of land subject to easement: Nature of easement: Are you aware of any encroachment on the easement? *YES/NO (If YES, give details): If there is an encroachment, has approval for the encroachment been given? *YES/NO (If YES, give details): <i>[attach additional page(s) if more than 1 easement]</i>
Lease, agreement for lease, tenancy agreement or licence  (The information does not include information about any sublease or subtenancy. That information may be sought by the purchaser from the lessee or tenant or sublessee or subtenant.)	*YES/NO	Names of parties: Period of lease, agreement for lease etc: From        to Amount of rent or licence fee: \$        per        (period) Is the lease, agreement for lease etc in writing? *YES/NO If the lease or licence was granted under an Act relating to the disposal of Crown lands, specify— (a)    the Act under which the lease or licence was granted: (b)    the outstanding amounts due (including any interest or penalty):
Mortgage of land	*YES/NO	Number of mortgage (if registered): Name of mortgagee:

**Land and Business (Sale and Conveyancing) Regulations 1995—1.9.2009 to 28.2.2010**

## Schedule 1—Contracts for sale of land or businesses—forms

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
Restrictive covenant	*YES/NO	Nature of restrictive covenant:  Name of person in whose favour restrictive covenant operates:  Does the restrictive covenant affect the whole of the land being acquired? *YES/NO (If NO, give details):  Does the restrictive covenant affect land other than that being acquired? *YES/NO
<b><i>Development Act 1993</i></b>		
Part 3—Development Plan	*YES/NO	Title or other brief description of zone or policy area in which the land is situated (as shown in the Development Plan):  Is the land situated in a designated State Heritage Area? *YES/NO  Is the land designated as a place of local heritage value? *YES/NO  Is there a current Development Plan Amendment released for public consultation by a council on which consultation is continuing or on which consultation has ended but whose proposed amendment has not yet come into operation? *YES/NO  If YES, state the name of the council:  Is there a current Development Plan Amendment released for public consultation by the Minister on which consultation is continuing or on which consultation has ended but whose proposed amendment has not yet come into operation? *YES/NO
section 42—Condition (that continues to apply) of a development authorisation	*YES/NO	Date of authorisation:  Name of relevant authority that granted authorisation:  Condition(s) of authorisation:

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
<b>Repealed Act conditions</b>		
Condition (that continues to apply) of an approval or authorisation granted under the <i>Building Act 1971</i> (repealed), the <i>City of Adelaide Development Control Act 1976</i> (repealed), the <i>Planning Act 1982</i> (repealed) or the <i>Planning and Development Act 1966</i> (repealed)	*YES/NO	Nature of condition(s):
<b>Part 2—Items to be included if land affected</b>		
<i>[If an item is not applicable, strike it out or write "NOT APPLICABLE" or "N/A" in column 1, or else omit the items and headings that are not applicable.]</i>		
<b><i>Aboriginal Heritage Act 1988</i></b>		
section 9—Registration in central archives of an Aboriginal site or object	*YES/NO	Particulars of register entry:
section 24—Directions prohibiting or restricting access to, or activities on, a site or an area surrounding a site	*YES/NO	Date of notice: Site or area to which notice relates: Directions (as stated in notice):
Part 3 Division 6—Aboriginal heritage agreement	*YES/NO	Date of agreement: Description of property subject to agreement: Names of parties: Terms of agreement:
<b><i>Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986</i> (repealed)</b>		
section 60—Notice for costs of destruction or control of plants on road reserve	*YES/NO	Date of notice: Name of control board giving notice: Amount payable (as stated in the notice):
<b><i>Crown Rates and Taxes Recovery Act 1945</i></b>		
section 5—Notice requiring payment	*YES/NO	Date of notice: Land in respect of which Crown rates and taxes are owing: Amount owing (as stated in the notice):
<b><i>Development Act 1993</i></b>		
section 50(1)—Requirement to vest land in a council or the Crown to be held as open space	*YES/NO	Date requirement given: Name of body giving requirement: Nature of requirement: Contribution payable (if any):

**Land and Business (Sale and Conveyancing) Regulations 1995—1.9.2009 to 28.2.2010**

Schedule 1—Contracts for sale of land or businesses—forms

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
section 50(2)—Agreement to vest land in a council or the Crown to be held as open space	*YES/NO	Date of agreement: Names of parties: Terms of agreement: Contribution payable (if any):
section 55—Order to remove or perform work	*YES/NO	Date of order: Terms of order: Building work (if any) required to be carried out: Amount payable (if any):
section 56—Notice to complete development	*YES/NO	Date of notice: Requirements of notice: Building work (if any) required to be carried out: Amount payable (if any):
section 57—Land management agreement	*YES/NO	Date of agreement: Names of parties: Terms of agreement:
section 60—Notice of intention by building owner	*YES/NO	Date of notice: Building work proposed (as stated in the notice): Other building work as required pursuant to the Act:
section 69—Emergency order	*YES/NO	Date of order: Name of authorised officer who made order: Name of authority that appointed the authorised officer: Nature of order: Amount payable (if any):
section 71—Fire safety notice	*YES/NO	Date of notice: Name of authority giving notice: Requirements of notice: Building work (if any) required to be carried out: Amount payable (if any):



**1.9.2009 to 28.2.2010—Land and Business (Sale and Conveyancing) Regulations 1995**  
Contracts for sale of land or businesses—forms—Schedule 1

<b>Column 1 Prescribed encumbrance</b>	<b>Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?</b>	<b>Column 3 Other particulars required</b>
section 84—Enforcement notice	*YES/NO	Date notice given: Name of the relevant authority giving notice: Nature of directions contained in notice: Building work (if any) required to be carried out: Amount payable (if any):
section 85(6), 85(10) or 106—Enforcement order	*YES/NO	Date order made: Name of court that made order: Action number: Names of parties: Terms of order: Building work (if any) required to be carried out:
Part 11 Division 2—Proceedings	*YES/NO	Date of commencement of proceedings: Date of determination or order (if any): Terms of determination or order (if any):
<b><i>Emergency Services Funding Act 1998</i></b>		
section 16—Notice to pay levy	*YES/NO	Date of notice: Amount of levy payable:
<b><i>Environment Protection Act 1993</i></b>		
section 59—Environment performance agreement that is registered in relation to the land	*YES/NO	Date of agreement:
section 93—Environment protection order that is registered in relation to the land	*YES/NO	Date of issue: Compliance date(s) specified in the order:
section 93A—Environment protection order relating to cessation of activity that is registered in relation to the land	*YES/NO	Date of issue: Compliance date(s) specified in the order:
section 99—Clean-up order that is registered in relation to the land	*YES/NO	Date of issue: Compliance date(s) specified in the order: Amount of charge on the land (if applicable and known):

**Land and Business (Sale and Conveyancing) Regulations 1995—1.9.2009 to 28.2.2010**

Schedule 1—Contracts for sale of land or businesses—forms

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
section 100—Clean-up authorisation that is registered in relation to the land	*YES/NO	Date of issue: Amount of charge on the land (if known):
section 103H—Site contamination assessment order that is registered in relation to the land	*YES/NO	Date of issue: Compliance date(s) specified in the order: Amount of charge on the land (if known):
section 103J—Site remediation order that is registered in relation to the land	*YES/NO	Date of issue: Compliance date(s) specified in the order: Amount of charge on the land (if known):
section 103N—Notice of declaration of special management area in relation to the land (due to possible existence of site contamination)	*YES/NO	Date of notice: Date of Gazette in which notice published: Description of area or areas to which the notice relates:
section 103P—Notation of site contamination audit report in relation to the land	*YES/NO	Date of notation: <b>Note—</b> Site contamination audit reports are kept by the EPA in the public register under section 109 of the <i>Environment Protection Act 1993</i> .
section 103S—Notice of prohibition or restriction on taking water affected by site contamination in relation to the land	*YES/NO	Date of notice: Date of Gazette in which notice published: Description of the water to which the notice relates: Particulars given in the notice of the site contamination affecting the water:

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
<b><i>Fences Act 1975</i></b>		
section 5—Notice of intention to perform fencing work	*YES/NO	Date of notice:  Name and address of person to whom notice was given or from whom notice was received:  Particulars of relevant boundary:  Kind of fence proposed to be constructed or nature of work proposed to be done to existing fence:  Cost or estimated cost of fence or work (as stated in the notice):  Amount sought by proponent from adjoining owner (as stated in the notice):  If there is a cross-notice under section 6, give details of— (a) the proposals objected to: (b) the counter proposals:
<b><i>Fire and Emergency Services Act 2005</i></b>		
section 56—Notice of action required concerning flammable materials on land	*YES/NO	Date of notice:  Name of council:  Requirements of notice (as stated therein):  Amount payable (if any):
section 83—Notice of action required to protect against outbreak or spread of fire	*YES/NO	Date of notice:  Name of authority giving notice:  Requirements of notice (as stated therein):  Amount payable (if any):
<b><i>Food Act 2001</i></b>		
section 44—Improvement notice	*YES/NO	Date of notice:  Name of authorised officer who served notice:  Name of authority that appointed officer:  Requirements of notice:
section 46—Prohibition order	*YES/NO	Date of order:  Name of authority or person who served order:  Requirements of order:

**Land and Business (Sale and Conveyancing) Regulations 1995—1.9.2009 to 28.2.2010**

Schedule 1—Contracts for sale of land or businesses—forms

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
<b><i>Fruit and Plant Protection Act 1992</i></b>		
section 14 or 15—Notice or order concerning disease	*YES/NO	Date of notice or order: Date of Gazette in which notice published (if applicable): Nature of requirement, restriction or prohibition:
<b><i>Ground Water (Qualco-Sunlands) Control Act 2000</i></b>		
Part 6—risk management allocation	*YES/NO	Is a waterlogging and salinity risk management allocation attached to the whole or any part of the land? *YES/NO If YES, give details of the allocation and the land to which it is attached:
section 56—Notice to pay share of Trust costs, or for unauthorised use of water, in respect of irrigated property	*YES/NO	Date of notice: Amount payable (as stated in notice):
<b><i>Heritage Places Act 1993</i></b>		
section 14(2)(b)—Registration of an object of heritage significance	*YES/NO	Date of registration: Description and location of object registered:
section 17 or 18—Provisional registration or registration	*YES/NO	Description of place registered: Has the place been designated as a place of geological, palaeontological or speleological significance or archaeological significance? *YES/NO If YES, give details:
section 30—Stop order	*YES/NO	Date of order: Terms of order:
Part 6—Heritage agreement	*YES/NO	Date of agreement: Description of property subject to agreement: Names of parties: Terms of agreement:
section 38—"No development" order	*YES/NO	Date of order: Terms of order:
<b><i>Highways Act 1926</i></b>		
Part 2A—Declaration as to access from any road abutting the land	*YES/NO	Date of declaration: Description of boundary of land affected:

**1.9.2009 to 28.2.2010—Land and Business (Sale and Conveyancing) Regulations 1995**

Contracts for sale of land or businesses—forms—Schedule 1

<b>Column 1 Prescribed encumbrance</b>	<b>Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?</b>	<b>Column 3 Other particulars required</b>
<b><i>Housing Improvement Act 1940</i></b>		
section 23—declaration that house is undesirable or unfit for human habitation	*YES/NO	Date of declaration: Those particulars required to be provided by a council under section 23:
Part 7 (rent control for substandard houses)—notice or declaration	*YES/NO	Date of notice or declaration: Those particulars required to be provided by the housing authority under section 60:
<b><i>Land Acquisition Act 1969</i></b>		
section 10—Notice of intention to acquire	*YES/NO	Date of notice: Name of Authority who served notice: Description of land intended to be acquired (as described in the notice):
<b><i>Land Tax Act 1936</i></b>		
Notice, order or demand for payment of land tax	*YES/NO	Date of notice, order or demand: Amount payable (as stated in the notice):
<b><i>Local Government Act 1934</i></b>		
Notice, order, declaration, charge, claim or demand given or made under the Act	*YES/NO	Date of notice, order etc: Name of council by which, or person by whom, notice, order etc is given or made: Land subject thereto: Nature of requirements contained in notice, order etc: Time for carrying out requirements: Amount payable (if any):
<b><i>Local Government Act 1999</i></b>		
Notice, order, declaration, charge, claim or demand given or made under the Act	*YES/NO	Date of notice, order etc: Name of council by which, or person by whom, notice, order etc is given or made: Land subject thereto: Nature of requirements contained in notice, order etc: Time for carrying out requirements: Amount payable (if any):

**Land and Business (Sale and Conveyancing) Regulations 1995—1.9.2009 to 28.2.2010**

Schedule 1—Contracts for sale of land or businesses—forms

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
<b><i>Metropolitan Adelaide Road Widening Plan Act 1972</i></b>		
section 6—Restriction on building work	*YES/NO	Does the restriction apply to all of the land? *YES/NO (If NO, give details about the part of the land to which the restriction applies):
<b><i>Mining Act 1971</i></b>		
Mining tenement (other than an exploration licence)	*YES/NO	Type of tenement: Terms of tenement: Condition(s) (if any) the tenement is subject to:
Proclamation with respect to a private mine	*YES/NO	Date of proclamation:
<b><i>Native Vegetation Act 1991</i></b>		
Part 4 Division 1—Heritage agreement	*YES/NO	Date of agreement: Description of property subject to agreement: Names of parties: Terms of agreement:
Part 5 Division 1—Refusal to grant consent, or condition of a consent, to clear native vegetation	*YES/NO	Date of refusal or grant of consent: If consent given, condition(s) (if any) of the consent:
<b><i>Natural Resources Management Act 2004</i></b>		
section 97—Notice to pay levy in respect of costs of regional NRM board	*YES/NO	Date of notice: Amount of levy payable:
section 105—Notice to pay levy in respect of right to take water or taking of water	*YES/NO	Date of notice: Amount of levy payable:
section 115—Notice declaring a penalty	*YES/NO	Date of notice: Amount of penalty payable:
section 123—Notice to prepare an action plan for compliance with general statutory duty	*YES/NO	Date of notice: Name of authority or person that issued notice: Requirements of notice (as specified therein):

**1.9.2009 to 28.2.2010—Land and Business (Sale and Conveyancing) Regulations 1995**  
Contracts for sale of land or businesses—forms—Schedule 1

<b>Column 1 Prescribed encumbrance</b>	<b>Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?</b>	<b>Column 3 Other particulars required</b>
section 130—Notice to rectify effects of unauthorised activity	*YES/NO	Date of notice: Name of relevant authority that issued notice: Requirements of notice (as specified therein):
section 131—Notice to maintain watercourse or lake in good condition	*YES/NO	Date of notice: Name of relevant authority that issued notice: Requirements of notice (as specified therein):
section 132—Notice restricting the taking of water or directing action in relation to the taking of water	*YES/NO	Date of notice: Water resource to which notice applies: Requirements of notice (as specified therein):
section 134—Notice to remove or modify a dam, embankment, wall or other obstruction or object	*YES/NO	Date of notice: Requirements of notice (as specified therein):
section 135—Condition (that remains in force) of a permit	*YES/NO	Date of permit: Name of relevant authority that granted permit: Condition(s) of permit:
section 145—Notice to take remedial or other action in relation to a well	*YES/NO	Date of notice: Location of well: Requirements of notice (as specified therein):
section 181—Notice of instruction as to keeping of animal or plant in control area	*YES/NO	Date of notice: Name of authorised officer who issued notice: Requirements of notice (as specified therein):
section 183—Notice to prepare an action plan for the destruction or control of animals or plants	*YES/NO	Date of notice: Name of authorised officer who issued notice: Requirements of notice (as specified therein):
section 185—Notice to pay costs of destruction or control of animals or plants on road reserve	*YES/NO	Date of notice: Name of authority that issued notice: Amount payable (as specified in notice):

**Land and Business (Sale and Conveyancing) Regulations 1995—1.9.2009 to 28.2.2010**

Schedule 1—Contracts for sale of land or businesses—forms

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
section 187—Notice requiring control or quarantine of animal or plant	*YES/NO	Date of notice: Requirements of notice (as specified therein):
section 193—Protection order to secure compliance with specified provisions of the Act	*YES/NO	Date of order: Name of authority or person who issued order: Requirements of order (as specified therein):
section 195—Reparation order requiring specified action or payment to make good damage resulting from contravention of the Act	*YES/NO	Date of order: Name of authority or person who issued order: Requirements of order (as specified therein):
section 197—Reparation authorisation authorising specified action to make good damage resulting from contravention of the Act	*YES/NO	Date of authorisation: Name of relevant authority that issued authorisation: Person authorised to take action: Requirements of authorisation (as specified therein):
<b><i>Phylloxera and Grape Industry Act 1995</i></b>		
section 23(1)—Notice of contribution payable	*YES/NO	Date of notice: Name of person or body giving notice: Terms of notice: Amount payable (as stated in notice):
<b><i>Public and Environmental Health Act 1987</i></b>		
Part 3—Notice	*YES/NO	Date of notice: Name of council or other authority giving notice: Requirements of notice:
section 36—Direction to avert spread of disease	*YES/NO	Date direction given: Name of authority giving direction: Nature of direction:
<i>Public and Environmental Health (Waste Control) Regulations 1995</i> Part 2—Condition (that continues to apply) of an approval	*YES/NO	Date of approval: Name of relevant authority that granted the approval: Condition(s) of approval:



**1.9.2009 to 28.2.2010—Land and Business (Sale and Conveyancing) Regulations 1995**

Contracts for sale of land or businesses—forms—Schedule 1

<b>Column 1 Prescribed encumbrance</b>	<b>Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?</b>	<b>Column 3 Other particulars required</b>
<i>Public and Environmental Health (Waste Control) Regulations 1995</i> regulation 19—Maintenance order (that has not been complied with)	*YES/NO	Date of order: Name of authority giving order: Requirements of order:
<b><i>Sewerage Act 1929</i></b>		
Notice, order or demand for payment of sewerage rates, other amounts payable or other requirements made under the Act	*YES/NO	Date of notice, order or demand: Amount payable (as stated in the notice): Nature of requirement made:
<b><i>Upper South East Dryland Salinity and Flood Management Act 2002</i></b>		
section 23—Notice of contribution payable	*YES/NO	Date of notice: Terms of notice: Amount payable:
<b><i>Water Resources Act 1997</i></b>		
section 18 (repealed)—Condition (that remains in force) of a permit	*YES/NO	Date of permit: Name of relevant authority that granted permit: Condition(s) of permit:
section 125 (or a corresponding previous enactment)—Notice to pay levy	*YES/NO	Date of notice: Amount of levy payable:
<b><i>Waterworks Act 1932</i></b>		
Notice, order or demand for payment of water rates, other amounts payable or other requirements made under the Act	*YES/NO	Date of notice, order or demand: Amount payable (as stated in the notice): Nature of requirement made:
<b>Other</b>		
Caveat	*YES/NO	Name and address of caveator: Particulars of interest claimed:
Lien or notice of a lien	*YES/NO	Land or other property subject to lien: Nature of lien: Name and address of person who has imposed lien or given notice of it:
Charge of any kind affecting the land (not included in another item)	*YES/NO	Person or body in whose favour charge exists: Nature of charge: Amount of charge (if known):

## †Schedule—Division 2—Other particulars

### (section 7(1)(b))

#### †Particulars of transactions in last 12 months

If the vendor, within 12 months before the date of the contract of sale—

- (a) obtained title to the land; or
- (b) obtained an option to purchase the land; or
- (c) entered into a contract to purchase the land (whether on the vendor's own behalf or on behalf of another),

the vendor must provide the following particulars of all transactions relating to the acquisition of the interest that occurred within that 12 month period:

- 1 The name and address of each party to the transaction and of each person in whom an interest vested as a result of the transaction:
- 2 The date and nature of each instrument registered on the certificate of title or, if no such instrument has been registered, the date and nature of each document forming the whole or part of a contract relating to the transaction:
- 3 Particulars of the consideration provided for the purposes of the transaction:

The above particulars must be provided for each transaction.

#### †Particulars relating to community lot (including strata lot) or development lot

- 1 Name of community corporation:  
Address of community corporation:
- 2 Application must be made in writing to the community corporation for the particulars and documents referred to in 3 and 4. Application must also be made in writing to the community corporation for the documents referred to in 6 unless those documents are obtained from the Lands Titles Registration Office.
- 3 Particulars supplied by the community corporation or known to the vendor:
  - (a) particulars of contributions payable in relation to the lot (including details of arrears of contributions related to the lot):
  - (b) particulars of assets and liabilities of the community corporation:
  - (c) particulars of expenditure that the community corporation has incurred, or has resolved to incur, and to which the owner of the lot must contribute, or is likely to be required to contribute:
  - (d) if the lot is a development lot, particulars of the scheme description relating to the development lot and particulars of the obligations of the owner of the development lot under the development contract:
  - (e) if the lot is a community lot, particulars of the lot entitlement of the lot:

*[State "not known" next to any particulars not supplied by the community corporation by the date of this statement and not known to the vendor.]*

- 4 Documents supplied by the community corporation that are enclosed:

- (a) a copy of the minutes of the general meetings of the community corporation and management committee \*for the 2 years preceding this statement/since the deposit of the community plan;  
(\*Strike out whichever is the greater period)
- (b) a copy of the statement of accounts of the community corporation last prepared;
- (c) a copy of current policies of insurance taken out by the community corporation.

