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SALE INFORMATION BOOKLET

The information contained in this booklet is extremely important. We recommend that you read it carefully.

Introduction

We thank you for engaging us to assist you in your conveyancing transaction. Please feel free to contact our office at any time by phone or email if you have any queries.

Selling a property is often a daunting process. We will do our best to simplify the process to ensure that it causes you as little stress as possible. By retaining a lawyer you are assured that whatever happens with your transaction, we will be there to support you.

The purpose of this information booklet is to provide you with an outline of what is involved in the conveyancing process.

Verification of Identity (Vol)

We are obliged to verify the identity of our clients. This requires us to sight, in a face to face interview, a Passport and a Driver's Licence. If you do not have either of these documents, other documents such as an original Birth Certificate or Citizenship Certificate may be satisfactory. If you have a Driver's Licence and Passport, please call into our office at any time at your convenience and we will take copies of the documents to complete the verification process.

Costs

Our standard costs are based on the transaction proceeding in the normal manner. These costs are set out at the end of this booklet.

Appointing a Real Estate Agent

The first step many people take when deciding to sell a property is to appoint a real estate agent to handle the sale. The agent is responsible for marketing the property with the intention of achieving a sale. You will enter into a contractual relationship with the real estate agent by signing an Exclusive Sale Authority (there are other forms of authority but this is the most common).

This document governs the relationship between you and the agent, and as such it is an important document and you should read it carefully before signing. There are two basic things you need to be aware of in relation to the authority:

1. the agent's obligation pursuant to the authority only extends to finding a purchaser who agrees to purchase the property pursuant to an unconditional contract. The agent is entitled to a commission if this is achieved, even if settlement does not take place; and
2. by signing the authority you give the agent the exclusive right to market and sell the property for a specified period (usually 90 days). You must be mindful of your potential liability to pay commission to the agent in the event that you seek to sell the property with another agent; or without an agent as the authority may say the original agent is entitled to a commission in certain circumstances.

The agent should collect a deposit (usually 10%) from the purchaser at the time that the contract is signed by the purchaser and will hold this amount in trust. We will usually arrange for the agent to transfer the deposit, less the agent's commission, to our trust account so that it will be available at final

settlement. It is possible for the deposit to be released earlier than final settlement – see below Release of Deposit.

Vendor Statement (s.32 Statement)

All vendors must provide certain details about the property to prospective purchasers. This document is known as a Vendor Statement and is required by s.32 of the Sale of Land Act. We prepare this document for you and agents are always very anxious to receive it as they cannot sell the property without it. Our aim is to prepare the s.32 Statement as quickly as possible but whilst time is important, getting it right is more important. Sometimes there will be a delay whilst we obtain a required document from a third party (such as an Owners Corporation Certificate which can take 10 days to arrive) but you can be certain that we will prepare the s.32 Statement as quickly as possible.

Depending on the circumstances, we may forward the s.32 Statement to you for signing and return, or we might include the s.32 Statement in the Contract of Sale and provide both documents to the agent, who will then arrange for you to sign the s.32 Statement in anticipation of a sale.

The Contract of Sale

The contract of sale is the most important document in the conveyancing process. The contract records the terms of your agreement with the purchaser regarding the sale. Our practice is to prepare the contract at the same time as we prepare the s.32 Statement and in this way we provide the agent with ALL of the documents that are necessary to create a legally binding agreement.

In light of the above we therefore only allow the contract to leave our office once all necessary requirements have been satisfied. Whilst we appreciate that contracts often need to be prepared quickly, we request your patience and assistance to ensure that all necessary documents are obtained so as to ensure the validity of the contract.

The contract is usually signed by the purchaser as a way of making a written offer to buy the property. The deposit, or part of it, is paid to the agent, who then submits the written offer to the vendor for consideration. If the vendor is prepared to accept that offer, the vendor signs the contract and a binding legal agreement comes into existence. No binding agreement exists until BOTH purchaser AND vendor have signed the contract.

The agent then advises the purchaser that the vendor has accepted the offer and arranges to collect the balance of deposit (if applicable).

Insurance

The standard contract provides that the property remains at the risk of the vendor and we therefore recommend that you maintain insurance over the property until settlement.

Cooling Off

In limited circumstances, a purchaser may cool-off (end) a purchase, although this does not apply to a purchase made at auction or three business days either side of an auction.

Electronic Conveyancing - PEXA

Some transactions can be conducted electronically and where possible we use PEXA (Property Exchange Australia) to settle transactions. There are fees for using PEXA, but also some savings and the sale proceeds are available to you as cleared funds immediately.