*[State "not supplied" next to any document not supplied by the community corporation by the date of this statement.]*

- 5 If "not known" or "not supplied" has been specified for an item in 3 or 4, set out the date of the application made to the community corporation and give details of any other steps taken to obtain the particulars or documents concerned:
- 6 The following documents are enclosed:
- †(a) a copy of the scheme description (if any) and the development contract (if any);
  - (b) a copy of the by-laws of the community scheme.
- †7 The following additional particulars are known to the vendor or have been supplied by the community corporation:
- 8 Further inquiries may be made to the secretary of the community corporation or the appointed community scheme manager.  
Name:  
Address:

**Note—**

- 1 A community corporation must (on application by or on behalf of a current or prospective owner or other relevant person) provide the particulars and documents referred to in 3(a)—(d) and 4 and must also make available for inspection any information required to establish the current financial position of the corporation: see sections 139 and 140 of the *Community Titles Act 1996*.
- 2 Copies of the scheme description, the development contract or the by-laws of the community scheme may be obtained from the community corporation or from the Lands Titles Registration Office.
- 3 All owners of a community lot or a development lot are bound by the by-laws of the community scheme. The by-laws regulate the rights and liabilities of owners of lots in relation to their lots and the common property and matters of common concern.
- 4 For a brief description of some of the matters that need to be considered before purchasing a community lot, see Division 3 of this Schedule.

**†Particulars relating to strata unit**

- 1 Name of strata corporation:  
Address of strata corporation:
- 2 Application must be made in writing to the strata corporation for the particulars and documents referred to in 3 and 4. Application must also be made in writing to the strata corporation for the articles referred to in 6 unless the articles are obtained from the Lands Titles Registration Office.
- 3 Particulars supplied by the strata corporation or known to the vendor:

- (a) particulars of contributions payable in relation to the unit (including details of arrears of contributions related to the unit):
- (b) particulars of the assets and liabilities of the strata corporation:
- (c) particulars of expenditure that the strata corporation has incurred, or has resolved to incur, and to which the unit holder of the unit must contribute, or is likely to be required to contribute:
- (d) particulars of the unit entitlement of the unit:

*[State "not known" next to any particulars not supplied by the strata corporation by the date of this statement and not known to the vendor.]*

4 Documents supplied by the strata corporation that are enclosed:

- (a) a copy of the minutes of the general meetings of the strata corporation and management committee \*for the 2 years preceding this statement/since the deposit of the strata plan;  
(\*Strike out whichever is the greater period)
- (b) a copy of the statement of accounts of the strata corporation last prepared;
- (c) a copy of current policies of insurance taken out by the strata corporation.

*[State "not supplied" next to any document not supplied by the strata corporation by the date of this statement.]*

5 If "not known" or "not supplied" has been specified for an item in 3 or 4, set out the date of the application made to the strata corporation and give details of any other steps taken to obtain the particulars or documents concerned:

6 A copy of the articles of the strata corporation is enclosed.

†7 The following additional particulars are known to the vendor or have been supplied by the strata corporation:

8 Further inquiries may be made to the secretary of the strata corporation or the appointed strata manager.

Name:

Address:

**Note—**

- 1 A strata corporation must (on application by or on behalf of a current owner, prospective purchaser or other relevant person) provide the particulars and documents referred to in 3(a)—(c), 4 and 6 and must also make available for inspection its accountancy records and minute books, the duplicate certificate of title for the common property and any documents in its possession relating to the design and construction of the buildings or improvements on the site or relating to the strata scheme.
- 2 Copies of the articles of the strata corporation may also be obtained from the Lands Titles Registration Office.
- 3 All owners of a strata unit are bound by the articles of the strata corporation. The articles regulate the rights and liabilities of owners of units in relation to their units and the common property and matters of common concern.
- 4 For a brief description of some of the matters that need to be considered before purchasing a strata unit, see Division 3 of this Schedule.

### †Particulars of building indemnity insurance

**Note—**

Building indemnity insurance is not required for—

- (a) domestic building work for which approval under the *Development Act 1993* or the repealed *Building Act 1971* is or was not required; or
- (b) minor domestic building work (see section 3 of the *Building Work Contractors Act 1995*); or
- (c) domestic building work commenced before 1 May 1987; or
- (d) building work in respect of which an exemption from the application of Division 3 of Part 5 of the *Building Work Contractors Act 1995* applies under the *Building Work Contractors Regulations 1996*; or
- (e) building work in respect of which an exemption from the application of Division 3 of Part 5 of the *Building Work Contractors Act 1995* has been granted under section 45 of that Act.

- 1 Name(s) of person(s) insured:
- 2 Name of insurer:
- 3 Limitations on the liability of the insurer:
- 4 Name of builder:
- 5 Builder's licence number:
- 6 Date of issue of insurance:
- 7 Description of insured building work:

### Exemption from holding insurance under the *Building Work Contractors Act 1995*

If particulars of insurance are not given—

Has an exemption been granted under section 45 of the *Building Work Contractors Act 1995* from the requirement to hold an insurance policy in accordance with Division 3 of Part 5 of that Act? \*YES/NO

If YES, give details:

- (a) Date of the exemption:
- (b) Name of builder granted the exemption:
- (c) Licence number of builder granted the exemption:
- (d) Details of building work to which the exemption applies:
- (e) Details of conditions (if any) to which the exemption is subject:

### †Particulars relating to asbestos in buildings on land

**Note—**

*Asbestos* means asbestos as defined in the *Occupational Health, Safety and Welfare Regulations 1995*.

Is there a building on the land (other than a private residence) where material that consists of or contains asbestos is installed? \*YES/NO

If YES—

- (a) Is there a register of the type, condition and location of the asbestos? \*YES/NO
- (b) Have policies and procedures been established to control the asbestos and prevent or minimise the exposure of any person to airborne asbestos fibres? \*YES/NO  
If YES, give details:
- (c) Is any asbestos to be removed before settlement? \*YES/NO  
If YES, give details:

### †Particulars relating to court or tribunal process

If process has issued out of any court or tribunal in relation to a claim—

- (a) that is stated to affect the land or the value of which is \$5 000 or more; and
- (b) that presently affects (or may prospectively affect) title to, or the possession or enjoyment of, the land,

the vendor must provide the following particulars:

- 1 Name of court or tribunal:
- 2 Names of parties:
- 3 Nature of claim:
- 4 Amount of claim (if applicable):
- 5 Amount of judgment (if applicable):
- 6 Name of judgment creditor (if applicable):

### †Particulars of water allocation for irrigation purposes

#### †1—Land in an irrigation district under the *Irrigation Act 1994*

If the land forms part of an irrigation district constituted by or under the *Irrigation Act 1994*—

- (a) Specify the amount of the water allocation in respect of the land under that Act:
- (b) Is there an existing agreement to transfer the whole or part of the water allocation from the land or to purchase an additional allocation for the benefit of the land? \*YES/NO  
If YES, attach a copy of the agreement.
- (c) Has the irrigation authority given notice under section 47(2) of that Act of a proposal to exclude the land from the irrigation district? \*YES/NO  
If YES, attach a copy of the notice.
- (d) Has the irrigation authority given notice under section 54 of that Act? \*YES/NO  
If YES, specify—
  - (i) the date on which notice was given:
  - (ii) the requirements of the notice:
  - (iii) the amount (if any) payable under section 54(7) of that Act:

## †2—Land in the Renmark Irrigation District

If the land is situated within the Renmark Irrigation District—

- (a) Specify the amount of the water allocation in respect of the land:
- (b) Set out any terms and conditions to which the supply of water is subject:
- (c) Has the Renmark Irrigation Trust given notice under section 65D of the *Renmark Irrigation Trust Act 1936* or regulation 33 of the *Renmark Irrigation Trust Regulations 1994*? \*YES/NO  
If YES, specify—
  - (i) the date on which notice was given:
  - (ii) the requirements of the notice:
  - (iii) the amount (if any) payable under section 65D(3)(b) or regulation 33:

## †3—Land not within any kind of irrigation district

- (1) If the land is neither part of an irrigation district constituted by or under the *Irrigation Act 1994* nor situated within the Renmark Irrigation District, is there an existing agreement under section 37 of that Act for the supply of water to the land? \*YES/NO
- †(2) If YES and the agreement is a notional agreement by virtue of clause 5 of Schedule 2 of that Act—
  - (a) Has the irrigation authority given notice under that clause of termination of the agreement? \*YES/NO  
If YES, specify—
    - (i) the date on which notice was given:
    - (ii) the date of termination of the agreement:
  - (b) Is there an existing agreement to transfer the whole or part of the water allocation applying in respect of the land? \*YES/NO  
If YES, attach a copy of the agreement;
  - (c) Has the irrigation authority given notice under section 54 of that Act? \*YES/NO  
If YES, specify—
    - (i) the date on which notice was given:
    - (ii) the requirements of the notice:
    - (iii) the amount (if any) payable under section 54(7) of that Act:

### Note—

A notional agreement for the supply of water exists under clause 5 of Schedule 2 of the *Irrigation Act 1994* if—

- (a) immediately before 1 July 1994 a water allocation applied in respect of land under any of the following Acts: *Irrigation Act 1930*, *The Irrigation on Private Property Act 1939*, *The Lower River Broughton Irrigation Trust Act 1938*, *The Kingsland Irrigation Company Act 1922*, *The Pyap Irrigation Trust Act 1923* or *The Ramco Heights Irrigation Act 1963*; and

- (b) water was supplied to the land, or drained from the land, under an Act referred to in paragraph (a) during the rating period occurring immediately before 1 July 1994; and
- (c) the land is not land used to carry on the business of primary production (managed as a single unit for the purpose) to which a water allocation applies under the *Irrigation Act 1994*.

†(2) If YES and the agreement is not a notional agreement—

- (a) Attach a copy of the agreement.
- (b) Does the agreement continue for the benefit of successive occupiers of the land? \*YES/NO
- (c) Has the irrigation authority given notice under section 54 of that Act? \*YES/NO  
If YES, specify—
  - (i) the date on which notice was given:
  - (ii) the requirements of the notice:
  - (iii) the amount (if any) payable under section 54(7) of that Act:

## †Particulars relating to environment protection

### 1—Interpretation

(1) In this and the following items (items 1 to 6 inclusive)—

**domestic activity** has the same meaning as in the *Environment Protection Act 1993*;

**environmental assessment**, in relation to land, means an assessment of the existence or nature or extent of—

- (a) site contamination (within the meaning of the *Environment Protection Act 1993*) at the land; or
- (b) any other contamination of the land by chemical substances,

and includes such an assessment in relation to water on or below the surface of the land;

**EPA** means the Environment Protection Authority established under the *Environment Protection Act 1993*;

**pre-1 July 2009 site audit**, in relation to land, means a review (carried out by a person recognised by the EPA as an environmental auditor) that examines environmental assessments or remediation of the land for the purposes of determining—

- (a) the nature and extent of contamination of the land by chemical substances present or remaining on or below the surface of the land; and
- (b) the suitability of the land for a particular use; and
- (c) what remediation is or remains necessary for a particular use,

but does not include a site contamination audit (as defined below) completed on or after 1 July 2009;

**pre-1 July 2009 site audit report** means a detailed written report that sets out the findings of a pre-1 July 2009 site audit;



*prescribed commercial or industrial activity*—see item 1(2);

*prescribed fee* means the fee prescribed under the *Environment Protection Act 1993* for inspection of, or obtaining copies of information on, the public register;

*public register* means the public register kept by the EPA under section 109 of the *Environment Protection Act 1993*;

*site contamination audit* has the same meaning as in the *Environment Protection Act 1993*;

*site contamination audit report* has the same meaning as in the *Environment Protection Act 1993*.

- (2) For the purposes of this and the following items (items 1 to 6 inclusive), each of the following activities (as defined in Schedule 1 Part 1 of the *Environment Protection (Site Contamination) Regulations 2008*) is a prescribed commercial or industrial activity:

abrasive blasting	acid sulphate soil generation	agricultural activities
airports, aerodromes or aerospace industry	animal burial	animal dips or spray race facilities
animal feedlots	animal saleyards	asbestos disposal
asphalt or bitumen works	battery manufacture, recycling or disposal	breweries
brickworks	bulk shipping facilities	cement works
ceramic works	charcoal manufacture	coal handling or storage
coke works	compost or mulch production or storage	concrete batching works
curing or drying works	defence works	desalination plants
dredge spoil disposal or storage	drum reconditioning or recycling works	dry cleaning
electrical or electronics component manufacture	electrical substations	electrical transformer or capacitor works
electricity generation or power plants	explosives or pyrotechnics facilities	fertiliser manufacture
fibreglass manufacture	fill or soil importation	fire extinguisher or retardant manufacture
fire stations	fire training areas	foundry
fuel burning facilities	furniture restoration	gasworks
glass works	glazing	hat manufacture or felt processing
incineration	iron or steel works	laboratories
landfill sites	lime burner	metal coating, finishing or spray painting
metal forging	metal processing, smelting, refining or metallurgical works	mineral processing, metallurgical laboratories or mining or extractive industries

mirror manufacture	motor vehicle manufacture	motor vehicle racing or testing venues
motor vehicle repair or maintenance	motor vehicle wrecking yards	mushroom farming
oil recycling works	oil refineries	paint manufacture
pest control works	plastics manufacture works	printing works
pulp or paper works	railway operations	rubber manufacture or processing
scrap metal recovery	service stations	ship breaking
spray painting	tannery, fellmongery or hide curing	textile operations
transport depots or loading sites	tyre manufacture or retreading	vermiculture
vessel construction, repair or maintenance	waste depots	wastewater treatment, storage or disposal
water discharge to underground aquifer	wetlands or detention basins	wineries or distilleries
wood preservation works	woolscouring or wool carbonising works	works depots (operated by councils or utilities)

**2—Pollution and site contamination on the land—questions for vendor**

- (1) Is the vendor aware of any of the following activities ever having taken place at the land:
- (a) storage, handling or disposal of waste or fuel or other chemicals (other than in the ordinary course of domestic activities)?
  - (b) importation of soil or other fill from a site at which—
    - (i) an activity of a kind listed in paragraph (a) has taken place; or
    - (ii) a prescribed commercial or industrial activity (see item 1(2) above) has taken place?

\*YES/NO

If YES, give details of all activities that the vendor is aware of and whether they have taken place before or after the vendor acquired an interest in the land:

- (2) Is the vendor aware of any prescribed commercial or industrial activities (see item 1(2) above) ever having taken place at the land?

\*YES/NO

If YES, give details of all activities that the vendor is aware of and whether they have taken place before or after the vendor acquired an interest in the land:

- (3) Is the vendor aware of any dangerous substances ever having been kept at the land pursuant to a licence under the *Dangerous Substances Act 1979*?

\*YES/NO

If YES, give details of all dangerous substances that the vendor is aware of and whether they were kept at the land before or after the vendor acquired an interest in the land:

- (4) Is the vendor aware of the sale or transfer of the land or part of the land ever having occurred subject to an agreement for the exclusion or limitation of liability for site contamination to which section 103E of the *Environment Protection Act 1993* applies?

\*YES/NO

If YES, give details of each sale or transfer and agreement that the vendor is aware of:

- (5) Is the vendor aware of an environmental assessment of the land or part of the land ever having been carried out or commenced (whether or not completed)?

\*YES/NO

If YES, give details of all environmental assessments that the vendor is aware of and whether they were carried out or commenced before or after the vendor acquired an interest in the land:

**Note—**

These questions relate to details about the land that may be known by the vendor. A "YES" answer to the questions at items 2(1) or 2(2) may indicate that a *potentially contaminating activity* has taken place at the land (see sections 103C and 103H of the *Environment Protection Act 1993*) and that assessments or remediation of the land may be required at some future time.

A "YES" answer to any of the questions in this item may indicate the need for the purchaser to seek further information regarding the activities, for example, from the council or the EPA.

### 3—Licences and exemptions recorded by EPA in public register

Does the EPA hold any of the following details in the public register:

- (a) details of a current licence issued under Part 6 of the *Environment Protection Act 1993* to conduct, at the land—
- (i) a waste or recycling depot (as referred to in clause 3(3) of Schedule 1 Part A of that Act); or
  - (ii) activities producing listed wastes (as referred to in clause 3(4) of Schedule 1 Part A of that Act)?

\*YES/NO

- (b) details of a licence no longer in force issued under Part 6 of the *Environment Protection Act 1993* to conduct, at the land—
- (i) a waste or recycling depot (as referred to in clause 3(3) of Schedule 1 Part A of that Act); or
  - (ii) activities producing listed wastes (as referred to in clause 3(4) of Schedule 1 Part A of that Act)?

\*YES/NO

- (c) details of a licence issued under the repealed *South Australian Waste Management Commission Act 1979* to operate a waste depot at the land?

\*YES/NO

- (d) details of a licence issued under the repealed *Waste Management Act 1987* to operate a waste depot at the land?

\*YES/NO

- (e) details of a licence issued under the repealed *South Australian Waste Management Commission Act 1979* to produce waste of a prescribed kind (within the meaning of that Act) at the land?  
\*YES/NO
- (f) details of a licence issued under the repealed *Waste Management Act 1987* to produce prescribed waste (within the meaning of that Act) at the land?  
\*YES/NO

**Note—**

These questions relate to details about licences and exemptions required to be recorded by the EPA in the public register. If the EPA answers "YES" to any of the questions—

- in the case of a licence or exemption under the *Environment Protection Act 1993*—
  - the purchaser may obtain a copy of the licence or exemption from the public register on payment of the prescribed fee; and
  - the purchaser should note that transfer of a licence or exemption is subject to the conditions of the licence or exemption and the approval of the EPA (see section 49 of the *Environment Protection Act 1993*); and
- in the case of a licence under a repealed Act—the purchaser may obtain details about the licence from the public register on payment of the prescribed fee.

A "YES" answer to any of these questions may indicate that a *potentially contaminating activity* has taken place at the land (see sections 103C and 103H of the *Environment Protection Act 1993*) and that assessments or remediation of the land may be required at some future time.

The EPA will not provide details about licences to conduct the following prescribed activities of environmental significance (within the meaning of Schedule 1 Part A of the *Environment Protection Act 1993*): waste transport business (category A), waste transport business (category B), dredging, earthworks drainage, any other activities referred to in Schedule 1 Part A undertaken by means of mobile works, helicopter landing facilities, marinas and boating facilities or discharges to marine or inland waters.

The EPA will not provide details about exemptions relating to—

- the conduct of any of the licensed activities in the immediately preceding paragraph in this note; or
- noise.

#### **4—Pollution and site contamination on the land—details recorded by EPA in public register**

Does the EPA hold any of the following details in the public register in relation to the land or part of the land:

- (a) details of serious or material environmental harm caused or threatened in the course of an activity (whether or not notified under section 83 of the *Environment Protection Act 1993*)?  
\*YES/NO
- (b) details of site contamination notified to the EPA under section 83A of the *Environment Protection Act 1993*?  
\*YES/NO

- (c) a copy of a report of an environmental assessment (whether prepared by the EPA or some other person or body and whether or not required under legislation) that forms part of the information required to be recorded in the public register?  
\*YES/NO
- (d) a copy of a site contamination audit report?  
\*YES/NO
- (e) details of an agreement for the exclusion or limitation of liability for site contamination to which section 103E of the *Environment Protection Act 1993* applies?  
\*YES/NO
- (f) details of an agreement entered into with the EPA relating to an approved voluntary site contamination assessment proposal under section 103I of the *Environment Protection Act 1993*?  
\*YES/NO
- (g) details of an agreement entered into with the EPA relating to an approved voluntary site remediation proposal under section 103K of the *Environment Protection Act 1993*?  
\*YES/NO
- (h) details of a notification under section 103Z(1) of the *Environment Protection Act 1993* relating to the commencement of a site contamination audit?  
\*YES/NO
- (i) details of a notification under section 103Z(2) of the *Environment Protection Act 1993* relating to the termination before completion of a site contamination audit?  
\*YES/NO
- (j) details of records, held by the former South Australian Waste Management Commission under the repealed *Waste Management Act 1987*, of waste (within the meaning of that Act) having been deposited on the land between 1 January 1983 and 30 April 1995?  
\*YES/NO

**Note—**

These questions relate to details required to be recorded by the EPA in the public register. If the EPA answers "YES" to any of the questions, the purchaser may obtain those details from the public register on payment of the prescribed fee.

**5—Pollution and site contamination on the land—other details held by EPA**

Does the EPA hold any of the following details in relation to the land or part of the land:

- (a) a copy of a report known as a "Health Commission Report" prepared by or on behalf of the South Australian Health Commission (under the repealed *South Australian Health Commission Act 1976*)?  
\*YES/NO

- (b) details (which may include a report of an environmental assessment) relevant to an agreement entered into with the EPA relating to an approved voluntary site contamination assessment proposal under section 103I of the *Environment Protection Act 1993*?  
\*YES/NO
- (c) details (which may include a report of an environmental assessment) relevant to an agreement entered into with the EPA relating to an approved voluntary site remediation proposal under section 103K of the *Environment Protection Act 1993*?  
\*YES/NO
- (d) a copy of a pre-1 July 2009 site audit report?  
\*YES/NO
- (e) details relating to the termination before completion of a pre-1 July 2009 site audit?  
\*YES/NO

**Note—**

These questions relate to details that the EPA may hold. If the EPA answers "YES" to any of the questions, the purchaser may obtain those details from the EPA (on payment of any fee fixed by the EPA).