Signing Documents

During the conveyancing process there will be a number of documents you will have to sign. It is important that you use the SAME SIGNATURE when signing all documents as financiers and government departments involved in this process are most pedantic in relation to signatures.

Many of these documents will also have to be witnessed as evidence that you are in fact the person who signs the document. Some documents can be witnessed by any adult person but documents known as **Statutory Declarations** must be witnessed by authorised witnesses. A list of authorised witnesses is on the inside back page.

You must make sure when signing these documents that you do so in accordance with the appropriate procedures. **If a document is returned to our office not witnessed or incorrectly witnessed, we will have to send it back to you to be re-signed.**

If you receive a document and are unsure of how it is to be signed you should always contact our office rather than simply guessing and sending the document back incorrectly signed.

Paying out your Loan and Discharging your Mortgage

If there is a mortgage over your property it is necessary for us to arrange for that mortgage to be discharged and for the lender to bring the certificate of title to the settlement. We will send you a Discharge Authority for signing and return to our office so that we can arrange the discharge. It is important that you complete details of your loan account number(s) before returning the Authority to us as lenders require specific information in this regard.

Discharges are handled by Head Office of the financier and strict protocols must be observed in arranging discharges.

Release of Deposit

Purchasers usually pay a 10% deposit at the time the contract is signed and this amount must be held by a stakeholder (agent or solicitor) until settlement. It is possible for the deposit to be released prior to settlement, but the purchaser is entitled to have full details of any amounts owed in relation to the property and this means that we must obtain information from your lender (if applicable). This can take as long as 3 weeks to obtain and the purchaser may take a further 4 weeks to agree. Not all purchasers co-operate with deposit release and it can become a very time consuming exercise. Some purchasers may request payment of their legal costs associated with agreeing to release.

If you do not owe any money on the property then we will arrange for the deposit to be released to you 28 days after the date of the contract without reference to the purchasers.

The agent is entitled to take commission from the deposit once it is released.

Transfer of Land

This is the document that acts to transfer ownership of the property from the vendor to the purchaser. It is prepared by the purchaser's solicitor, signed by the purchaser and then sent by us to you for signing and return in anticipation of it being handed over with the certificate of title at settlement. Your signature on the Transfer can be witnessed by any adult person, other than another party to the Transfer.

Vendors are also required to sign either a Goods Statement (residential land) or a Goods Declaration (non-residential land). This simply confirms that the transfer price (consideration) is the total of the price paid by the purchaser to the vendor.

Final Inspection

The purchaser is entitled to conduct a final inspection of the property in the week before settlement and the agent will arrange this. The purpose of the inspection is to establish that the property is in the same condition as on the day of sale, fair wear and tear excepted.

A purchaser must accept minor deterioration (such as an overgrown garden) but may be entitled to complain in relation to more serious deterioration in the property (such as a tree falling on the house). It is therefore advisable for you to continue insurance cover.

Permanent improvements, such as stoves, heaters and kitchen benches, are known as fixtures and they are therefore part of the property and included in the sale. Moveable items, such as furniture, televisions and washing machines are known as goods or chattels and these are not included in the sale and may be removed by the vendor. A fixed dishwasher is a fixture and is included in the sale.

It is normal to leave improvements such as carpets, curtains & blinds and light fittings and these are included in the contract by reference to 'chattels'. If there is a particular item that you intend to remove at settlement, this should be specifically excluded from the contract. You should advise us of this so that we can specify this exclusion in the contract.

Settlement

Settlement takes place where the title to the property is held. As most homeowners have a mortgage, their titles are held by their banks, generally at head offices in the Melbourne CBD. Some settlements are conducted electronically or our office appoints a settlement agent to attend settlement on our behalf and it is not necessary for you to attend. At settlement the purchaser's representative hands over the money due to the vendor and in exchange the vendor's representative hands over the relevant documents to enable the purchaser to become registered as the owner of the property.

Proceeds of sale do not usually arrive at our office until after 5pm on the day of settlement. Cheques can be collected at that time or we can arrange for cheques to be paid directly into your bank account on the next business day after settlement, or posted to you.

Keys

Keys are usually collected by the purchaser from the agent after settlement. The agent should only hand over keys upon receipt of written authorisation from our office. We will send that authorisation to the agent after settlement. Other keys are normally left in the property, along with instruction books and household information.

Rate adjustment

The Vendor is obliged to pay the rates on the property until settlement and the purchaser thereafter. Rates are adjusted at settlement to ensure that this happens. This is done by deducting from the money paid to the vendor any amount outstanding for rates,

and then adjusting those rates as paid, so that the purchaser pays back to the vendor the rates paid by the vendor for the period after settlement. We forward a cheque to the rating authority to pay the rates up to the end of the rating period.

FRCGTW

If you are selling a property over \$750,000, the ATO requires the purchaser to withhold 12.5% of the purchase price and pay it to the ATO unless you obtain a Clearance Certificate from the ATO. You may need the assistance of your accountant. See www.ato.gov.au/FRWT_Certificate.aspx

Goods & Services Tax (GST)

Most residential transactions do not attract GST, but the sale by a builder or developer of new residential premises or vacant land DOES attract GST. If you believe that your sale may attract GST please be sure to discuss that possibility with us.

Capital Gains Tax (CGT)

Most residential transactions do not attract CGT, but the sale of a property other than your principal place of residence may have CGT consequences and you should seek advice from your accountant before deciding to sell.

Services and Completion

You must arrange for final readings of electricity, gas and telephone services and for the forwarding of final accounts to your future address.

We will provide you with full financial details relating to the settlement and advise rating authorities of the sale. If you have repaid a mortgage at settlement, your financier will also report to you after settlement.

Legal Costs

Standard costs on sales up to \$1 million	\$990	plus disbursements
Standard costs on sales \$1 million-\$2 million	\$1250	plus disbursements
Standard costs on sales over \$2 million	\$1500	plus disbursements

These costs include GST. Costs are higher for more expensive properties as our experience is that these transactions demand more time and attention than other transactions.

Disbursements are amounts that we pay on your behalf to conduct searches, obtain certificates retain settlement agents or settle electronically. They usually total \$150 - \$200.

A property affected by an Owners Corporation attracts an additional disbursement of approx. \$150 for an Owners Corporation Certificate that must be obtained for settlement. Some properties have more than one Owners Corporation and \$150 is payable for each Certificate.

We reserve the right to charge additional costs for non-standard transactions. These include off the plan sales, complex financing arrangements and transactions where settlement is delayed. Every attempt is made to settle without additional charges and we will advise you at the earliest possible time if it is likely that additional costs will be charged.

Wills and Powers of Attorney

We recommend that you review your Will regularly and when you sell a property is a good time to do so. Considering whether to give a Power of Attorney (Personal, Financial and Legal or Medical or both) is also advisable. Our costs in this regard are:

<u>Single Person</u>		<u>Couple</u>	
Will	\$300	Wills	\$500
One EPA	\$250	One EPA each	\$400
Both EPAs	\$400	Both EPAs each	\$500
Will + one EPA	\$500	Wills + one EPA	\$600
Will+ both EPAs	\$600	Wills+ both EPAs	\$700

Wills for couples in second marriages will be more expensive as these relationships require more complex documents.

Clients with special needs may be advised to have a Testamentary Trust Will prepared. The cost is \$800 for a single and \$1200 for a couple.

Persons who can witness statutory declarations

Any of the following persons may witness the signing of a statutory declaration:

- (a) a justice of the peace or a bail justice;
- (b) a public notary;
- (c) an Australian lawyer (within the meaning of the Legal Profession Act 2004)
- (d) a clerk to an Australian lawyer;
- (e) a person registered as a patent attorney under Chapter 20 of the Patents Act 1990 of the Commonwealth;
- (f) a member of the police force;
- (g) the sheriff or a deputy sheriff;
- (h) a member or former member of either House of the Parliament of Victoria;
- (i) a member or former member of either House of the Parliament of the Commonwealth;
- (j) a councillor of a municipality;
- (k) a senior officer of a Council as defined in the Local Government Act 1989;
- (l) a person registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student);
- (m) a person registered under the Health Practitioner Regulation National Law—
 - (i) to practise in the dental profession as a dentist (other than as a student); and
 - (ii) in the dentists division of that profession;
- (n) a veterinary practitioner;
- (o) a person registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession (other than as a student);
- (p) a principal in the teaching service;
- (q) the manager of an authorised deposit-taking institution;
- (r) a member of the Institute of Chartered Accountants in Australia or the Australian Society of Accountants or the Institute of Public Accountants;
- (s) the secretary of a building society;
- (t) a minister of religion authorised to celebrate marriages;
- (u) a fellow of the Institute of Legal Executives (Victoria).



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