## **6—Further information for purchasers**

**Note—**

The purchaser is advised that other matters under the *Environment Protection Act 1993* (that is, matters other than those referred to in this Statement) that may be relevant to the purchaser's further enquiries may also be recorded in the public register. These include:

- details relating to environmental authorisations such as applications, applicants, locations of activities, conditions, suspension, cancellation or surrender of authorisations, disqualifications, testing requirements and test results;
- details relating to activities undertaken on the land under licences or other environmental authorisations no longer in force;
- written warnings relating to alleged contraventions of the *Environment Protection Act 1993*;
- details of prosecutions and other enforcement action;
- details of civil proceedings;
- other details prescribed under the *Environment Protection Act 1993* (see section 109(3)(1)).

Details of these matters may be obtained from the public register on payment to the EPA of the prescribed fee.

**If—**

- an environment performance agreement, environment protection order, clean-up order, clean-up authorisation, site contamination assessment order or site remediation order has been registered on the certificate of title for the land; or
- a notice of declaration of special management area in relation to the land has been gazetted; or
- a notation has been made on the certificate of title for the land that a site contamination audit report has been prepared in respect of the land; or

- a notice of prohibition or restriction on taking water affected by site contamination in relation to the land has been gazetted,

it will be noted in the items under the heading *Environment Protection Act 1993* under the Table of Particulars in this Statement. Details of any registered documents may be obtained from the Lands Titles Registration Office.

### †Particulars relating to *Livestock Act 1997*

- 1 Has any notice under section 33 or 37 of the *Livestock Act 1997* been made that affects, presently or prospectively, enjoyment of the land? \*YES/NO  
If YES, give details of the following:

Date of notice:

Terms of notice:

- 2 Has any order under section 38, or notice under section 72, of the *Livestock Act 1997* been issued to the vendor in relation to the land or any building on the land?  
\*YES/NO  
If YES, give details of the following:

Date of order or notice:

Terms of order or notice:

### †Schedule—Division 3—Community lots and strata units

#### Matters to be considered in purchasing a community lot or strata unit

The property you are buying is on strata or community title. There are **special obligations and restrictions** that go with this kind of title. Make sure you understand these. If unsure, seek legal advice before signing a contract. For example:

#### Governance

You will automatically become a member of the **body corporate**, which includes all owners and has the job of maintaining the common property and enforcing the rules. Decisions, such as the amount you must pay in levies, will be made by vote of the body corporate. You will need to take part in meetings if you wish to have a say. If outvoted, you will have to live with decisions that you might not agree with.

If you are buying into a mixed use development (one that includes commercial as well as residential lots), owners of some types of lots may be in a position to outvote owners of other types of lots. Make sure you fully understand your voting rights, see later.

#### Use of your property

You, and anyone who visits or occupies your property, will be bound by rules in the form of **articles or by-laws**. These can restrict the use of the property, for example, they can deal with keeping pets, car parking, noise, rubbish disposal, short-term letting, upkeep of buildings and so on. Make sure that you have read the articles or by-laws before you decide whether this property will suit you.

Depending on the rules, you might not be permitted to make changes to the exterior of your unit, such as installing a television aerial or an air-conditioner, building a pergola, attaching external blinds etc without the permission of the body corporate. A meeting may be needed before permission can be granted. Permission may be refused.

Note that the articles or by-laws **could change** between now and when you become the owner: the body corporate might vote to change them. Also, if you are buying before the community plan is registered, then any by-laws you have been shown are just a draft.

### **Are you buying a debt?**

If there are unpaid contributions owing on this property, you can be made to pay them. You are entitled to **know the financial state of the body corporate** and you should make sure you see its records before deciding whether to buy. As a prospective owner, you can write to the body corporate requiring to see the records, including minutes of meetings, details of assets and liabilities, contributions payable, outstanding or planned expenses and insurance policies. There is a fee. To make a request, write to the secretary or management committee of the body corporate.

### **Expenses**

The body corporate can **require you to maintain your property**, even if you do not agree, or can carry out maintenance and bill you for it.

The body corporate can **require you to contribute** to the cost of upkeep of the common property, even if you do not agree. Consider what future maintenance or repairs might be needed on the property in the long term.

### **Guarantee**

As an owner, you are a **guarantor** of the liabilities of the body corporate. If it does not pay its debts, you can be called on to do so. Make sure you know what the liabilities are before you decide to buy. Ask the body corporate for copies of the financial records.

### **Contracts**

The body corporate can make contracts. For example, it may engage a body corporate manager to do some or all of its work. It may contract with traders for maintenance work. It might engage a caretaker to look after the property. It might make any other kind of contract to buy services or products for the body corporate. Find out **what contracts the body corporate is committed to and the cost**.

The body corporate will have to raise funds from the owners to pay the money due under these contracts. As a guarantor, you could be liable if the body corporate owes money under a contract.

### **Buying off the plan**

If you are buying a property that has not been built yet, then you **cannot be certain** what the end product of the development process will be. If you are buying before a community plan has been deposited, then any proposed development contract, scheme description or by-laws you have been shown could change.



### **Mixed use developments—voting rights**

You may be buying into a group that is run by several different community corporations. This is common in mixed use developments, for example, where a group of apartments is combined with a hotel or a group of shops. If there is more than one corporation, then you should not expect that all lot owners in the group will have equal voting rights. The corporations may be structured so that, even though there are more apartments than shops in the group, the shop-owners can outvote the apartment owners on some matters. Make enquiries so that you understand how many corporations there are and what voting rights you will have.

### **Further information**

The Real Estate Institute of South Australia provides an information service for enquiries about real estate transactions, see [www.reisa.com.au](http://www.reisa.com.au).

Information and a booklet about strata and community titles is available from the Legal Services Commission of South Australia at [www.lsc.sa.gov.au](http://www.lsc.sa.gov.au).

You can also seek advice from a legal practitioner.

## **Form 2—Vendor's statement (section 8)**

*Land and Business (Sale and Conveyancing) Act 1994*

### **Contents**

Preliminary

Part A—Parties and business

Part B—Purchaser's cooling-off rights and proceeding with the purchase

Part C—Statement with respect to required particulars

Part D—Certificate of qualified accountant with respect to trading statement

†Part E—Certificate with respect to prescribed inquiries by registered agent

Schedule 1

†Schedule 2

### **Preliminary**

#### **To the purchaser:**

The purpose of a statement under section 8 of the *Land and Business (Sale and Conveyancing) Act 1994* is to put you on notice of certain particulars concerning the business to be acquired and any land to be acquired as part of that business.

If you intend to carry out building work on the land, change the use of the land or divide the land, you should make further inquiries to determine whether this will be permitted. For example, building work may not be permitted on land not connected to a sewerage system or common drainage scheme if the land is near a watercourse, dam, bore or the River Murray and Lakes.

The *Aboriginal Heritage Act 1988* protects any Aboriginal site or object on the land. Details of any such site or object may be sought from the "traditional owners" as defined in that Act.

If you desire additional information, it is up to you to make further inquiries as appropriate.

**Instructions to the vendor for completing this statement:**

† means strike out or omit the Part, Schedule, Division, Particulars or item if not applicable.

\* means strike out or omit the option that is not applicable.

If there is insufficient space to provide any particulars required, continue on attachments.

The particulars set out under the headings "Particulars relating to environment protection" and "Particulars relating to *Livestock Act 1997*" in Schedule 2 Division 2 must be included if the matters set out under those headings affect, presently or prospectively, the business the subject of the sale, regardless of whether land is sold under the contract for sale of the business. If land is sold under the contract, the particulars must be included in relation to both the land and the business the subject of the sale.

**Part A—Parties and business**

- 1 Purchaser:  
Address:
- †2 Purchaser's registered agent:  
Address:
- 3 Vendor:  
Address:
- †4 Vendor's registered agent:  
Address:
- 5 Date of contract (if made before this statement is served):
- 6 Description of business:  
Address where business carried on:
- †7 Description of the land:  
*[Identify the land including any certificate of title reference]*

**Part B—Purchaser's cooling-off rights and proceeding with the purchase**

**To the purchaser:**

**Right to cool-off**

(section 5)

**1—Right to cool-off and restrictions on that right**

You may notify the vendor of your intention not to be bound by the contract for the sale of the business UNLESS—

- (a) this form has been served on you not less than 5 clear business days before the making of the contract; or
- (b) you have, before signing the contract, received independent legal advice from a legal practitioner and the legal practitioner has signed a certificate in the prescribed form as to the giving of that advice; or
- (c) you purchased by auction; or
- (d) you purchased on the same day as you, or some person on your behalf, bid at the auction of the business; or

- (e) the sale is by tender and the contract is made not less than 5 clear business days after the day fixed for the closing of tenders and not less than 5 clear business days after service of this form; or
- (f) the contract is made by the exercise of an option to purchase the business not less than 5 clear business days after the grant of the option and not less than 5 clear business days after service of this form; or
- (g) the business is not a small business.

## 2—Time for service

The cooling-off notice must be served—

- (a) before the end of the fifth clear business day after the day on which this form is served on you; or
  - (b) before settlement takes place,
- whichever is the earlier.

## 3—Form of cooling-off notice

The cooling-off notice must be in writing and must be signed by you.

## 4—Methods of service

The cooling-off notice must be—

- (a) given to the vendor personally; or
- (b) posted by registered post to the vendor at the following address:  
(being the vendor's last known address); or
- (c) transmitted by fax to the following fax number:  
(being a number provided to you by the vendor for the purpose of service of the notice); or
- (d) left for the vendor's agent (with a person apparently responsible to the agent) at, or posted by registered post to the agent at, the following address:  
(being \*the agent's address for service under the *Land Agents Act 1994*/an address nominated by the agent to you for the purpose of service of the notice).

### Note—

Section 5(3) of the *Land and Business (Sale and Conveyancing) Act 1994* places the onus of proving the giving of the cooling-off notice on the purchaser. It is therefore strongly recommended that—

- (a) if you intend to serve the notice by leaving it for the vendor's agent at the agent's address for service or an address nominated by the agent, you obtain an acknowledgment of service of the notice in writing;
- (b) if you intend to serve the notice by fax, you obtain a transmission report in relation to the sending of the fax.

## 5—Effect of service

If you serve such a cooling-off notice on the vendor, the contract will be taken to have been rescinded at the time when the notice was served. You are then entitled to the return of any money you paid under the contract other than—

- (a) the amount of any deposit paid if the deposit did not exceed \$100; or
- (b) an amount paid for an option to purchase the business.

## Proceeding with the purchase

If you wish to proceed with the purchase—

- (a) it is strongly recommended that you take steps to make sure that the business and your interest in the property are adequately insured against loss or damage;
- (b) pay particular attention to the provisions in the contract as to time of settlement—it is essential that the necessary arrangements are made to complete the purchase by the agreed date—if you do not do so, you may be in breach of the contract;
- (c) you are entitled to retain the solicitor or registered conveyancer of your choice.

## Part C—Statement with respect to required particulars

(section 8(1))

**To the purchaser:**

\*I/We,  
of  
being the \*vendor(s)/person authorised to act on behalf of the vendor(s) in relation to the transaction state—

- (a) that the particulars set out in Schedule 1—
  - (i) are correct; and
  - (ii) are the particulars in relation to the business required to be given to you pursuant to section 8(1)(b) of the *Land and Business (Sale and Conveyancing) Act 1994* (the *Act*); and
- †(b) that the sale of the business involves the sale of land and that Schedule 2 contains all particulars required to be given to you pursuant to section 7(1) of the Act.

Date:

Signed:

## Part D—Certificate of qualified accountant with respect to trading statement

(section 8(2))

**To the purchaser:**

I,  
†for [name of business that the accountant represents]  
of  
being a member of [professional accounting body]  
and a qualified accountant, certify—

(a) that \*I have/a person acting on my behalf has examined the records and accounts of the business for each of the financial years recorded on the trading statement in Division 1 of Schedule 1; and

†(b) that—

- (i) in my opinion, the trading statement fairly and accurately represents the financial operations of the business; and
- (ii) I am not aware of any circumstances that would render any particulars included in the trading statement inaccurate or misleading.

OR

†(b) that—

- †(i) in my opinion, the trading statement fairly and accurately represents the financial operations of the business, subject to the following qualifications: *[Insert qualifications];* and

OR

- †(i) in my opinion, the trading statement may not fairly and accurately represent the financial operations of the business because: *[Provide clarification on individual items contained in Division 1 of Schedule 1 or general comments on the information contained in the records and accounts of the business, eg comments on the state of the records or accounts, the basis for deriving results, highlight and comment on included estimates etc. If space is insufficient, continue on attachments.];* and
- (ii) I am not aware of any other circumstances that would render any particulars included in the trading statement inaccurate or misleading.

Date:

Signed:

Note—

This certificate must be signed by the accountant personally and cannot be signed by the vendor even if he or she is a qualified accountant.

## †Part E—Certificate with respect to prescribed inquiries by registered agent

(section 9)

### To the purchaser:

I,  
certify \*that the responses/that, subject to the exceptions stated below, the responses to the inquiries made pursuant to section 9 of the *Land and Business (Sale and Conveyancing) Act 1994* confirm the completeness and accuracy of the particulars set out in Schedule 2.  
Exceptions:

Date:

Signed:

\*Vendor's/Purchaser's agent

\*Person authorised to act on behalf of \*Vendor's/Purchaser's agent

## Schedule 1—Division 1—Prescribed particulars relating to business

### (section 8(1)(b))

**Note—**

*Financial year* means the year in respect of which the accounts of the business are made up. If by reason of any alteration of the date on which the financial year of the business terminates, the accounts have been made up for a period greater or less than 1 year, that period may be regarded as a financial year.

If the vendor has carried on the business for less than 3 financial years, this statement must be completed for the period commencing on the day that the vendor commenced to carry on the business and ending immediately prior to the first day of the following financial year, and thereafter for each successive financial year.

If the vendor has carried on the business for a period in which the financial year does not terminate, this statement applies to the period from the day on which the vendor commenced to carry on the business to the date specified in this Schedule.

### 1—Summary

Name of vendor:

Location of business:

Date vendor commenced in the business:

Financial Year or Period	Average Weekly Sales \$	Gross Income Per Annum/Week \$	Overhead Costs Per Annum/Week \$	Net Profit Per Annum/Week \$	Normal Daily Trading Hours From: To:
Commencing on:					S
Ending on:					M T W T F S
Commencing on:					S
Ending on:					M T W T F S
Commencing on:					S
Ending on:					M T W T F S

### 2—Plant and equipment

Depreciated value of plant and equipment as at the end of the last financial year: \$

**Note—**

A depreciation Schedule must be attached.

### 3—Trading statement for last 3 financial years

	Period From: To:	Period From: To:	Period From: To:
Gross takings (sales)			
<i>Less:</i>			
cost of goods sold			
opening stock			
<i>plus</i> purchases			
<i>less</i> closing stock			
Profit from sales	\$	\$	\$
Profit from sales as a percentage of gross takings		%	%    %
<i>Add</i>			
other income received:			
fees			
commissions			
other [ <i>specify</i> ]			
<b>GROSS INCOME</b>	\$	\$	\$
<i>Less:</i>			
Advertising			
Accounting fees			
Bad debts			
ADI charges (excluding interest)			
Cleaning and laundry			
Depreciation			
Directors' fees			
Equipment hire			
Insurance			
Leasing or rental purchase of:			
• equipment/plant			
• motor vehicles			
Licences, trade subscriptions			
Light and power			
Motor vehicles expenses			
Rates and taxes			
Rent			
Repairs and maintenance			
Stamps (for resale)			

	<b>Period From: To:</b>	<b>Period From: To:</b>	<b>Period From: To:</b>
Stationery and postage			
Superannuation employer contributions:			
• award/productivity superannuation			
• Commonwealth superannuation guarantee charge/levy			
• employer superannuation scheme			
Telephone			
Training expenses (other than by way of wages or salary paid to employee)			
Wages and salaries			
WorkCover levy			
Wrappings			
Sundries			
Other expenses [ <i>specify</i> ]			
Trading Profit	\$	\$	\$
<i>Add:</i>			
Personal expenses of owner (ie drawings) where included above			
Goods taken for own use			
Private expenses/cash			
(Proprietor's) wages			
NET PROFIT	\$	\$	\$
Net profit before income tax as a percentage of gross income		%	%      %

**Schedule 1—Division 2—Further prescribed particulars relating to business**

**(section 8(1)(b))**

- 1 (1) The vendor has carried on the business for a period of \_\_\_\_\_ \*years/months commencing on:
- (2) The vendor has carried on the business at the present location for \_\_\_\_\_ \*years/months.



- (3) The name of the registered proprietor of the fee simple of the location at which the business is presently carried on is:

†The name of the person who granted to the vendor the lease or licence to occupy that location is:

**Note—**

If the purchaser is not acquiring the fee simple of the location at which the business is presently carried on, it is necessary for the purchaser to ensure that he or she has a right to occupy the location.

- 2 (1) The vendor's \*lease/tenancy agreement/licence is \*verbal/in writing but not registered on the certificate of title/registered on the certificate of title.
- (2) The particulars of the vendor's \*lease/tenancy agreement/licence are as follows:
- (a) date of current \*lease/tenancy agreement/licence:
  - (b) term of current \*lease/tenancy agreement/licence:
  - (c) date of expiry of current \*lease/tenancy agreement/licence:
  - (d) rates and taxes payable by \*landlord/licensor:
  - (e) rates and taxes payable by \*tenant/licensee:
  - (f) right of renewal for the following period:
  - (g) present rent: \$                      per
  - (h) due date for next adjustment of rent:
  - (i) rent adjustment provisions for the term of the \*lease/tenancy agreement/licence:
- (3) Have any written notices been given by the landlord or licensor to the vendor pursuant to the terms of the \*lease/tenancy agreement/licence that have not been complied with? \*YES/NO  
If YES, give details:
- (4) Is the vendor aware of any written notice served on the landlord or licensor, or any circumstance, that may prospectively have a significant adverse effect on the business? \*YES/NO  
If YES, give details:
- 3 (1) The following goods (including plant, equipment, fixtures, fittings and stock in trade) in which any person has a present or contingent interest (whether by virtue of a mortgage, charge, lease or otherwise) are included in the sale:
- | Description of goods   | Nature of interest and date of grant or creation | Name and address of person entitled to that interest |
|--|--|--|
| <p>(2) The following goods may have been used by the vendor or may have been included in the vendor's books of account (including depreciation Schedules) but are to be retained by the vendor and <u>not</u> sold to the purchaser of the business:</p> |  |  |
- 4 Has any order been given under section 46 of the *Food Act 2001* prohibiting the use of unclean, insanitary or unfit equipment for the manufacture, processing, transportation, preservation, display or other handling of food for sale? \*YES/NO  
If YES, specify—

Date order given:

Name of authority or person giving the order:

Requirements of the order:

- 5 (1) Is any plant to be sold that contains, or has on it, any material that consists of or contains asbestos? \*YES/NO  
If YES—
- (a) Is there a register of the type, condition and location of the asbestos?  
\*YES/NO
  - (b) Have policies and procedures been established to control the asbestos and to prevent or minimise the exposure of any person to airborne asbestos fibres?  
\*YES/NO  
If YES, give details:
  - (c) Is any asbestos to be removed before settlement? \*YES/NO  
If YES, give details:
- (2) Is there any building (other than a private residence) used in the business where any material that consists of or contains asbestos is installed? \*YES/NO  
If YES—
- (a) Is there a register of the type, condition and location of the asbestos?  
\*YES/NO
  - (b) Have policies and procedures been established to control the asbestos and to prevent or minimise the exposure of any person to airborne asbestos fibres?  
\*YES/NO  
If YES, give details:
  - (c) Is any asbestos to be removed before settlement? \*YES/NO  
If YES, give details:

**Note—**

*Asbestos* means asbestos as defined in the *Occupational Health, Safety and Welfare Regulations 1995*.

- 6 During the period between the end of the most recent financial year or period covered in the summary of Division 1 of Schedule 1 and the date appearing in Part C of this statement—
- (a) the business \*was/was not satisfactorily maintained
  - (b) no circumstances adversely affecting the business arose except the following:
  - (c) the average weekly sales have been: \$
  - (d) the daily hours of trading have been:
- 7 During the period referred to in item 6, have any circumstances arisen or have any trading practices been adopted (including any substantial discounting of goods or services) that have affected—
- (a) the gross profit of the business in dollar terms? \*YES/NO
  - (b) the gross profit of the business in percentage terms? \*YES/NO

If the answer to either question is YES, give full particulars:

- †8 (1) The asking price of the business (excluding stock and freehold interest in land (if any) being sold) is:
- (2) The estimated value of stock to be acquired with the business is:
- (3) The asking price for the business (including estimated value of stock but excluding price for land sold) is:
- († Strike out or omit this item if the sale is by auction)
- 9 (1) Does the business operate as a \*company/sole trader/partnership/association, charitable or other organisation?
- (2) Does the vendor work in the business? \*YES/NO
- (3) Does any other person work in the business? \*YES/NO
- (4) If the business operates as a partnership, are all of the other persons who work in the business partners in the business? \*YES/NO
- (5) Has the vendor ever been registered with WorkCover Corporation as an employer? \*YES/NO  
If YES, is the vendor currently so registered? \*YES/NO
- (6) Is a WorkCover Statement attached for each location of the business? \*YES/NO

**Note—**

**WorkCover Statement** means the *WorkCover Statement For Sale of a Business* issued by the WorkCover Corporation in a form approved by the Corporation.

The WorkCover Statement must be attached if any person is employed in the business.

**To the purchaser:**

You must register with WorkCover Corporation as an employer within 14 days of commencing to employ workers otherwise significant penalties may be imposed.

You should determine whether the vendor has any workers that are being paid workers compensation (particularly where their employment has been or is about to be terminated). If an injured worker's employment has been or is about to be terminated, you may be required to take on the vendor's obligations under the *Workers Rehabilitation and Compensation Act 1986*. The net levy rate payable by you (compared to that currently paid by the vendor) may be affected by your willingness to retain, employ or re-employ disabled workers with compensable injuries.

- 10 The following persons (including the vendor and members of the vendor's family whether or not remunerated) are engaged in the business in the following full-time and part-time positions on the days, for the hours and at the rates of pay set out below:

<sup>1</sup> Position/functions (if any)	Relationship to vendor	Days per week	Hours per ...	Rate of pay
				\$            per

<sup>1</sup>If a person works in the business more than 20 hours per week, also provide the employee's name in the first column.

Where the days or hours worked, or the rate of pay, or both, cannot be described as required above, provide alternative details:

- 11 Is there any current entitlement in excess of 3 working days in respect of any employee to—

- (a) Long service leave \*YES/NO
  - (b) Annual recreation leave \*YES/NO
  - (c) Sick leave \*YES/NO
  - (d) Other leave \*YES/NO
- If YES, specify type of leave:

12 The vendor's income tax return was lodged by—

Name:

Address:

Occupation:

The year of the last return being:

## †Schedule 2—Division 1—Particulars of mortgages, charges and prescribed encumbrances affecting the land

### (section 7(1)(b))

#### Note—

Section 7(3) of the Act provides that this statement need not include reference to charges arising from the imposition of rates or taxes less than 12 months before the date of service of the statement.

All the particulars required by column 3 of the table below in relation to a mortgage, charge or prescribed encumbrance referred to in column 1 must be set out in column 3 unless—

- (a) a copy of a document is attached to this statement and—
  - (i) all the required particulars are contained in that document; and
  - (ii) those parts of the document that contain the required particulars are identified in column 3; or
- (b) the mortgage, charge or prescribed encumbrance—
  - (i) is one of the following items in the table:
    - (A) under the heading "General"—
      - Lease, agreement for lease, tenancy agreement or licence
      - Mortgage of land;
    - (B) under the heading "Other"—
      - Caveat
      - Lien or notice of a lien
      - Charge of any kind affecting the land (not included in another item); and
  - (ii) is registered on the certificate of title to the land; and
  - (iii) is to be discharged or satisfied prior to or at settlement.

**Table of particulars**

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
<b>Part 1—Items that must be included in statement</b>		
<i>[If an item is not applicable strike it out or write "NOT APPLICABLE" or "N/A" in column 1.]</i>		
<b>General</b>		
Easement (whether over the land or annexed to the land) Note—"Easement" includes rights of way and party wall rights.	*YES/NO	Description of land subject to easement:  Nature of easement:  Are you aware of any encroachment on the easement? *YES/NO (If YES, give details):  If there is an encroachment, has approval for the encroachment been given? *YES/NO (If YES, give details):  <i>[attach additional page(s) if more than 1 easement]</i>
Lease, agreement for lease, tenancy agreement or licence  (The information does not include information about any sublease or subtenancy. That information may be sought by the purchaser from the lessee or tenant or sublessee or subtenant.)	*YES/NO	Names of parties:  Period of lease, agreement for lease etc: From        to  Amount of rent or licence fee: \$        per        (period)  Is the lease, agreement for lease etc in writing? *YES/NO  If the lease or licence was granted under an Act relating to the disposal of Crown lands, specify—  (a)    the Act under which the lease or licence was granted:  (b)    the outstanding amounts due (including any interest or penalty):
Mortgage of land	*YES/NO	Number of mortgage (if registered): Name of mortgagee:

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
Restrictive covenant	*YES/NO	Nature of restrictive covenant:  Name of person in whose favour restrictive covenant operates:  Does the restrictive covenant affect the whole of the land being acquired? *YES/NO (If NO, give details):  Does the restrictive covenant affect land other than that being acquired? *YES/NO
<b><i>Development Act 1993</i></b>		
Part 3—Development Plan	*YES/NO	Title or other brief description of zone or policy area in which the land is situated (as shown in the Development Plan):  Is the land situated in a designated State Heritage Area? *YES/NO  Is the land designated as a place of local heritage value? *YES/NO  Is there a current Development Plan Amendment released for public consultation by a council on which consultation is continuing or on which consultation has ended but whose proposed amendment has not yet come into operation? *YES/NO  If YES, state the name of the council:  Is there a current Development Plan Amendment released for public consultation by the Minister on which consultation is continuing or on which consultation has ended but whose proposed amendment has not yet come into operation? *YES/NO
section 42—Condition (that continues to apply) of a development authorisation	*YES/NO	Date of authorisation:  Name of relevant authority that granted authorisation:  Condition(s) of authorisation:

**Land and Business (Sale and Conveyancing) Regulations 1995—1.9.2009 to 28.2.2010**

Schedule 1—Contracts for sale of land or businesses—forms

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
<b>Repealed Act conditions</b>		
Condition (that continues to apply) of an approval or authorisation granted under the <i>Building Act 1971</i> (repealed), the <i>City of Adelaide Development Control Act 1976</i> (repealed), the <i>Planning Act 1982</i> (repealed) or the <i>Planning and Development Act 1966</i> (repealed)	*YES/NO	Nature of condition(s):
<b>Part 2—Items to be included if land affected</b>		
<i>[If an item is not applicable, strike it out or write "NOT APPLICABLE" or "N/A" in column 1, or else omit the items and headings that are not applicable.]</i>		
<b>Aboriginal Heritage Act 1988</b>		
section 9—Registration in central archives of an Aboriginal site or object	*YES/NO	Particulars of register entry:
section 24—Directions prohibiting or restricting access to, or activities on, a site or an area surrounding a site	*YES/NO	Date of notice: Site or area to which notice relates: Directions (as stated in notice):
Part 3 Division 6—Aboriginal heritage agreement	*YES/NO	Date of agreement: Description of property subject to agreement: Names of parties: Terms of agreement:
<b>Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986 (repealed)</b>		
section 60—Notice for costs of destruction or control of plants on road reserve	*YES/NO	Date of notice: Name of control board giving notice: Amount payable (as stated in the notice):
<b>Crown Rates and Taxes Recovery Act 1945</b>		
section 5—Notice requiring payment	*YES/NO	Date of notice: Land in respect of which Crown rates and taxes are owing: Amount owing (as stated in the notice):
<b>Development Act 1993</b>		
section 50(1)—Requirement to vest land in a council or the Crown to be held as open space	*YES/NO	Date requirement given: Name of body giving requirement: Nature of requirement: Contribution payable (if any):



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Contracts for sale of land or businesses—forms—Schedule 1

<b>Column 1 Prescribed encumbrance</b>	<b>Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?</b>	<b>Column 3 Other particulars required</b>
section 50(2)—Agreement to vest land in a council or the Crown to be held as open space	*YES/NO	Date of agreement: Names of parties: Terms of agreement: Contribution payable (if any):
section 55—Order to remove or perform work	*YES/NO	Date of order: Terms of order: Building work (if any) required to be carried out: Amount payable (if any):
section 56—Notice to complete development	*YES/NO	Date of notice: Requirements of notice: Building work (if any) required to be carried out: Amount payable (if any):
section 57—Land management agreement	*YES/NO	Date of agreement: Names of parties: Terms of agreement:
section 60—Notice of intention by building owner	*YES/NO	Date of notice: Building work proposed (as stated in the notice): Other building work as required pursuant to the Act:
section 69—Emergency order	*YES/NO	Date of order: Name of authorised officer who made order: Name of authority that appointed the authorised officer: Nature of order: Amount payable (if any):
section 71—Fire safety notice	*YES/NO	Date of notice: Name of authority giving notice: Requirements of notice: Building work (if any) required to be carried out: Amount payable (if any):

**Land and Business (Sale and Conveyancing) Regulations 1995—1.9.2009 to 28.2.2010**

Schedule 1—Contracts for sale of land or businesses—forms

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
section 84—Enforcement notice	*YES/NO	Date notice given: Name of the relevant authority giving notice: Nature of directions contained in notice: Building work (if any) required to be carried out: Amount payable (if any):
section 85(6), 85(10) or 106— Enforcement order	*YES/NO	Date order made: Name of court that made order: Action number: Names of parties: Terms of order: Building work (if any) required to be carried out:
Part 11 Division 2—Proceedings	*YES/NO	Date of commencement of proceedings: Date of determination or order (if any): Terms of determination or order (if any):
<b><i>Emergency Services Funding Act 1998</i></b>		
section 16—Notice to pay levy	*YES/NO	Date of notice: Amount of levy payable:
<b><i>Environment Protection Act 1993</i></b>		
section 59—Environment performance agreement that is registered in relation to the land	*YES/NO	Date of agreement:
section 93—Environment protection order that is registered in relation to the land	*YES/NO	Date of issue: Compliance date(s) specified in the order:
section 93A—Environment protection order relating to cessation of activity that is registered in relation to the land	*YES/NO	Date of issue: Compliance date(s) specified in the order:
section 99—Clean-up order that is registered in relation to the land	*YES/NO	Date of issue: Compliance date(s) specified in the order: Amount of charge on the land (if applicable and known):

**1.9.2009 to 28.2.2010—Land and Business (Sale and Conveyancing) Regulations 1995**  
Contracts for sale of land or businesses—forms—Schedule 1

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
section 100—Clean-up authorisation that is registered in relation to the land	*YES/NO	Date of issue: Amount of charge on the land (if known):
section 103H—Site contamination assessment order that is registered in relation to the land	*YES/NO	Date of issue: Compliance date(s) specified in the order: Amount of charge on the land (if known):
section 103J—Site remediation order that is registered in relation to the land	*YES/NO	Date of issue: Compliance date(s) specified in the order: Amount of charge on the land (if known):
section 103N—Notice of declaration of special management area in relation to the land (due to possible existence of site contamination)	*YES/NO	Date of notice: Date of Gazette in which notice published: Description of area or areas to which the notice relates:
section 103P—Notation of site contamination audit report in relation to the land	*YES/NO	Date of notation: <b>Note—</b> Site contamination audit reports are kept by the EPA in the public register under section 109 of the <i>Environment Protection Act 1993</i> .
section 103S—Notice of prohibition or restriction on taking water affected by site contamination in relation to the land	*YES/NO	Date of notice: Date of Gazette in which notice published: Description of the water to which the notice relates: Particulars given in the notice of the site contamination affecting the water:

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Schedule 1—Contracts for sale of land or businesses—forms

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
<b><i>Fences Act 1975</i></b>		
section 5—Notice of intention to perform fencing work	*YES/NO	Date of notice:  Name and address of person to whom notice was given or from whom notice was received:  Particulars of relevant boundary:  Kind of fence proposed to be constructed or nature of work proposed to be done to existing fence:  Cost or estimated cost of fence or work (as stated in the notice):  Amount sought by proponent from adjoining owner (as stated in the notice):  If there is a cross-notice under section 6, give details of— (a) the proposals objected to: (b) the counter proposals:
<b><i>Fire and Emergency Services Act 2005</i></b>		
section 56—Notice of action required concerning flammable materials on land	*YES/NO	Date of notice:  Name of council:  Requirements of notice (as stated therein):  Amount payable (if any):
section 83—Notice of action required to protect against outbreak or spread of fire	*YES/NO	Date of notice:  Name of authority giving notice:  Requirements of notice (as stated therein):  Amount payable (if any):
<b><i>Food Act 2001</i></b>		
section 44—Improvement notice	*YES/NO	Date of notice:  Name of authorised officer who served notice:  Name of authority that appointed officer:  Requirements of notice:
section 46—Prohibition order	*YES/NO	Date of order:  Name of authority or person who served order:  Requirements of order:

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Contracts for sale of land or businesses—forms—Schedule 1

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
<b><i>Fruit and Plant Protection Act 1992</i></b>		
section 14 or 15—Notice or order concerning disease	*YES/NO	Date of notice or order: Date of Gazette in which notice published (if applicable): Nature of requirement, restriction or prohibition:
<b><i>Ground Water (Qualco-Sunlands) Control Act 2000</i></b>		
Part 6—risk management allocation	*YES/NO	Is a waterlogging and salinity risk management allocation attached to the whole or any part of the land? *YES/NO If YES, give details of the allocation and the land to which it is attached:
section 56—Notice to pay share of Trust costs, or for unauthorised use of water, in respect of irrigated property	*YES/NO	Date of notice: Amount payable (as stated in notice):
<b><i>Heritage Places Act 1993</i></b>		
section 14(2)(b)—Registration of an object of heritage significance	*YES/NO	Date of registration: Description and location of object registered:
section 17 or 18—Provisional registration or registration	*YES/NO	Description of place registered: Has the place been designated as a place of geological, palaeontological or speleological significance or archaeological significance? *YES/NO If YES, give details:
section 30—Stop order	*YES/NO	Date of order: Terms of order:
Part 6—Heritage agreement	*YES/NO	Date of agreement: Description of property subject to agreement: Names of parties: Terms of agreement:
section 38—"No development" order	*YES/NO	Date of order: Terms of order:
<b><i>Highways Act 1926</i></b>		
Part 2A—Declaration as to access from any road abutting the land	*YES/NO	Date of declaration: Description of boundary of land affected:

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## Schedule 1—Contracts for sale of land or businesses—forms

<b>Column 1</b> <b>Prescribed encumbrance</b>	<b>Column 2</b> <b>Is the encumbrance to be discharged or satisfied prior to or at settlement?</b>	<b>Column 3</b> <b>Other particulars required</b>
<b><i>Housing Improvement Act 1940</i></b>		
section 23—declaration that house is undesirable or unfit for human habitation	*YES/NO	Date of declaration: Those particulars required to be provided by a council under section 23:
Part 7 (rent control for substandard houses)—notice or declaration	*YES/NO	Date of notice or declaration: Those particulars required to be provided by the housing authority under section 60:
<b><i>Land Acquisition Act 1969</i></b>		
section 10—Notice of intention to acquire	*YES/NO	Date of notice: Name of Authority who served notice: Description of land intended to be acquired (as described in the notice):
<b><i>Land Tax Act 1936</i></b>		
Notice, order or demand for payment of land tax	*YES/NO	Date of notice, order or demand: Amount payable (as stated in the notice):
<b><i>Local Government Act 1934</i></b>		
Notice, order, declaration, charge, claim or demand given or made under the Act	*YES/NO	Date of notice, order etc: Name of council by which, or person by whom, notice, order etc is given or made: Land subject thereto: Nature of requirements contained in notice, order etc: Time for carrying out requirements: Amount payable (if any):
<b><i>Local Government Act 1999</i></b>		
Notice, order, declaration, charge, claim or demand given or made under the Act	*YES/NO	Date of notice, order etc: Name of council by which, or person by whom, notice, order etc is given or made: Land subject thereto: Nature of requirements contained in notice, order etc: Time for carrying out requirements: Amount payable (if any):

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
<b><i>Metropolitan Adelaide Road Widening Plan Act 1972</i></b>		
section 6—Restriction on building work	*YES/NO	Does the restriction apply to all of the land? *YES/NO (If NO, give details about the part of the land to which the restriction applies):
<b><i>Mining Act 1971</i></b>		
Mining tenement (other than an exploration licence)	*YES/NO	Type of tenement: Terms of tenement: Condition(s) (if any) the tenement is subject to:
Proclamation with respect to a private mine	*YES/NO	Date of proclamation:
<b><i>Native Vegetation Act 1991</i></b>		
Part 4 Division 1—Heritage agreement	*YES/NO	Date of agreement: Description of property subject to agreement: Names of parties: Terms of agreement:
Part 5 Division 1—Refusal to grant consent, or condition of a consent, to clear native vegetation	*YES/NO	Date of refusal or grant of consent: If consent given, condition(s) (if any) of the consent:
<b><i>Natural Resources Management Act 2004</i></b>		
section 97—Notice to pay levy in respect of costs of regional NRM board	*YES/NO	Date of notice: Amount of levy payable:
section 105—Notice to pay levy in respect of right to take water or taking of water	*YES/NO	Date of notice: Amount of levy payable:
section 115—Notice declaring a penalty	*YES/NO	Date of notice: Amount of penalty payable:
section 123—Notice to prepare an action plan for compliance with general statutory duty	*YES/NO	Date of notice: Name of authority or person that issued notice: Requirements of notice (as specified therein):

**Land and Business (Sale and Conveyancing) Regulations 1995—1.9.2009 to 28.2.2010**

Schedule 1—Contracts for sale of land or businesses—forms

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
section 130—Notice to rectify effects of unauthorised activity	*YES/NO	Date of notice: Name of relevant authority that issued notice: Requirements of notice (as specified therein):
section 131—Notice to maintain watercourse or lake in good condition	*YES/NO	Date of notice: Name of relevant authority that issued notice: Requirements of notice (as specified therein):
section 132—Notice restricting the taking of water or directing action in relation to the taking of water	*YES/NO	Date of notice: Water resource to which notice applies: Requirements of notice (as specified therein):
section 134—Notice to remove or modify a dam, embankment, wall or other obstruction or object	*YES/NO	Date of notice: Requirements of notice (as specified therein):
section 135—Condition (that remains in force) of a permit	*YES/NO	Date of permit: Name of relevant authority that granted permit: Condition(s) of permit:
section 145—Notice to take remedial or other action in relation to a well	*YES/NO	Date of notice: Location of well: Requirements of notice (as specified therein):
section 181—Notice of instruction as to keeping of animal or plant in control area	*YES/NO	Date of notice: Name of authorised officer who issued notice: Requirements of notice (as specified therein):
section 183—Notice to prepare an action plan for the destruction or control of animals or plants	*YES/NO	Date of notice: Name of authorised officer who issued notice: Requirements of notice (as specified therein):
section 185—Notice to pay costs of destruction or control of animals or plants on road reserve	*YES/NO	Date of notice: Name of authority that issued notice: Amount payable (as specified in notice):



**1.9.2009 to 28.2.2010—Land and Business (Sale and Conveyancing) Regulations 1995**  
Contracts for sale of land or businesses—forms—Schedule 1

<b>Column 1 Prescribed encumbrance</b>	<b>Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?</b>	<b>Column 3 Other particulars required</b>
section 187—Notice requiring control or quarantine of animal or plant	*YES/NO	Date of notice: Requirements of notice (as specified therein):
section 193—Protection order to secure compliance with specified provisions of the Act	*YES/NO	Date of order: Name of authority or person who issued order: Requirements of order (as specified therein):
section 195—Reparation order requiring specified action or payment to make good damage resulting from contravention of the Act	*YES/NO	Date of order: Name of authority or person who issued order: Requirements of order (as specified therein):
section 197—Reparation authorisation authorising specified action to make good damage resulting from contravention of the Act	*YES/NO	Date of authorisation: Name of relevant authority that issued authorisation: Person authorised to take action: Requirements of authorisation (as specified therein):
<b><i>Phylloxera and Grape Industry Act 1995</i></b>		
section 23(1)—Notice of contribution payable	*YES/NO	Date of notice: Name of person or body giving notice: Terms of notice: Amount payable (as stated in notice):
<b><i>Public and Environmental Health Act 1987</i></b>		
Part 3—Notice	*YES/NO	Date of notice: Name of council or other authority giving notice: Requirements of notice:
section 36—Direction to avert spread of disease	*YES/NO	Date direction given: Name of authority giving direction: Nature of direction:
<i>Public and Environmental Health (Waste Control) Regulations 1995</i> Part 2—Condition (that continues to apply) of an approval	*YES/NO	Date of approval: Name of relevant authority that granted the approval: Condition(s) of approval:

**Land and Business (Sale and Conveyancing) Regulations 1995—1.9.2009 to 28.2.2010**

Schedule 1—Contracts for sale of land or businesses—forms

Column 1 Prescribed encumbrance	Column 2 Is the encumbrance to be discharged or satisfied prior to or at settlement?	Column 3 Other particulars required
<i>Public and Environmental Health (Waste Control) Regulations 1995</i> regulation 19—Maintenance order (that has not been complied with)	*YES/NO	Date of order: Name of authority giving order: Requirements of order:
<b><i>Sewerage Act 1929</i></b>		
Notice, order or demand for payment of sewerage rates, other amounts payable or other requirements made under the Act	*YES/NO	Date of notice, order or demand: Amount payable (as stated in the notice): Nature of requirement made:
<b><i>Upper South East Dryland Salinity and Flood Management Act 2002</i></b>		
section 23—Notice of contribution payable	*YES/NO	Date of notice: Terms of notice: Amount payable:
<b><i>Water Resources Act 1997</i></b>		
section 18 (repealed)—Condition (that remains in force) of a permit	*YES/NO	Date of permit: Name of relevant authority that granted permit: Condition(s) of permit:
section 125 (or a corresponding previous enactment)—Notice to pay levy	*YES/NO	Date of notice: Amount of levy payable:
<b><i>Waterworks Act 1932</i></b>		
Notice, order or demand for payment of water rates, other amounts payable or other requirements made under the Act	*YES/NO	Date of notice, order or demand: Amount payable (as stated in the notice): Nature of requirement made:
<b>Other</b>		
Caveat	*YES/NO	Name and address of caveator: Particulars of interest claimed:
Lien or notice of a lien	*YES/NO	Land or other property subject to lien: Nature of lien: Name and address of person who has imposed lien or given notice of it:
Charge of any kind affecting the land (not included in another item)	*YES/NO	Person or body in whose favour charge exists: Nature of charge: Amount of charge (if known):

## †Schedule 2—Division 2—Other particulars

(section 7(1)(b) and section 8(1)(b))

### †Particulars of transactions in last 12 months

If the vendor, within 12 months before the date of the contract of sale—

- (a) obtained title to the land; or
- (b) obtained an option to purchase the land; or
- (c) entered into a contract to purchase the land (whether on the vendor's own behalf or on behalf of another),

the vendor must provide the following particulars of all transactions relating to the acquisition of the interest that occurred within that 12 month period:

- 1 The name and address of each party to the transaction and of each person in whom an interest vested as a result of the transaction:
  - 2 The date and nature of each instrument registered on the certificate of title or, if no such instrument has been registered, the date and nature of each document forming the whole or part of a contract relating to the transaction:
  - 3 Particulars of the consideration provided for the purposes of the transaction:
- The above particulars must be provided for each transaction.

### †Particulars relating to community lot (including strata lot)

- 1 Name of community corporation:  
Address of community corporation:
- 2 Application must be made in writing to the community corporation for the particulars and documents referred to in 3 and 4. Application must also be made in writing to the community corporation for the documents referred to in 6 unless those documents are obtained from the Lands Titles Registration Office.
- 3 Particulars supplied by the community corporation or known to the vendor:
  - (a) particulars of contributions payable in relation to the lot (including details of arrears of contributions related to the lot):
  - (b) particulars of assets and liabilities of the community corporation:
  - (c) particulars of expenditure that the community corporation has incurred, or has resolved to incur, and to which the owner of the lot must contribute, or is likely to be required to contribute:
  - (d) particulars of the lot entitlement of the lot:

*[State "not known" next to any particulars not supplied by the community corporation by the date of this statement and not known to the vendor.]*

- 4 Documents supplied by the community corporation that are enclosed:
  - (a) a copy of the minutes of the general meetings of the community corporation and management committee \*for the 2 years preceding this statement/since the deposit of the community plan;  
(\*Strike out whichever is the greater period)

- (b) a copy of the statement of accounts of the community corporation last prepared;
- (c) a copy of current policies of insurance taken out by the community corporation.

*[State "not supplied" next to any document not supplied by the community corporation by the date of this statement.]*

5 If "not known" or "not supplied" has been specified for an item in 3 or 4, set out the date of the application made to the community corporation and give details of any other steps taken to obtain the particulars or documents concerned:

6 The following documents are enclosed:

- †(a) a copy of the scheme description (if any) and the development contract (if any);
- (b) a copy of the by-laws of the community scheme.

†7 The following additional particulars are known to the vendor or have been supplied by the community corporation:

8 Further inquiries may be made to the secretary of the community corporation or the appointed community scheme manager.

Name:

Address:

**Note—**

- 1 A community corporation must (on application by or on behalf of a current or prospective owner or other relevant person) provide the particulars and documents referred to in 3(a)—(c) and 4 and must also make available for inspection any information required to establish the current financial position of the corporation: see sections 139 and 140 of the *Community Titles Act 1996*.
- 2 Copies of the scheme description, the development contract or the by-laws of the community scheme may be obtained from the community corporation or from the Lands Titles Registration Office.
- 3 All owners of a community lot are bound by the by-laws of the community scheme. The by-laws regulate the rights and liabilities of owners of lots in relation to their lots and the common property and matters of common concern.
- 4 For a brief description of some of the matters that need to be considered before purchasing a community lot, see Division 3 of this Schedule.

**†Particulars relating to strata unit**

1 Name of strata corporation:

Address of strata corporation:

2 Application must be made in writing to the strata corporation for the particulars and documents referred to in 3 and 4. Application must also be made in writing to the strata corporation for the articles referred to in 6 unless the articles are obtained from the Lands Titles Registration Office.

3 Particulars supplied by the strata corporation or known to the vendor:

- (a) particulars of contributions payable in relation to the unit (including details of arrears of contributions related to the unit);
- (b) particulars of the assets and liabilities of the strata corporation:

(c) particulars of expenditure that the strata corporation has incurred, or has resolved to incur, and to which the unit holder of the unit must contribute, or is likely to be required to contribute:

(d) particulars of the unit entitlement of the unit:

*[State "not known" next to any particulars not supplied by the strata corporation by the date of this statement and not known to the vendor.]*

4 Documents supplied by the strata corporation that are enclosed:

(a) a copy of the minutes of the general meetings of the strata corporation and management committee \*for the 2 years preceding this statement/since the deposit of the strata plan;

(\*Strike out whichever is the greater period)

(b) a copy of the statement of accounts of the strata corporation last prepared;

(c) a copy of current policies of insurance taken out by the strata corporation.

*[State "not supplied" next to any document not supplied by the strata corporation by the date of this statement.]*

5 If "not known" or "not supplied" has been specified for an item in 3 or 4, set out the date of the application made to the strata corporation and give details of any other steps taken to obtain the particulars or documents concerned:

6 A copy of the articles of the strata corporation is enclosed.

†7 The following additional particulars are known to the vendor or have been supplied by the strata corporation:

8 Further inquiries may be made to the secretary of the strata corporation or the appointed strata manager.

Name:

Address:

#### Note—

1 A strata corporation must (on application by or on behalf of a current owner, prospective purchaser or other relevant person) provide the particulars and documents referred to in 3(a)—(c), 4 and 6 and must also make available for inspection its accountancy records and minute books, the duplicate certificate of title for the common property and any documents in its possession relating to the design and construction of the buildings or improvements on the site or relating to the strata scheme.

2 Copies of the articles of the strata corporation may also be obtained from the Lands Titles Registration Office.

3 All owners of a strata unit are bound by the articles of the strata corporation. The articles regulate the rights and liabilities of owners of units in relation to their units and the common property and matters of common concern.

4 For a brief description of some of the matters that need to be considered before purchasing a strata unit, see Division 3 of this Schedule.

#### †Particulars of building indemnity insurance

##### Note—

Building indemnity insurance is not required for—

(a) domestic building work for which approval under the *Development Act 1993* or the repealed *Building Act 1971* is or was not required; or

- (b) minor domestic building work (see section 3 of the *Building Work Contractors Act 1995*); or
- (c) domestic building work commenced before 1 May 1987; or
- (d) building work in respect of which an exemption from the application of Division 3 of Part 5 of the *Building Work Contractors Act 1995* applies under the *Building Work Contractors Regulations 1996*; or
- (e) building work in respect of which an exemption from the application of Division 3 of Part 5 of the *Building Work Contractors Act 1995* has been granted under section 45 of that Act.

- 1 Name(s) of person(s) insured:
- 2 Name of insurer:
- 3 Limitations on the liability of the insurer:
- 4 Name of builder:
- 5 Builder's licence number:
- 6 Date of issue of insurance:
- 7 Description of insured building work:

#### **Exemption from holding insurance under the *Building Work Contractors Act 1995***

If particulars of insurance are not given—

Has an exemption been granted under section 45 of the *Building Work Contractors Act 1995* from the requirement to hold an insurance policy in accordance with Division 3 of Part 5 of that Act? \*YES/NO

If YES, give details:

- (a) Date of the exemption:
- (b) Name of builder granted the exemption:
- (c) Licence number of builder granted the exemption:
- (d) Details of building work to which the exemption applies:
- (e) Details of conditions (if any) to which the exemption is subject:

#### **†Particulars relating to asbestos in buildings on land**

**Note—**

*Asbestos* means asbestos as defined in the *Occupational Health, Safety and Welfare Regulations 1995*.

Is there a building on the land (other than a private residence) where material that consists of or contains asbestos is installed? \*YES/NO

If YES—

- (a) Is there a register of the type, condition and location of the asbestos? \*YES/NO
- (b) Have policies and procedures been established to control the asbestos and prevent or minimise the exposure of any person to airborne asbestos fibres? \*YES/NO  
If YES, give details:
- (c) Is any asbestos to be removed before settlement? \*YES/NO  
If YES, give details:

### †Particulars relating to court or tribunal process

If process has issued out of any court or tribunal in relation to a claim—

- (a) that is stated to affect the land or the value of which is \$5 000 or more; and
- (b) that presently affects (or may prospectively affect) title to, or the possession or enjoyment of, the land,

the vendor must provide the following particulars:

- 1 Name of court or tribunal:
- 2 Names of parties:
- 3 Nature of claim:
- 4 Amount of claim (if applicable):
- 5 Amount of judgment (if applicable):
- 6 Name of judgment creditor (if applicable):

### †Particulars of water allocation for irrigation purposes

#### †1—Land in an irrigation district under the *Irrigation Act 1994*

If the land forms part of an irrigation district constituted by or under the *Irrigation Act 1994*—

- (a) Specify the amount of the water allocation in respect of the land under that Act:
- (b) Is there an existing agreement to transfer the whole or part of the water allocation from the land or to purchase an additional allocation for the benefit of the land? \*YES/NO  
If YES, attach a copy of the agreement.
- (c) Has the irrigation authority given notice under section 47(2) of that Act of a proposal to exclude the land from the irrigation district? \*YES/NO  
If YES, attach a copy of the notice.
- (d) Has the irrigation authority given notice under section 54 of that Act?  
\*YES/NO  
If YES, specify—
  - (i) the date on which notice was given:
  - (ii) the requirements of the notice:
  - (iii) the amount (if any) payable under section 54(7) of that Act:

#### †2—Land in the Renmark Irrigation District

If the land is situated within the Renmark Irrigation District—

- (a) Specify the amount of the water allocation in respect of the land:
- (b) Set out any terms and conditions to which the supply of water is subject:
- (c) Has the Renmark Irrigation Trust given notice under section 65D of the *Renmark Irrigation Trust Act 1936* or regulation 33 of the *Renmark Irrigation Trust Regulations 1994*? \*YES/NO

If YES, specify—

- (i) the date on which notice was given:
- (ii) the requirements of the notice:
- (iii) the amount (if any) payable under section 65D(3)(b) or regulation 33:

**†3—Land not within any kind of irrigation district**

- (1) If the land is neither part of an irrigation district constituted by or under the *Irrigation Act 1994* nor situated within the Renmark Irrigation District, is there an existing agreement under section 37 of that Act for the supply of water to the land? \*YES/NO
- †(2) If YES and the agreement is a notional agreement by virtue of clause 5 of Schedule 2 of that Act—

- (a) Has the irrigation authority given notice under that clause of termination of the agreement? \*YES/NO

If YES, specify—

- (i) the date on which notice was given:
- (ii) the date of termination of the agreement:

- (b) Is there an existing agreement to transfer the whole or part of the water allocation applying in respect of the land? \*YES/NO  
If YES, attach a copy of the agreement;

- (c) Has the irrigation authority given notice under section 54 of that Act? \*YES/NO

If YES, specify—

- (i) the date on which notice was given:
- (ii) the requirements of the notice:
- (iii) the amount (if any) payable under section 54(7) of that Act:

**Note—**

A notional agreement for the supply of water exists under clause 5 of Schedule 2 of the *Irrigation Act 1994* if—

- (a) immediately before 1 July 1994 a water allocation applied in respect of land under any of the following Acts: *Irrigation Act 1930*, *The Irrigation on Private Property Act 1939*, *The Lower River Broughton Irrigation Trust Act 1938*, *The Kingsland Irrigation Company Act 1922*, *The Pyap Irrigation Trust Act 1923* or *The Ramco Heights Irrigation Act 1963*; and
- (b) water was supplied to the land, or drained from the land, under an Act referred to in paragraph (a) during the rating period occurring immediately before 1 July 1994; and
- (c) the land is not land used to carry on the business of primary production (managed as a single unit for the purpose) to which a water allocation applies under the *Irrigation Act 1994*.

- †(2) If YES and the agreement is not a notional agreement—

- (a) Attach a copy of the agreement.



- (b) Does the agreement continue for the benefit of successive occupiers of the land? \*YES/NO
- (c) Has the irrigation authority given notice under section 54 of that Act?  
\*YES/NO  
If YES, specify—
  - (i) the date on which notice was given:
  - (ii) the requirements of the notice:
  - (iii) the amount (if any) payable under section 54(7) of that Act:

## †Particulars relating to environment protection

### 1—Interpretation

- (1) In this and the following items (items 1 to 6 inclusive)—

**domestic activity** has the same meaning as in the *Environment Protection Act 1993*;  
**environmental assessment**, in relation to land, means an assessment of the existence or nature or extent of—

- (a) site contamination (within the meaning of the *Environment Protection Act 1993*) at the land; or
- (b) any other contamination of the land by chemical substances,

and includes such an assessment in relation to water on or below the surface of the land;

**EPA** means the Environment Protection Authority established under the *Environment Protection Act 1993*;

**pre-1 July 2009 site audit**, in relation to land, means a review (carried out by a person recognised by the EPA as an environmental auditor) that examines environmental assessments or remediation of the land for the purposes of determining—

- (a) the nature and extent of contamination of the land by chemical substances present or remaining on or below the surface of the land; and
- (b) the suitability of the land for a particular use; and
- (c) what remediation is or remains necessary for a particular use,

but does not include a site contamination audit (as defined below) completed on or after 1 July 2009;

**pre-1 July 2009 site audit report** means a detailed written report that sets out the findings of a pre-1 July 2009 site audit;

**prescribed commercial or industrial activity**—see item 1(2);

**prescribed fee** means the fee prescribed under the *Environment Protection Act 1993* for inspection of, or obtaining copies of information on, the public register;

**public register** means the public register kept by the EPA under section 109 of the *Environment Protection Act 1993*;

**site contamination audit** has the same meaning as in the *Environment Protection Act 1993*;

*site contamination audit report* has the same meaning as in the *Environment Protection Act 1993*.

- (2) For the purposes of this and the following items (items 1 to 6 inclusive), each of the following activities (as defined in Schedule 1 Part 1 of the *Environment Protection (Site Contamination) Regulations 2008*) is a prescribed commercial or industrial activity:

abrasive blasting	acid sulphate soil generation	agricultural activities
airports, aerodromes or aerospace industry	animal burial	animal dips or spray race facilities
animal feedlots	animal saleyards	asbestos disposal
asphalt or bitumen works	battery manufacture, recycling or disposal	breweries
brickworks	bulk shipping facilities	cement works
ceramic works	charcoal manufacture	coal handling or storage
coke works	compost or mulch production or storage	concrete batching works
curing or drying works	defence works	desalination plants
dredge spoil disposal or storage	drum reconditioning or recycling works	dry cleaning
electrical or electronics component manufacture	electrical substations	electrical transformer or capacitor works
electricity generation or power plants	explosives or pyrotechnics facilities	fertiliser manufacture
fibreglass manufacture	fill or soil importation	fire extinguisher or retardant manufacture
fire stations	fire training areas	foundry
fuel burning facilities	furniture restoration	gasworks
glass works	glazing	hat manufacture or felt processing
incineration	iron or steel works	laboratories
landfill sites	lime burner	metal coating, finishing or spray painting
metal forging	metal processing, smelting, refining or metallurgical works	mineral processing, metallurgical laboratories or mining or extractive industries
mirror manufacture	motor vehicle manufacture	motor vehicle racing or testing venues
motor vehicle repair or maintenance	motor vehicle wrecking yards	mushroom farming
oil recycling works	oil refineries	paint manufacture
pest control works	plastics manufacture works	printing works
pulp or paper works	railway operations	rubber manufacture or processing

scrap metal recovery	service stations	ship breaking
spray painting	tannery, fellmongery or hide curing	textile operations
transport depots or loading sites	tyre manufacture or retreading	vermiculture
vessel construction, repair or maintenance	waste depots	wastewater treatment, storage or disposal
water discharge to underground aquifer	wetlands or detention basins	wineries or distilleries
wood preservation works	woolscouring or wool carbonising works	works depots (operated by councils or utilities)

## 2—Pollution and site contamination on the land—questions for vendor

- (1) Is the vendor aware of any of the following activities ever having taken place at the land:
- (a) storage, handling or disposal of waste or fuel or other chemicals (other than in the ordinary course of domestic activities)?
  - (b) importation of soil or other fill from a site at which—
    - (i) an activity of a kind listed in paragraph (a) has taken place; or
    - (ii) a prescribed commercial or industrial activity (see item 1(2) above) has taken place?

\*YES/NO

If YES, give details of all activities that the vendor is aware of and whether they have taken place before or after the vendor acquired an interest in the land:

- (2) Is the vendor aware of any prescribed commercial or industrial activities (see item 1(2) above) ever having taken place at the land?

\*YES/NO

If YES, give details of all activities that the vendor is aware of and whether they have taken place before or after the vendor acquired an interest in the land:

- (3) Is the vendor aware of any dangerous substances ever having been kept at the land pursuant to a licence under the *Dangerous Substances Act 1979*?

\*YES/NO

If YES, give details of all dangerous substances that the vendor is aware of and whether they were kept at the land before or after the vendor acquired an interest in the land:

- (4) Is the vendor aware of the sale or transfer of the land or part of the land ever having occurred subject to an agreement for the exclusion or limitation of liability for site contamination to which section 103E of the *Environment Protection Act 1993* applies?

\*YES/NO

If YES, give details of each sale or transfer and agreement that the vendor is aware of:

- (5) Is the vendor aware of an environmental assessment of the land or part of the land ever having been carried out or commenced (whether or not completed)?

\*YES/NO

If YES, give details of all environmental assessments that the vendor is aware of and whether they were carried out or commenced before or after the vendor acquired an interest in the land:

**Note—**

These questions relate to details about the land that may be known by the vendor. A "YES" answer to the questions at items 2(1) or 2(2) may indicate that a *potentially contaminating activity* has taken place at the land (see sections 103C and 103H of the *Environment Protection Act 1993*) and that assessments or remediation of the land may be required at some future time.

A "YES" answer to any of the questions in this item may indicate the need for the purchaser to seek further information regarding the activities, for example, from the council or the EPA.

### **3—Licences and exemptions recorded by EPA in public register**

Does the EPA hold any of the following details in the public register:

- (a) details of a current licence issued under Part 6 of the *Environment Protection Act 1993* to conduct, at the land—
- (i) a waste or recycling depot (as referred to in clause 3(3) of Schedule 1 Part A of that Act); or
  - (ii) activities producing listed wastes (as referred to in clause 3(4) of Schedule 1 Part A of that Act)?

\*YES/NO

- (b) details of a licence no longer in force issued under Part 6 of the *Environment Protection Act 1993* to conduct, at the land—
- (i) a waste or recycling depot (as referred to in clause 3(3) of Schedule 1 Part A of that Act); or
  - (ii) activities producing listed wastes (as referred to in clause 3(4) of Schedule 1 Part A of that Act)?

\*YES/NO

- (c) details of a licence issued under the repealed *South Australian Waste Management Commission Act 1979* to operate a waste depot at the land?

\*YES/NO

- (d) details of a licence issued under the repealed *Waste Management Act 1987* to operate a waste depot at the land?

\*YES/NO

- (e) details of a licence issued under the repealed *South Australian Waste Management Commission Act 1979* to produce waste of a prescribed kind (within the meaning of that Act) at the land?

\*YES/NO

- (f) details of a licence issued under the repealed *Waste Management Act 1987* to produce prescribed waste (within the meaning of that Act) at the land?

\*YES/NO

**Note—**

These questions relate to details about licences and exemptions required to be recorded by the EPA in the public register. If the EPA answers "YES" to any of the questions—

- in the case of a licence or exemption under the *Environment Protection Act 1993*—
  - the purchaser may obtain a copy of the licence or exemption from the public register on payment of the prescribed fee; and
  - the purchaser should note that transfer of a licence or exemption is subject to the conditions of the licence or exemption and the approval of the EPA (see section 49 of the *Environment Protection Act 1993*); and
- in the case of a licence under a repealed Act—the purchaser may obtain details about the licence from the public register on payment of the prescribed fee.

A "YES" answer to any of these questions may indicate that a **potentially contaminating activity** has taken place at the land (see sections 103C and 103H of the *Environment Protection Act 1993*) and that assessments or remediation of the land may be required at some future time.

The EPA will not provide details about licences to conduct the following prescribed activities of environmental significance (within the meaning of Schedule 1 Part A of the *Environment Protection Act 1993*): waste transport business (category A), waste transport business (category B), dredging, earthworks drainage, any other activities referred to in Schedule 1 Part A undertaken by means of mobile works, helicopter landing facilities, marinas and boating facilities or discharges to marine or inland waters.

The EPA will not provide details about exemptions relating to—

- the conduct of any of the licensed activities in the immediately preceding paragraph in this note; or
- noise.

#### **4—Pollution and site contamination on the land—details recorded by EPA in public register**

Does the EPA hold any of the following details in the public register in relation to the land or part of the land:

- (a) details of serious or material environmental harm caused or threatened in the course of an activity (whether or not notified under section 83 of the *Environment Protection Act 1993*)?  
\*YES/NO
- (b) details of site contamination notified to the EPA under section 83A of the *Environment Protection Act 1993*?  
\*YES/NO
- (c) a copy of a report of an environmental assessment (whether prepared by the EPA or some other person or body and whether or not required under legislation) that forms part of the information required to be recorded in the public register?  
\*YES/NO
- (d) a copy of a site contamination audit report?  
\*YES/NO
- (e) details of an agreement for the exclusion or limitation of liability for site contamination to which section 103E of the *Environment Protection Act 1993* applies?

\*YES/NO

- (f) details of an agreement entered into with the EPA relating to an approved voluntary site contamination assessment proposal under section 103I of the *Environment Protection Act 1993*?  
\*YES/NO
- (g) details of an agreement entered into with the EPA relating to an approved voluntary site remediation proposal under section 103K of the *Environment Protection Act 1993*?  
\*YES/NO
- (h) details of a notification under section 103Z(1) of the *Environment Protection Act 1993* relating to the commencement of a site contamination audit?  
\*YES/NO
- (i) details of a notification under section 103Z(2) of the *Environment Protection Act 1993* relating to the termination before completion of a site contamination audit?  
\*YES/NO
- (j) details of records, held by the former South Australian Waste Management Commission under the repealed *Waste Management Act 1987*, of waste (within the meaning of that Act) having been deposited on the land between 1 January 1983 and 30 April 1995?  
\*YES/NO

**Note—**

These questions relate to details required to be recorded by the EPA in the public register. If the EPA answers "YES" to any of the questions, the purchaser may obtain those details from the public register on payment of the prescribed fee.

**5—Pollution and site contamination on the land—other details held by EPA**

Does the EPA hold any of the following details in relation to the land or part of the land:

- (a) a copy of a report known as a "Health Commission Report" prepared by or on behalf of the South Australian Health Commission (under the repealed *South Australian Health Commission Act 1976*)?  
\*YES/NO
- (b) details (which may include a report of an environmental assessment) relevant to an agreement entered into with the EPA relating to an approved voluntary site contamination assessment proposal under section 103I of the *Environment Protection Act 1993*?  
\*YES/NO
- (c) details (which may include a report of an environmental assessment) relevant to an agreement entered into with the EPA relating to an approved voluntary site remediation proposal under section 103K of the *Environment Protection Act 1993*?  
\*YES/NO
- (d) a copy of a pre-1 July 2009 site audit report?  
\*YES/NO

- (e) details relating to the termination before completion of a pre-1 July 2009 site audit?  
\*YES/NO

**Note—**

These questions relate to details that the EPA may hold. If the EPA answers "YES" to any of the questions, the purchaser may obtain those details from the EPA (on payment of any fee fixed by the EPA).

## **6—Further information for purchasers**

**Note—**

The purchaser is advised that other matters under the *Environment Protection Act 1993* (that is, matters other than those referred to in this Statement) that may be relevant to the purchaser's further enquiries may also be recorded in the public register. These include:

- details relating to environmental authorisations such as applications, applicants, locations of activities, conditions, suspension, cancellation or surrender of authorisations, disqualifications, testing requirements and test results;
- details relating to activities undertaken on the land under licences or other environmental authorisations no longer in force;
- written warnings relating to alleged contraventions of the *Environment Protection Act 1993*;
- details of prosecutions and other enforcement action;
- details of civil proceedings;
- other details prescribed under the *Environment Protection Act 1993* (see section 109(3)(l)).

Details of these matters may be obtained from the public register on payment to the EPA of the prescribed fee.

**If—**

- an environment performance agreement, environment protection order, clean-up order, clean-up authorisation, site contamination assessment order or site remediation order has been registered on the certificate of title for the land; or
- a notice of declaration of special management area in relation to the land has been gazetted; or
- a notation has been made on the certificate of title for the land that a site contamination audit report has been prepared in respect of the land; or
- a notice of prohibition or restriction on taking water affected by site contamination in relation to the land has been gazetted,

it will be noted in the items under the heading *Environment Protection Act 1993* under the Table of Particulars in this Statement. Details of any registered documents may be obtained from the Lands Titles Registration Office.

## **†Particulars relating to *Livestock Act 1997***

### **†1—Sale of land**

- (1) Has any notice under section 33 or 37 of the *Livestock Act 1997* been made that affects, presently or prospectively, enjoyment of the land? \*YES/NO  
If YES, give details of the following:

Date of notice:

Terms of notice:

- (2) Has any order under section 38, or notice under section 72, of the *Livestock Act 1997* been issued to the vendor in relation to the land or any building on the land?

\*YES/NO

If YES, give details of the following:

Date of order or notice:

Terms of order or notice:

## †2—Sale of small business

Has any notice or order been issued under the *Livestock Act 1997* in relation to any livestock, livestock products or other property (other than land or any building on the land) included in the sale? \*YES/NO

If YES, give details of the following:

Date of notice or order:

Terms of notice or order:

## †Schedule 2—Division 3—Community lots and strata units

### Matters to be considered in purchasing a community lot or strata unit

The property you are buying is on strata or community title. There are **special obligations and restrictions** that go with this kind of title. Make sure you understand these. If unsure, seek legal advice before signing a contract. For example:

#### Governance

You will automatically become a member of the **body corporate**, which includes all owners and has the job of maintaining the common property and enforcing the rules. Decisions, such as the amount you must pay in levies, will be made by vote of the body corporate. You will need to take part in meetings if you wish to have a say. If outvoted, you will have to live with decisions that you might not agree with.

If you are buying into a mixed use development (one that includes commercial as well as residential lots), owners of some types of lots may be in a position to outvote owners of other types of lots. Make sure you fully understand your voting rights, see later.

#### Use of your property

You, and anyone who visits or occupies your property, will be bound by rules in the form of **articles or by-laws**. These can restrict the use of the property, for example, they can deal with keeping pets, car parking, noise, rubbish disposal, short-term letting, upkeep of buildings and so on. Make sure that you have read the articles or by-laws before you decide whether this property will suit you.

Depending on the rules, you might not be permitted to make changes to the exterior of your unit, such as installing a television aerial or an air-conditioner, building a pergola, attaching external blinds etc without the permission of the body corporate. A meeting may be needed before permission can be granted. Permission may be refused.



Note that the articles or by-laws **could change** between now and when you become the owner: the body corporate might vote to change them. Also, if you are buying before the community plan is registered, then any by-laws you have been shown are just a draft.

### **Are you buying a debt?**

If there are unpaid contributions owing on this property, you can be made to pay them. You are entitled to **know the financial state of the body corporate** and you should make sure you see its records before deciding whether to buy. As a prospective owner, you can write to the body corporate requiring to see the records, including minutes of meetings, details of assets and liabilities, contributions payable, outstanding or planned expenses and insurance policies. There is a fee. To make a request, write to the secretary or management committee of the body corporate.

### **Expenses**

The body corporate can **require you to maintain your property**, even if you do not agree, or can carry out maintenance and bill you for it.

The body corporate can **require you to contribute** to the cost of upkeep of the common property, even if you do not agree. Consider what future maintenance or repairs might be needed on the property in the long term.

### **Guarantee**

As an owner, you are a **guarantor** of the liabilities of the body corporate. If it does not pay its debts, you can be called on to do so. Make sure you know what the liabilities are before you decide to buy. Ask the body corporate for copies of the financial records.

### **Contracts**

The body corporate can make contracts. For example, it may engage a body corporate manager to do some or all of its work. It may contract with traders for maintenance work. It might engage a caretaker to look after the property. It might make any other kind of contract to buy services or products for the body corporate. Find out **what contracts the body corporate is committed to and the cost**.

The body corporate will have to raise funds from the owners to pay the money due under these contracts. As a guarantor, you could be liable if the body corporate owes money under a contract.

### **Buying off the plan**

If you are buying a property that has not been built yet, then you **cannot be certain** what the end product of the development process will be. If you are buying before a community plan has been deposited, then any proposed development contract, scheme description or by-laws you have been shown could change.

### Mixed use developments—voting rights

You may be buying into a group that is run by several different community corporations. This is common in mixed use developments, for example, where a group of apartments is combined with a hotel or a group of shops. If there is more than one corporation, then you should not expect that all lot owners in the group will have equal voting rights. The corporations may be structured so that, even though there are more apartments than shops in the group, the shop-owners can outvote the apartment owners on some matters. Make enquiries so that you understand how many corporations there are and what voting rights you will have.

### Further information

The Real Estate Institute of South Australia provides an information service for enquiries about real estate transactions, see [www.reisa.com.au](http://www.reisa.com.au).

Information and a booklet about strata and community titles is available from the Legal Services Commission of South Australia at [www.lsc.sa.gov.au](http://www.lsc.sa.gov.au).

You can also seek advice from a legal practitioner.

## Form 3—Certificate of legal practitioner and waiver by purchaser

*Land and Business (Sale and Conveyancing) Act 1994*

### Part A—Certificate of legal practitioner

#### (sections 5 and 16)

1 I certify that—

*[Name(s) of purchaser(s)] of [Address(es) of purchaser(s)]*

\*has/have received independent advice from me in relation to the land or business described below concerning—

† the signing of a proposed contract for the purchase of the land or business and the loss by the purchaser, on the provision of my advice and the execution of this certificate, of any cooling-off period otherwise applicable to the proposed contract under section 5 of the *Land and Business (Sale and Conveyancing) Act 1994*.

† the waiving of compliance with the requirement under section 7 of the *Land and Business (Sale and Conveyancing) Act 1994* that the vendor, at least 10 clear days before the date of settlement, serve or cause to be served on the purchaser a vendor's statement.

† the waiving of compliance with the requirement under section 8 of the *Land and Business (Sale and Conveyancing) Act 1994* that the vendor, at least 5 clear business days before the date of settlement, serve or cause to be served on the purchaser a vendor's statement.

†2 Description of the land:

†3 Description of the business:

*[include the address of any premises at which the business is conducted]*

4 Name(s) of vendor(s):

Date:

Signed:

Name of legal practitioner:

Name of firm:

Address of firm:

\* Strike out the option that is not applicable.

† Strike out the item if it is not applicable.

## **Part B—Instrument of waiver by purchaser**

### **(section 16)**

#### **To the vendor(s):**

\*I/We—

*[Name(s) of purchaser(s)] of [Address(es) of purchaser(s)]*

being the purchaser(s) of the land or business described in Part A above, having sought and obtained independent advice from:

*[Name of legal practitioner]*

being the legal practitioner whose certificate in relation to the giving of that advice is contained in Part A above—

- † waive the requirement under section 7 of the *Land and Business (Sale and Conveyancing) Act 1994* that the vendor, at least 10 clear days before the date of settlement, serve, or cause to be served, on the purchaser a vendor's statement setting out the purchaser's cooling-off rights under section 5 of the Act and the particulars required by section 7.
- † waive the requirement under section 8 of the *Land and Business (Sale and Conveyancing) Act 1994* that the vendor, at least 5 clear business days before the date of settlement, serve, or cause to be served, on the purchaser a vendor's statement setting out the purchaser's cooling-off rights under section 5 of the Act and the particulars required by section 8.

Date:

Signed:

\* Strike out the option that is not applicable.

† Strike out the item if it is not applicable.

## **Form 4—Notice in relation to sale by auction**

*Land and Business (Sale and Conveyancing) Act 1994*

(section 11)

The vendor's statement relating to matters affecting the \*land/business may be inspected *[specify times and places]*.

Auctioneer

\* Strike out the option that is not applicable.

## Schedule 1A—Prescribed notice to be given to purchaser

*Land and Business (Sale and Conveyancing) Act 1994* section 13A

*Land and Business (Sale and Conveyancing) Regulations 1995* regulation 15A

Before you buy a home there are a number of things that you should investigate and consider. Though it may not be obvious at the time, there could be matters that may affect your enjoyment of the property, the safety of people on the property or the value of the property.

The following questions may help you to identify if a property is appropriate to purchase. In many cases the questions relate to a variety of laws and standards. These laws and standards change over time, so it is important to seek the most up to date information. Various government agencies can provide up to date and relevant information on many of these questions. To find out more, the Office of Consumer and Business Affairs recommends that you check the website: [www.ocba.sa.gov.au/consumeradvice/realestate](http://www.ocba.sa.gov.au/consumeradvice/realestate)

Consider having a professional building inspection done before proceeding with a purchase. A building inspection will help you answer some of the questions below.

The questions have been categorised under the headings **Safety**, **Enjoyment** and **Value**, but all of the issues are relevant to each heading.

### Safety

- Is there **asbestos** in any of the buildings or elsewhere on the property eg sheds and fences?
- Does the property have any significant **defects** eg **cracking** or **salt damp**? Have the wet areas been waterproofed?
- Is the property in a **bushfire** prone area?
- Are the **electrical wiring, gas installation, plumbing and appliances** in good working order and in good condition? Is a **safety switch** (RCD) installed? Is it working?
- Are there any prohibited **gas appliances** in bedrooms or bathrooms?
- Are **smoke alarms** installed in the house? If so, are they hardwired? Are they in good working order and in good condition? Are they compliant?
- Is there a **swimming pool and/or spa pool** installed on the property? Are there any safety barriers or fences in place? Do they conform to current standards?
- Does the property have any **termite** or other pest infestations? Is there a current preventive termite treatment program in place? Was the property treated at some stage with persistent organochlorins (now banned) or other **toxic** termiticides?
- Has fill been used on the site? Is the soil contaminated by **chemical residues** or waste?
- Does the property use **cooling towers** or manufactured warm water systems? If so, what are the maintenance requirements?

### Enjoyment

- Does the property have any **stormwater** problems?
- Is the property in a **flood prone** area? Is the property prone to coastal flooding?

- Does the property have an on-site **wastewater treatment facility** such as a septic tank installed? If so, what are the maintenance requirements? Is it compliant?
- Is a **sewer mains connection** available?
- Are all gutters, downpipes and stormwater systems in good working order and in good condition?
- Is the property near **power lines**? Are there any trees on the property near power lines? Are you considering planting any trees? Do all structures and trees maintain the required clearance from any power lines?
- Are there any **significant** trees on the property?
- Is this property a unit on **strata or community title**? What could this mean for you? Is this property on strata or community title? Do you understand the restrictions of use and the financial obligations of ownership? Will you have to pay a previous owner's debt or the cost of planned improvements?
- Is the property close to a hotel, restaurant or other venue with entertainment consent for live music? Is the property close to any industrial or commercial activity, a busy road or airport etc that may result in the generation of **noise** or the **emission of materials or odours** into the air?
- What appliances, equipment and fittings are included in the sale of the property?
- Is there sufficient car parking space available to the property?

#### Value

- Are there any **illegal or unapproved additions**, extensions or alterations to the buildings on the property?
- How **energy efficient** is the home, including appliances and lighting? What **energy sources** (eg electricity, gas) are available?
- Is the property connected to SA Water operated and maintained **mains water**? Is a mains water connection available? Does the property have a **recycled water** connection? What sort of water meter is located on the property (a **direct or indirect meter** – an indirect meter can be located some distance from the property)? Is the property connected to a water meter that is also serving another property?
- Are there water taps outside the building? Is there a watering system installed? Are they in good working order and in good condition?
- Does the property have **alternative sources** of water other than mains water supply (including **bore or rainwater**)? If so, are there any special maintenance requirements?

For more information on these matters visit: [www.ocba.sa.gov.au/consumeradvice/realestate](http://www.ocba.sa.gov.au/consumeradvice/realestate)

Disclaimer: There may be other issues relevant to the purchase of real estate. If you are unable to ascertain enough information about the questions raised in this form and any other concerns you may have we strongly recommend you obtain independent advice through a building inspection, a lawyer, and a financial adviser.

## Schedule 2—Contracts for sale of land or businesses—inquiries

Table 1—Mortgages, charges and prescribed encumbrances

<b>Column 1</b> <b>Mortgage, charge or prescribed encumbrance specified as item in Form 1 Schedule Division 1 and Form 2 Schedule 2 Division 1</b>	<b>Column 2</b> <b>Body to whom inquiry is to be made</b>
(1) All items under the following headings (except where otherwise specified):  <i>Development Act 1993</i> (section 71 only)  <i>Fire and Emergency Services Act 2005</i>  <i>Local Government Act 1934</i>  <i>Local Government Act 1999</i>	The council
(2) All items under the following headings (except where otherwise specified):  <i>Development Act 1993</i> (other than section 60 and section 71)  <i>Food Act 2001</i>  <i>Housing Improvement Act 1940</i>  <i>Public and Environmental Health Act 1987</i> (other than section 36)  Repealed Act conditions	Department for Transport, Energy and Infrastructure and the council
(3) All other items (other than <i>Development Act 1993</i> section 60 and <i>Fences Act 1975</i> section 5)	Department for Transport, Energy and Infrastructure

Table 2—Matters affecting land

<b>Column 1</b> <b>Matters specified in Form 1 Schedule Division 2 and Form 2 Schedule 2 Division 2</b>	<b>Column 2</b> <b>Body to whom inquiry is to be made</b>
Particulars of building indemnity insurance (all items under that heading)	The council
Particulars of water allocation for irrigation purposes (all items under that heading)	Department for Transport, Energy and Infrastructure
Particulars relating to environment protection (items 3, 4 and 5 under that heading)	Department for Transport, Energy and Infrastructure
Particulars relating to <i>Livestock Act 1997</i> (the following items under that heading: a notice under section 33, 37 or 72 of the Act or an order under section 38 of the Act, in relation to the land or a building on the land)	Department for Transport, Energy and Infrastructure or Department of Primary Industries and Resources

## Schedule 2A—Financial and investment advice—specified information and warnings

*Land and Business (Sale and Conveyancing) Act 1994* section 24B

*Land and Business (Sale and Conveyancing) Regulations 1995* regulation 16C

A land agent or sales representative who provides financial or investment advice to you in connection with the sale or purchase of land or a business is obliged to tell you that—

**You should assess the suitability of any purchase of the land or business in light of your own needs and circumstances by seeking independent financial and legal advice.**

An agent must also tell you about any other benefit that any other person (including the agent) will receive in connection with the sale or purchase, unless it is\*:

- a benefit that has been disclosed in a sales agency agreement
- a benefit that you provide the agent
- a benefit received by the vendor or purchaser
- a benefit related to a service for which you have not or will not be charged
- a benefit of which the agent remains unaware.

\*Refer to section 24C of the *Land and Business (Sale and Conveyancing) Act 1994*

## Schedule 2B—Disclosure of benefits

*Land and Business (Sale and Conveyancing) Act 1994* section 24C

*Land and Business (Sale and Conveyancing) Regulations 1995* regulation 16D

If a benefit has already been disclosed in a sales agency agreement then the use of this form is not required to disclose that benefit.

Subject to section 24C of the *Land and Business (Sale and Conveyancing) Act 1994*, a land agent must use this form to disclose to you (the client):

- benefits which the agent will receive or expects to receive from a third person to whom the agent has referred you, or with whom the agent has contracted, when the referral or contract is for the provision of services associated with the sale or purchase of property or a business;
- any other benefit of which the agent is aware that any person (including the agent) receives or expects to receive in connection with the sale or purchase.

The obligation to disclose a benefit to you under section 24C is ongoing and arises when the agent becomes aware of a benefit.

**Note—**

- When this form is used, the land agent **must** disclose the nature, source and amount (or estimated amount or value) of the benefit.
- A benefit includes a rebate, a discount, or a refund, and could include such things as frequent flyer points or gift vouchers.

- Under section 24C(5) of the *Land and Business (Sale and Conveyancing) Act 1994* an agent includes an agent acting for the purchaser or vendor, and a sales representative acting for that agent.

**Description of property or business**

Nature of the benefit	Source of the benefit	Amount (or estimated amount or value) of the benefit	Name of recipient of the benefit and capacity* of recipient

\* refers to the capacity in which the person receives the benefit eg as an agent, a financier, mortgage broker, lawyer.

*If insufficient space, add an annexure*

Name of agent/sales representative

Name of client

Signature

Signature

Date

Date

**Schedule 2C—Prescribed standard conditions for auctions of residential land**

Land and Business (Sale and Conveyancing) Act 1994 section 24I

Land and Business (Sale and Conveyancing) Regulations 1995 regulation 16H

**1—Prescribed standard conditions**

- (1) The prescribed standard conditions referred to in regulation 16H for an auction conducted by an agent for the sale of residential land (the *property*) are as follows:
  - (a) any person may bid in the auction in person, or by their proxy or representative, subject to the conditions of auction;
  - (b) the vendor's reserve price will be as recorded in the auction record;
  - (c) to make a bid a person must be registered in the bidders register, having satisfied the requirements as to proof of identity and, if applicable, authority to bid as a proxy or representative;
  - (d) the auctioneer will only accept a bid if the person making the bid displays an identifying number allocated to the person by the auctioneer;
  - (e) the auctioneer will, when accepting a bid, audibly announce the number so displayed by the bidder;
  - (f) the auctioneer may refuse a bid if of the opinion that it is not in the best interests of the vendor, and will not be obliged to give any reason for refusing a bid;



- (g) the auctioneer may make bids on behalf of the vendor but not more than 3 such bids and only for amounts below the reserve price; any such bid will be audibly announced by the auctioneer as a "vendor's bid";
  - (h) bidding increments will be accepted at the discretion of the auctioneer;
  - (i) the person accepted by the auctioneer as having made the highest bid at or above the reserve price will be the purchaser and that bid will be the purchase price;
  - (j) the auctioneer will not accept a bid made after the fall of the auctioneer's hammer;
  - (k) unless otherwise agreed in writing by the purchaser and the vendor before the commencement of the auction—
    - (i) a contract for the sale of the property, in the form displayed by the auctioneer at the auction, will be completed and signed by or on behalf of the purchaser and the vendor immediately after the fall of the hammer; and
    - (ii) the purchaser will pay a deposit immediately after the fall of the hammer, as specified in the conditions of auction;
  - (l) the auctioneer will have irrevocable authority, after the fall of the auctioneer's hammer, to complete and sign the contract on behalf of the purchaser or the vendor, or both; completion and signing under that authority will be at the auctioneer's discretion in the event of breach by the purchaser of any of the conditions of auction;
  - (m) the cooling off rights under section 5 of the *Land and Business (Sale and Conveyancing) Act 1994* do not apply to a sale by auction or a sale on the day of auction to a person who has made a bid in the auction (whether in person or by their proxy or representative).
- (2) In this Schedule—
- conditions of auction* includes conditions displayed by the auctioneer at the auction as conditions of the auction, together with the standard conditions set out above.

## Schedule 2D—Collusive practices at auctions of land or businesses

*Land and Business (Sale and Conveyancing) Act 1994* section 24L

*Land and Business (Sale and Conveyancing) Regulations 1995* regulation 16J

Section 24L of the *Land and Business (Sale and Conveyancing) Act 1994* makes it unlawful to engage in collusive practices in relation to an auction of land or a business. Under that section a person must not behave in such a way that might tend to prevent **free and open competition** at an auction by, for example—

- abstaining from bidding or limiting his or her bidding; or
- agreeing to abstain from bidding or limit his or her bidding; or
- inducing or attempting to induce another person to abstain from bidding or limit his or her bidding; or

- doing anything else or inducing or attempting to induce another person to do anything else that might tend to prevent free and open competition at the auction.

The maximum penalty for committing such an offence is \$20 000.

## **Schedule 3—Contracts for sale of land or businesses—fees**

### **1—Fees payable to councils**

For a council search report to be provided by a council—

- (a) for particulars in the report—
  - (i) in relation to 1 strata unit \$20.00
  - (ii) in relation to 2 strata units on the same strata plan \$40.00
  - (iii) in relation to 3 or more strata units on the same strata plan \$60.00
  - (iv) for each certificate of title to land under the *Real Property Act 1886*, or Crown lease, in respect of which particulars are to be provided—
    - (A) if the applicant requests that the particulars be provided within 24 hours after receipt of the request \$30.00
    - (B) in any other case \$20.00
- (b) for documentary material in the report—the actual cost incurred by the council in producing a copy of the document.

### **2—Fees payable to statutory authorities or prescribed bodies**

- (1) For particulars and documentary material to be provided by a statutory authority or prescribed body (other than where particulars are to be provided for the purposes of a property interest report)—
  - (a) for particulars—
    - (i) in relation to 1 strata unit \$15.00
    - (ii) in relation to 2 strata units on the same strata plan \$28.00
    - (iii) in relation to 3 or more strata units on the same strata plan \$43.00
    - (iv) in any other case—in relation to each certificate of title to land under the *Real Property Act 1886*, or Crown lease, in respect of which particulars are to be provided \$15.00
  - (b) for documentary material—the actual cost incurred by the statutory authority or prescribed body in producing a copy of the document.
- (2) For a property interest report or update—
  - (a) for a property interest report to be provided by the Department in relation to a certificate of title to land under the *Real Property Act 1886* or a Crown lease \$234.00
  - (b) for an update of such a report (where the application is made not more than 90 days after the original report was issued) to be provided by the Department \$117.00
- (3) For a property interest report or update for a related title—
  - (a) for a property interest report to be provided by the Department in relation to a related title \$35.25

- (b) for an update of such a report (where the application is made not more than 90 days after the original report was issued) to be provided by the Department \$8.90

### 3—Interpretation

In this Schedule—

**Department** means the Department for Transport, Energy and Infrastructure;

**related title** means a certificate of title to, or a Crown lease of, land that—

- (a) is contiguous with, and owned or held pursuant to a Crown lease by the same person as, land in relation to which a property interest report is to be provided by the Department; and
- (b) is valued by the Valuer-General under the *Valuation of Land Act 1971* conjointly with, and is to be sold at the same time as, the land in relation to which the property interest report is to be provided;

**strata unit** includes a community lot (or development lot) and **strata plan** includes a community plan.

**Note—**

The fees payable to a strata corporation or a community corporation for the provision of information are fixed by regulations under the *Strata Titles Act 1988* and the *Community Titles Act 1996*, respectively.

## Schedule 4—Dual representation—forms

### Form 1

#### Acknowledgment that conveyancer acts for more than one party

*Land and Business (Sale and Conveyancing) Act 1994*  
(section 30)

To .....  
(name of client)

of .....  
(address of client)

Re .....  
(transaction)

#### Advice

1 Please note that

I, .....  
(name of conveyancer)

of .....  
(business address of conveyancer)

have been requested to act

for .....  
(name of other client)

of .....  
(address of other client)

who is a party to the above transaction in respect of which I act also on your behalf.

2 In the event of a conflict of interest arising, I am bound to cease to act for you and my other client involved in the transaction unless you and my other client agree in writing that I may continue to act for you or for my other client.

Date: ..... Signed by conveyancer: .....

#### Acknowledgment

I, ..... acknowledge that  
(name of client)

I have read and understood the above advice.

Date: ..... Signed by client: .....

## Form 2

### General authority to conveyancer to act for more than one party

*Land and Business (Sale and Conveyancing) Act 1994*  
(section 30)

I, .....,  
(name of client)

of .....,  
(address of client)

authorise .....,  
(name of conveyancer)

of .....,  
(business address of conveyancer)

to act for another party or parties to any

.....  
.....

(general description of nature of transactions to be authorised)

in respect of which the conveyancer is also acting on my behalf.

I have been advised that a conveyancer owes a duty to act in the best interests of each client involved in the transaction and that, in the event of a conflict of interests arising, a conveyancer is bound to cease to act for each of them unless all clients agree in writing for which of them the conveyancer may then continue to act.

Date: ..... Signed: .....

## Schedule 5—Transitional provisions

### 1—Section 90 statements prepared before commencement of Act

A statement under section 90 of the *Land Agents, Brokers and Valuers Act 1973* prepared not more than two months before the commencement of the *Land and Business (Sale and Conveyancing) Act 1994* will be taken to comply with these regulations if the statement complies with the *Land Agents, Brokers and Valuers Act 1973* and the *Land Agents, Brokers and Valuers Regulations 1986* as in force immediately before that commencement and is accurate as at the date of service on the purchaser.

### 2—Section 91 statements prepared before commencement of Act

A statement under section 91 of the *Land Agents, Brokers and Valuers Act 1973* prepared not more than one month before the commencement of the *Land and Business (Sale and Conveyancing) Act 1994* will be taken to comply with these regulations if the statement complies with the *Land Agents, Brokers and Valuers Act 1973* and the *Land Agents, Brokers and Valuers Regulations 1986* as in force immediately before that commencement and is accurate as at the date of service on the purchaser.

## Legislative history

### Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
1995	35	<i>Gazette 27.4.1995 p1577</i>	1.6.1995: r 2
1995	43	<i>Gazette 4.5.1995 p1721</i>	4.5.1995: r 2
1995	162	<i>Gazette 27.7.1995 p312</i>	27.7.1995: r 2
1995	216	<i>Gazette 23.11.1995 p1461</i>	1.12.1995: r 2
1996	225	<i>Gazette 10.10.1996 p1346</i>	4.11.1996: r 2
1997	21	<i>Gazette 27.2.1997 p1070</i>	1.3.1997: r 2
1998	155	<i>Gazette 2.7.1998 p26</i>	2.11.1998: r 2
1999	143	<i>Gazette 1.7.1999 p55</i>	1.7.1999: r 2
1999	200	<i>Gazette 30.9.1999 p1395</i>	30.9.1999: r 2
2001	150	<i>Gazette 28.6.2001 p2480</i>	15.7.2001: r 2
2002	156	<i>Gazette 8.8.2002 p3035</i>	8.10.2002: r 2
2003	210	<i>Gazette 23.10.2003 p3883</i>	1.12.2003: r 2
2007	51	<i>Gazette 26.4.2007 p1410</i>	1.6.2007: r 2
2008	209	<i>Gazette 3.7.2008 p3214</i>	28.7.2008: r 2
2008	260	<i>Gazette 25.9.2008 p4588</i>	25.9.2008: r 2
<b>2009</b>	<b>47</b>	<b><i>Gazette 30.4.2009 p1557</i></b>	<b>30.4.2009 except Pt 3 (rr 10—13) &amp; Sch 1 cl 1—1.8.2009; and except Pt 4 (rr 14—22) &amp; Sch 1 cl 2—1.9.2009: r 2</b>
2009	181	<i>Gazette 18.6.2009 p2858</i>	1.7.2009: r 2
<b>2009</b>	<b>209</b>	<b><i>Gazette 23.7.2009 p3351</i></b>	<b>1.9.2009 immediately after Sch 1 cl 2 of 47/2009 except Pt 3 (r 6) &amp; Sch 1 cl 3—1.3.2010 and except Pt 4 (rr 7 &amp; 8) &amp; Sch 1 cl 4—31.8.2010: r 2</b>

## Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
r 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	1.8.2009
r 3		
r 3(1)		
acquired a relevant interest in the land	inserted by 47/2009 r 10	1.8.2009
<b>council search report</b>	<b>inserted by 47/2009 r 14(1)</b>	<b>1.9.2009</b>
Crown lease	inserted by 47/2009 r 4(1)	30.4.2009
domestic partner	inserted by 51/2007 r 22	1.6.2007
prescribed body	inserted by 47/2009 r 4(2)	30.4.2009
<b>property interest report</b>	<b>inserted by 47/2009 r 14(2)</b>	<b>1.9.2009</b>
r 3(3)	inserted by 209/2008 r 4	28.7.2008
Pt 2		
r 5	varied by 225/1996 r 3 varied by 47/2009 r 5(1), (2)	4.11.1996 30.4.2009
r 6A	inserted by 162/1995 r 3 varied by 21/1997 r 3 varied by 210/2003 r 4 varied by 209/2008 r 5(1), (2)	27.7.1995 1.3.1997 1.12.2003 28.7.2008
r 7	varied by 155/1998 r 3 varied by 47/2009 r 11 <b>varied by 47/2009 r 15(1), (2)</b>	2.11.1998 1.8.2009 <b>1.9.2009</b>
r 9	varied by 155/1998 r 4 varied by 47/2009 r 12 <b>varied by 47/2009 r 16(1)—(3)</b>	2.11.1998 1.8.2009 <b>1.9.2009</b>
<b>r 10</b>	<b>varied by 47/2009 r 17</b>	<b>1.9.2009</b>
r 12		
r 12(1)	varied by 225/1996 r 4 varied by 156/2002 r 3 varied by 47/2009 r 6(1), (2) <b>varied by 47/2009 r 18</b>	4.11.1996 8.10.2002 30.4.2009 <b>1.9.2009</b>
r 13	varied by 209/2008 r 6	28.7.2008
r 15		
r 15(1)	varied by 225/1996 r 5 varied by 47/2009 r 7(1)	4.11.1996 30.4.2009
r 15(1a)	inserted by 47/2009 r 7(2)	30.4.2009

**Land and Business (Sale and Conveyancing) Regulations 1995—1.9.2009 to 28.2.2010**

Legislative history

r 15A	inserted by 209/2008 r 7	28.7.2008
r 16	varied by 225/1996 r 6	4.11.1996
	<b>varied by 47/2009 r 19</b>	<b>1.9.2009</b>
r 16A	inserted by 209/2008 r 8	28.7.2008
r 16A(4) and (5)	inserted by 260/2008 r 4	25.9.2008
rr 16B—16D	inserted by 209/2008 r 8	28.7.2008
r 16E	inserted by 209/2008 r 8	28.7.2008
r 16E(1)	varied by 260/2008 r 5(1)—(4)	25.9.2008
r 16F	inserted by 209/2008 r 8	28.7.2008
r 16G	inserted by 209/2008 r 8	28.7.2008
r 16G(1)	varied by 260/2008 r 6(1), (2)	25.9.2008
r 16G(3)—(7)	inserted by 260/2008 r 6(3)	25.9.2008
rr 16H—16J	inserted by 209/2008 r 8	28.7.2008
Pt 3		
r 17		
r 17(1)	varied by 150/2001 r 3	15.7.2001
	varied by 51/2007 r 23	1.6.2007
Pt 4	inserted by 209/2008 r 9	28.7.2008
<i>Sch 1 before substitution by 47/2009</i>		
<i>Form 1</i>		
<i>Contents list</i>	<i>varied by 43/1995 r 3(a)</i>	<i>4.5.1995</i>
<i>Pt A</i>	<i>varied by 43/1995 r 3(b)</i>	<i>4.5.1995</i>
<i>Pt B</i>	<i>varied by 47/2009 r 13(1)</i>	<i>1.8.2009</i>
<i>Pt D</i>	<i>heading varied by 43/1995 r 3(c)</i>	<i>4.5.1995</i>
<i>Sch</i>		
<i>Div 1—Table of Particulars</i>		
<i>Item 4</i>	<i>varied by 225/1996 r 7(a)</i>	<i>4.11.1996</i>
<i>Item 48</i>	<i>varied by 225/1996 r 7(b)</i>	<i>4.11.1996</i>
	<i>substituted by 155/1998 r 5(a)</i>	<i>2.11.1998</i>
<i>Items 49—57</i>	<i>inserted by 155/1998 r 5(a)</i>	<i>2.11.1998</i>
<i>Item 58</i>	<i>inserted by 200/1999 r 3(a)</i>	<i>30.9.1999</i>
<i>Div 2</i>		
<i>Particulars of transactions in last 12 months</i>	<i>substituted by 47/2009 r 13(2)</i>	<i>1.8.2009</i>
<i>Particulars relating to a community lot (including a strata lot)</i>	<i>inserted by 225/1996 r 7(c)</i>	<i>4.11.1996</i>
<i>Particulars of building indemnity insurance</i>	<i>varied by 156/2002 r 4(a)—(c)</i>	<i>8.10.2002</i>



<i>Particulars relating to a development lot</i>	<i>inserted by 225/1996 r 7(c)</i>	4.11.1996
<i>Particulars relating to environment protection</i>	<i>varied by 216/1995 r 3(a)</i>	1.12.1995
	<i>varied by 225/1996 r 7(d)</i>	4.11.1996
	<i>substituted by 155/1998 r 5(b)</i>	2.11.1998
<b>Form 2</b>		
<i>Contents list</i>	<i>varied by 43/1995 r 3(d)</i>	4.5.1995
<i>Pt A</i>	<i>varied by 43/1995 r 3(e)</i>	4.5.1995
<i>Pt B</i>	<i>varied by 47/2009 r 13(3)</i>	1.8.2009
<i>Pt E</i>	<i>heading varied by 43/1995 r 3(f)</i>	4.5.1995
<b>Sch 1</b>		
<b>Div 1</b>		
<i>Trading statement for last 3 financial years</i>	<i>varied by 143/1999 r 3 (Sch cl 12)</i>	1.7.1999
<b>Sch 2</b>		
<b>Div 1—Table of Particulars</b>		
<i>Item 4</i>	<i>varied by 225/1996 r 7(e)</i>	4.11.1996
<i>Item 48</i>	<i>varied by 225/1996 r 7(f)</i>	4.11.1996
	<i>substituted by 155/1998 r 5(c)</i>	2.11.1998
<i>Items 49—57</i>	<i>inserted by 155/1998 r 5(c)</i>	2.11.1998
<i>Item 58</i>	<i>inserted by 200/1999 r 3(b)</i>	30.9.1999
<b>Div 2</b>	<i>varied by 216/1995 r 3(b)</i>	1.12.1995
<i>Particulars of transactions in last 12 months</i>	<i>substituted by 47/2009 r 13(4)</i>	1.8.2009
<i>Particulars of building indemnity insurance</i>	<i>varied by 156/2002 r 4(d)—(f)</i>	8.10.2002
<i>Particulars relating to a community lot (including a strata lot)</i>	<i>inserted by 225/1996 r 7(g)</i>	4.11.1996
<i>Particulars relating to environment protection</i>	<i>varied by 216/1995 r 3(b)</i>	1.12.1995
	<i>varied by 225/1996 r 7(h)</i>	4.11.1996
	<i>substituted by 155/1998 r 5(d)</i>	2.11.1998
<b>Sch 1</b>	<b>substituted by 47/2009 r 20</b>	<b>1.9.2009</b>

Sch 1		
Form 1		
Sch		
<b>Div 1</b>	<b>varied by 209/2009 r 4(1), (2)</b>	<b>1.9.2009</b>
<b>Div 2</b>		
<b>Particulars relating to environment protection</b>	<b>substituted by 209/2009 r 4(3)</b>	<b>1.9.2009</b>
Div 2		
Particulars relating to environment protection	varied by 209/2009 r 6(1)—(4)	1.3.2010—not incorporated
	varied by 209/2009 r 7(1), (2)	31.8.2010—not incorporated
Item 5A	inserted by 209/2009 r 7(3)	31.8.2010—not incorporated
Form 2		
Sch 2		
<b>Div 1</b>	<b>varied by 209/2009 r 4(4), (5)</b>	<b>1.9.2009</b>
<b>Div 2</b>		
<b>Particulars relating to environment protection</b>	<b>substituted by 209/2009 r 4(6)</b>	<b>1.9.2009</b>
Div 2		
Particulars relating to environment protection	varied by 209/2009 r 7(4), (5)	31.8.2010—not incorporated
Item 5A	inserted by 209/2009 r 7(6)	31.8.2010—not incorporated
Sch 1A	inserted by 209/2008 r 10	28.7.2008
<i>Sch 2 before substitution by 47/2009</i>		
<i>Table 1</i>	<i>varied by 155/1998 r 6(a), (b)</i>	<i>2.11.1998</i>
	<i>varied by 200/1999 r 4</i>	<i>30.9.1999</i>
	<i>varied by 47/2009 r 8</i>	<i>30.4.2009</i>
<i>Table 2</i>	<i>varied by 216/1995 r 4</i>	<i>1.12.1995</i>
	<i>varied by 155/1998 r 6(c)—(f)</i>	<i>2.11.1998</i>
	<i>varied by 47/2009 r 8</i>	<i>30.4.2009</i>
<b>Sch 2</b>	<b>substituted by 47/2009 r 21</b>	<b>1.9.2009</b>
	<b>substituted by 209/2009 r 5</b>	<b>1.9.2009</b>
Sch 2	substituted by 209/2009 r 8	31.8.2010—not incorporated
Schs 2A and 2B	inserted by 209/2008 r 11	28.7.2008
Sch 2C	inserted by 209/2008 r 11	28.7.2008
cl 1		
cl 1(1)	varied by 260/2008 r 7	25.9.2008
Sch 2D	inserted by 209/2008 r 11	28.7.2008

*Sch 3 before  
substitution by 47/2009*

<i>cl 2</i>	<i>varied by 155/1998 r 7(a), (b)</i>	2.11.1998
<i>cl 3</i>		
<i>DENR Statement</i>	<i>deleted by 155/1998 r 7(c)</i>	2.11.1998
<i>Section 7 Statement</i>	<i>inserted by 155/1998 r 7(c)</i>	2.11.1998
<i>strata unit</i>	<i>inserted by 155/1998 r 7(c)</i>	2.11.1998
Sch 3	substituted by 47/2009 r 9	30.4.2009
<b>cl 1</b>	<b>varied by 47/2009 r 22(1)—(3)</b>	<b>1.9.2009</b>
<b>cl 2</b>		
<b>cl 2(1)</b>	<b>varied by 47/2009 r 22(4)</b>	<b>1.9.2009</b>
<i>cl 2</i>		
<i>cl 2(2)</i>	<i>varied by 181/2009 r 4(1), (2)</i> <b>varied by 47/2009 r 22(5)—(7)</b>	1.7.2009 <b>1.9.2009</b>
<i>cl 2</i>		
<i>cl 2(3)</i>	<i>varied by 181/2009 r 4(3), (4)</i> <b>varied by 47/2009 r 22(8)—(10)</b>	1.7.2009 <b>1.9.2009</b>
<i>cl 3</i>		
<b>related title</b>	<b>varied by 47/2009 r 22(11)</b>	<b>1.9.2009</b>
<i>section 7 statement</i>	<i>deleted by 47/2009 r 22(12)</i>	<b>1.9.2009</b>

**Transitional etc provisions associated with regulations or variations*****Land and Business (Sale and Conveyancing) Variation Regulations 2009 (No 47 of 2009), Sch 1*****1—Transitional provision relating to Part 3**

- (1) A vendor's statement for the purposes of section 7 of the *Land and Business (Sale and Conveyancing) Act 1994* prepared before the commencement of Part 3 of these regulations will be taken to comply with the *Land and Business (Sale and Conveyancing) Regulations 1995* as varied by Part 3 if the statement—
  - (a) was prepared not more than 2 months before the commencement of that Part; and
  - (b) complies with the Act and regulations as in force immediately before the commencement of that Part; and
  - (c) is accurate as at the date of service of the statement on the purchaser.
- (2) A vendor's statement for the purposes of section 8 of the *Land and Business (Sale and Conveyancing) Act 1994* prepared before the commencement of Part 3 of these regulations will be taken to comply with the *Land and Business (Sale and Conveyancing) Regulations 1995* as varied by Part 3 if the statement—
  - (a) was prepared not more than 2 months before the commencement of that Part; and

- (b) complies with the Act and regulations as in force immediately before the commencement of that Part; and
  - (c) is accurate as at the date of service of the statement on the purchaser.
- (3) A reference in this clause to the date of service of a vendor's statement is, where a notice of amendment to the statement is served for the purposes of section 10 of the *Land and Business (Sale and Conveyancing) Act 1994*, a reference to the presumed date of service of the statement under that section.

## **2—Transitional provision relating to Part 4**

- (1) A vendor's statement for the purposes of section 7 of the *Land and Business (Sale and Conveyancing) Act 1994* prepared before the commencement of Part 4 of these regulations will be taken to comply with the *Land and Business (Sale and Conveyancing) Regulations 1995* as varied by Part 4 if the statement—
- (a) was prepared not more than 2 months before the commencement of Part 4; and
  - (b) complies with the Act and regulations as in force—
    - (i) if prepared before the commencement of Part 3 of these regulations—immediately before the commencement of Part 3;
    - (ii) if prepared after the commencement of Part 3—immediately before the commencement of Part 4; and
  - (c) is accurate as at the date of service of the statement on the purchaser.
- (2) A vendor's statement for the purposes of section 8 of the *Land and Business (Sale and Conveyancing) Act 1994* prepared before the commencement of Part 4 of these regulations will be taken to comply with the *Land and Business (Sale and Conveyancing) Regulations 1995* as varied by Part 4 if the statement—
- (a) was prepared not more than 2 months before the commencement of Part 4; and
  - (b) complies with the Act and regulations as in force—
    - (i) if prepared before the commencement of Part 3 of these regulations—immediately before the commencement of Part 3;
    - (ii) if prepared after the commencement of Part 3—immediately before the commencement of Part 4; and
  - (c) is accurate as at the date of service of the statement on the purchaser.
- (3) A reference in this clause to the date of service of a vendor's statement is, where a notice of amendment to the statement is served for the purposes of section 10 of the *Land and Business (Sale and Conveyancing) Act 1994*, a reference to the presumed date of service of the statement under that section.

***Land and Business (Sale and Conveyancing) (Site Contamination) Variation Regulations 2009 (No 209 of 2009), Sch 1***

***Part 1—Transitional provisions***

**1—Interpretation**

- (1) In this Part—

*Act* means the *Land and Business (Sale and Conveyancing) Act 1994*;

*earlier amending regulations* means the *Land and Business (Sale and Conveyancing) Variation Regulations 2009* (see *Gazette 30.04.2009 p1557*);

*principal regulations* means the *Land and Business (Sale and Conveyancing) Regulations 1995*.

- (2) A reference in this Part to the date of service of a vendor's statement is, where a notice of amendment to the statement is served for the purposes of section 10 of the Act, a reference to the presumed date of service of the statement under that section.

**2—Transitional provision relating to Part 4 of earlier amending regulations and Part 2 of these regulations**

- (1) A vendor's statement for the purposes of section 7 of the Act prepared before the commencement of Part 4 of the earlier amending regulations and Part 2 of these regulations will be taken to comply with the principal regulations as varied by Part 4 of the earlier amending regulations and Part 2 of these regulations if the statement—
- (a) was prepared not more than 2 months before the commencement of Part 4 of the earlier amending regulations; and
  - (b) complies with the Act and regulations as in force—
    - (i) if prepared before the commencement of Part 3 of the earlier amending regulations—immediately before the commencement of Part 3 of the earlier amending regulations;
    - (ii) if prepared after the commencement of Part 3 of the earlier amending regulations—immediately before the commencement of Part 4 of the earlier amending regulations; and
  - (c) is accurate as at the date of service of the statement on the purchaser.
- (2) A vendor's statement for the purposes of section 8 of the Act prepared before the commencement of Part 4 of the earlier amending regulations and Part 2 of these regulations will be taken to comply with the principal regulations as varied by Part 4 of the earlier amending regulations and Part 2 of these regulations if the statement—
- (a) was prepared not more than 2 months before the commencement of Part 4 of the earlier amending regulations; and
  - (b) complies with the Act and regulations as in force—
    - (i) if prepared before the commencement of Part 3 of the earlier amending regulations—immediately before the commencement of Part 3 of the earlier amending regulations;

- (ii) if prepared after the commencement of Part 3 of the earlier amending regulations—immediately before the commencement of Part 4 of the earlier amending regulations; and

(c) is accurate as at the date of service of the statement on the purchaser.

***Part 2—Permitted form of items relating to environment protection in vendor's statement (pending commencement of all provisions of these regulations)***

**5—Permitted form of items relating to environment protection in vendor's statement**

The portion of a vendor's statement comprising the items under the heading "**†Particulars relating to environment protection**" in Schedule 1, Form 1, Schedule, Division 2 or Schedule 1, Form 2, Schedule 2, Division 2 of the principal regulations will be taken to be in the form required by the principal regulations as varied by Part 2 of these regulations (and as subsequently varied by Part 3 and Part 4 of these regulations) if the items and heading are in the following form:

**†Particulars relating to environment protection**

**1—Interpretation**

- (1) In this and the following items (items 1 to 6 inclusive)—

*domestic activity* has the same meaning as in the *Environment Protection Act 1993*;

*environmental assessment*, in relation to land, means an assessment of the existence or nature or extent of—

- (a) site contamination (within the meaning of the *Environment Protection Act 1993*) at the land; or
- (b) any other contamination of the land by chemical substances,

and includes such an assessment in relation to water on or below the surface of the land;

*EPA* means the Environment Protection Authority established under the *Environment Protection Act 1993*;

*pre-1 July 2009 site audit*, in relation to land, means a review (carried out by a person recognised by the EPA as an environmental auditor) that examines environmental assessments or remediation of the land for the purposes of determining—

- (a) the nature and extent of contamination of the land by chemical substances present or remaining on or below the surface of the land; and
- (b) the suitability of the land for a particular use; and
- (c) what remediation is or remains necessary for a particular use,

but does not include a site contamination audit (as defined below) completed on or after 1 July 2009;

**pre-1 July 2009 site audit report** means a detailed written report that sets out the findings of a pre-1 July 2009 site audit;

**prescribed commercial or industrial activity**—see item 1(2);

**prescribed fee** means the fee prescribed under the *Environment Protection Act 1993* for inspection of, or obtaining copies of information on, the public register;

**public register** means the public register kept by the EPA under section 109 of the *Environment Protection Act 1993*;

**site contamination audit** has the same meaning as in the *Environment Protection Act 1993*;

**site contamination audit report** has the same meaning as in the *Environment Protection Act 1993*.

- (2) For the purposes of this and the following items (items 1 to 6 inclusive), each of the following activities (as defined in Schedule 1 Part 1 of the *Environment Protection (Site Contamination) Regulations 2008*) is a prescribed commercial or industrial activity:

abrasive blasting	acid sulphate soil generation	agricultural activities
airports, aerodromes or aerospace industry	animal burial	animal dips or spray race facilities
animal feedlots	animal saleyards	asbestos disposal
asphalt or bitumen works	battery manufacture, recycling or disposal	breweries
brickworks	bulk shipping facilities	cement works
ceramic works	charcoal manufacture	coal handling or storage
coke works	compost or mulch production or storage	concrete batching works
curing or drying works	defence works	desalination plants
dredge spoil disposal or storage	drum reconditioning or recycling works	dry cleaning
electrical or electronics component manufacture	electrical substations	electrical transformer or capacitor works
electricity generation or power plants	explosives or pyrotechnics facilities	fertiliser manufacture
fibreglass manufacture	fill or soil importation	fire extinguisher or retardant manufacture
fire stations	fire training areas	foundry
fuel burning facilities	furniture restoration	gasworks
glass works	glazing	hat manufacture or felt processing

incineration	iron or steel works	laboratories
landfill sites	lime burner	metal coating, finishing or spray painting
metal forging	metal processing, smelting, refining or metallurgical works	mineral processing, metallurgical laboratories or mining or extractive industries
mirror manufacture	motor vehicle manufacture	motor vehicle racing or testing venues
motor vehicle repair or maintenance	motor vehicle wrecking yards	mushroom farming
oil recycling works	oil refineries	paint manufacture
pest control works	plastics manufacture works	printing works
pulp or paper works	railway operations	rubber manufacture or processing
scrap metal recovery	service stations	ship breaking
spray painting	tannery, fellmongery or hide curing	textile operations
transport depots or loading sites	tyre manufacture or retreading	vermiculture
vessel construction, repair or maintenance	waste depots	wastewater treatment, storage or disposal
water discharge to underground aquifer	wetlands or detention basins	wineries or distilleries
wood preservation works	woolscouring or wool carbonising works	works depots (operated by councils or utilities)

## 2—Pollution and site contamination on the land—questions for vendor

- (1) Is the vendor aware of any of the following activities ever having taken place at the land:
- (a) storage, handling or disposal of waste or fuel or other chemicals (other than in the ordinary course of domestic activities)?
  - (b) importation of soil or other fill from a site at which—
    - (i) an activity of a kind listed in paragraph (a) has taken place; or
    - (ii) a prescribed commercial or industrial activity (see item 1(2) above) has taken place?

\*YES/NO

If YES, give details of all activities that the vendor is aware of and whether they have taken place before or after the vendor acquired an interest in the land:



- (2) Is the vendor aware of any prescribed commercial or industrial activities (see item 1(2) above) ever having taken place at the land?

\*YES/NO

If YES, give details of all activities that the vendor is aware of and whether they have taken place before or after the vendor acquired an interest in the land:

- (3) Is the vendor aware of any dangerous substances ever having been kept at the land pursuant to a licence under the *Dangerous Substances Act 1979*?

\*YES/NO

If YES, give details of all dangerous substances that the vendor is aware of and whether they were kept at the land before or after the vendor acquired an interest in the land:

- (4) Is the vendor aware of the sale or transfer of the land or part of the land ever having occurred subject to an agreement for the exclusion or limitation of liability for site contamination to which section 103E of the *Environment Protection Act 1993* applies?

\*YES/NO

If YES, give details of each sale or transfer and agreement that the vendor is aware of:

- (5) Is the vendor aware of an environmental assessment of the land or part of the land ever having been carried out or commenced (whether or not completed)?

\*YES/NO

If YES, give details of all environmental assessments that the vendor is aware of and whether they were carried out or commenced before or after the vendor acquired an interest in the land:

**Note—**

These questions relate to details about the land that may be known by the vendor. A "YES" answer to the questions at items 2(1) or 2(2) may indicate that a *potentially contaminating activity* has taken place at the land (see sections 103C and 103H of the *Environment Protection Act 1993*) and that assessments or remediation of the land may be required at some future time.

A "YES" answer to any of the questions in this item may indicate the need for the purchaser to seek further information regarding the activities, for example, from the council or the EPA.

### **3—Licences and exemptions recorded by EPA in public register**

Does the EPA hold any of the following details in the public register:

- (a) details of a current licence issued under Part 6 of the *Environment Protection Act 1993* to conduct, at the land—
- (i) a waste or recycling depot (as referred to in clause 3(3) of Schedule 1 Part A of that Act); or

- (ii) activities producing listed wastes (as referred to in clause 3(4) of Schedule 1 Part A of that Act); or
- (iii) any other prescribed activity of environmental significance under Schedule 1 of that Act?

\*YES/NO

**Note—**

Subparagraph (iii) must be completed if the form is prepared on or after 1 March 2010.

- (b) details of a licence no longer in force issued under Part 6 of the *Environment Protection Act 1993* to conduct, at the land—
  - (i) a waste or recycling depot (as referred to in clause 3(3) of Schedule 1 Part A of that Act); or
  - (ii) activities producing listed wastes (as referred to in clause 3(4) of Schedule 1 Part A of that Act); or
  - (iii) any other prescribed activity of environmental significance under Schedule 1 of that Act?

\*YES/NO

**Note—**

Subparagraph (iii) must be completed if the form is prepared on or after 31 August 2010.

- (ba) details of a current exemption issued under Part 6 of the *Environment Protection Act 1993* from the application of a specified provision of that Act in relation to an activity carried on at the land?

\*YES/NO

**Note—**

Paragraph (ba) must be completed if the form is prepared on or after 1 March 2010.

- (bb) details of an exemption no longer in force issued under Part 6 of the *Environment Protection Act 1993* from the application of a specified provision of that Act in relation to an activity carried on at the land?

\*YES/NO

**Note—**

Paragraph (bb) must be completed if the form is prepared on or after 31 August 2010.

- (c) details of a licence issued under the repealed *South Australian Waste Management Commission Act 1979* to operate a waste depot at the land?

\*YES/NO

- (d) details of a licence issued under the repealed *Waste Management Act 1987* to operate a waste depot at the land?

\*YES/NO

- (e) details of a licence issued under the repealed *South Australian Waste Management Commission Act 1979* to produce waste of a prescribed kind (within the meaning of that Act) at the land?

\*YES/NO

- (f) details of a licence issued under the repealed *Waste Management Act 1987* to produce prescribed waste (within the meaning of that Act) at the land?

\*YES/NO

**Note—**

These questions relate to details about licences and exemptions required to be recorded by the EPA in the public register. If the EPA answers "YES" to any of the questions—

- in the case of a licence or exemption under the *Environment Protection Act 1993*—
  - the purchaser may obtain a copy of the licence or exemption from the public register on payment of the prescribed fee; and
  - the purchaser should note that transfer of a licence or exemption is subject to the conditions of the licence or exemption and the approval of the EPA (see section 49 of the *Environment Protection Act 1993*); and
- in the case of a licence under a repealed Act—the purchaser may obtain details about the licence from the public register on payment of the prescribed fee.

A "YES" answer to any of these questions may indicate that a ***potentially contaminating activity*** has taken place at the land (see sections 103C and 103H of the *Environment Protection Act 1993*) and that assessments or remediation of the land may be required at some future time.

The EPA will not provide details about licences to conduct the following prescribed activities of environmental significance (within the meaning of Schedule 1 Part A of the *Environment Protection Act 1993*): waste transport business (category A), waste transport business (category B), dredging, earthworks drainage, any other activities referred to in Schedule 1 Part A undertaken by means of mobile works, helicopter landing facilities, marinas and boating facilities or discharges to marine or inland waters.

The EPA will not provide details about exemptions relating to—

- the conduct of any of the licensed activities in the immediately preceding paragraph in this note; or
- noise.

#### **4—Pollution and site contamination on the land—details recorded by EPA in public register**

Does the EPA hold any of the following details in the public register in relation to the land or part of the land:

- (a) details of serious or material environmental harm caused or threatened in the course of an activity (whether or not notified under section 83 of the *Environment Protection Act 1993*)?  
\*YES/NO
- (b) details of site contamination notified to the EPA under section 83A of the *Environment Protection Act 1993*?  
\*YES/NO
- (c) a copy of a report of an environmental assessment (whether prepared by the EPA or some other person or body and whether or not required under legislation) that forms part of the information required to be recorded in the public register?  
\*YES/NO
- (d) a copy of a site contamination audit report?  
\*YES/NO
- (e) details of an agreement for the exclusion or limitation of liability for site contamination to which section 103E of the *Environment Protection Act 1993* applies?  
\*YES/NO
- (f) details of an agreement entered into with the EPA relating to an approved voluntary site contamination assessment proposal under section 103I of the *Environment Protection Act 1993*?  
\*YES/NO
- (g) details of an agreement entered into with the EPA relating to an approved voluntary site remediation proposal under section 103K of the *Environment Protection Act 1993*?  
\*YES/NO
- (h) details of a notification under section 103Z(1) of the *Environment Protection Act 1993* relating to the commencement of a site contamination audit?  
\*YES/NO
- (i) details of a notification under section 103Z(2) of the *Environment Protection Act 1993* relating to the termination before completion of a site contamination audit?  
\*YES/NO

- (j) details of records, held by the former South Australian Waste Management Commission under the repealed *Waste Management Act 1987*, of waste (within the meaning of that Act) having been deposited on the land between 1 January 1983 and 30 April 1995?

\*YES/NO

**Note—**

These questions relate to details required to be recorded by the EPA in the public register. If the EPA answers "YES" to any of the questions, the purchaser may obtain those details from the public register on payment of the prescribed fee.

**5—Pollution and site contamination on the land—other details held by EPA**

Does the EPA hold any of the following details in relation to the land or part of the land:

- (a) a copy of a report known as a "Health Commission Report" prepared by or on behalf of the South Australian Health Commission (under the repealed *South Australian Health Commission Act 1976*)?

\*YES/NO

- (b) details (which may include a report of an environmental assessment) relevant to an agreement entered into with the EPA relating to an approved voluntary site contamination assessment proposal under section 103I of the *Environment Protection Act 1993*?

\*YES/NO

- (c) details (which may include a report of an environmental assessment) relevant to an agreement entered into with the EPA relating to an approved voluntary site remediation proposal under section 103K of the *Environment Protection Act 1993*?

\*YES/NO

- (d) a copy of a pre-1 July 2009 site audit report?

\*YES/NO

- (e) details relating to the termination before completion of a pre-1 July 2009 site audit?

\*YES/NO

**Note—**

These questions relate to details that the EPA may hold. If the EPA answers "YES" to any of the questions, the purchaser may obtain those details from the EPA (on payment of any fee fixed by the EPA).

### 5A—Further information held by councils

Does the council hold details of any development approvals relating to—

- (a) commercial or industrial activity at the land; or
- (b) a change in the use of the land or part of the land (within the meaning of the *Development Act 1993*)?

\*YES/NO

Note—

The question relates to information that the council for the area in which the land is situated may hold. If the council answers "YES" to the question, it will provide a description of the nature of each development approved in respect of the land. The purchaser may then obtain further details from the council (on payment of any fee fixed by the council). However, it is expected that the ability to supply further details will vary considerably between councils.

A "YES" answer to paragraph (a) of the question may indicate that a *potentially contaminating activity* has taken place at the land (see sections 103C and 103H of the *Environment Protection Act 1993*) and that assessments or remediation of the land may be required at some future time.

It should be noted that—

- (a) the approval of development by a council does not necessarily mean that the development has taken place;
- (b) the council will not necessarily be able to provide a complete history of all such development that has taken place at the land.

### 6—Further information for purchasers

Note—

The purchaser is advised that other matters under the *Environment Protection Act 1993* (that is, matters other than those referred to in this Statement) that may be relevant to the purchaser's further enquiries may also be recorded in the public register. These include:

- details relating to environmental authorisations such as applications, applicants, locations of activities, conditions, suspension, cancellation or surrender of authorisations, disqualifications, testing requirements and test results;
- details relating to activities undertaken on the land under licences or other environmental authorisations no longer in force;
- written warnings relating to alleged contraventions of the *Environment Protection Act 1993*;
- details of prosecutions and other enforcement action;
- details of civil proceedings;
- other details prescribed under the *Environment Protection Act 1993* (see section 109(3)(l)).

Details of these matters may be obtained from the public register on payment to the EPA of the prescribed fee.

If—

- (a) an environment performance agreement, environment protection order, clean-up order, clean-up authorisation, site contamination assessment order or site remediation order has been registered on the certificate of title for the land; or
- (b) a notice of declaration of special management area in relation to the land has been gazetted; or
- (c) a notation has been made on the certificate of title for the land that a site contamination audit report has been prepared in respect of the land; or
- (d) a notice of prohibition or restriction on taking water affected by site contamination in relation to the land has been gazetted,

it will be noted in the items under the heading *Environment Protection Act 1993* under the Table of Particulars in this Statement. Details of any registered documents may be obtained from the Lands Titles Registration Office.

## Historical versions

Reprint No 1—4.11.1996

Reprint No 2—1.3.1997

Reprint No 3—2.11.1998

Reprint No 4—1.7.1999

Reprint No 5—30.9.1999

Reprint No 6—15.7.2001

Reprint No 7—8.10.2002

Reprint No 8—1.12.2003

1.6.2007

28.7.2008

25.9.2008

30.4.2009

1.7.2009

1.8.2009

## Appendix—Divisional penalties and expiation fees

At the date of publication of this version divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—

**Land and Business (Sale and Conveyancing) Regulations 1995—1.9.2009 to 28.2.2010**  
Appendix—Divisional penalties and expiation fees

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<b>Division</b>	<b>Maximum imprisonment</b>	<b>Maximum fine</b>	<b>Expiation fee</b>
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

*Note: This appendix is provided for convenience of reference only.*