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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 further queries after reading this booklet.

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 attend our office at any time at your convenience and we will take copies of the documents to complete the verification process. We do not charge for this service.

### Fees

Our standard fees are based on the transaction proceeding in the normal manner. These fees 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 usually enter into a contractual relationship with the real estate agent by signing an 'Exclusive Sale Authority'.

This document governs the relationship between you and the agent. 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 then 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).

## 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, ensuring it is correct is more important. Sometimes there will be delays involved because we may need to obtain a required document from a third party (such as an Owners Corporation Certificate which can take up to 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, or we might include the s.32 Statement in the Contract and provide both documents to the agent, who will then arrange for you to sign the s.32 Statement in anticipation of a sale.

## Material Facts

The law also requires vendors to disclose "material facts" relating to the property, such as contamination, access limitation and illegal building work. Please advise us if any such facts are relevant to your property.

## The Contract of Sale

The Contract 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 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 the Purchaser and the 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 the 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 (or end) a purchase, although this does not apply to a purchase made at auction or three business days prior to or after the auction date.

## **Electronic Conveyancing – PEXA**

All transactions are conducted electronically and where possible we use Property Exchange Australia (known as PEXA) to settle transactions. Although there are fees for using PEXA, it also provides some savings and the sale proceeds are available to you as cleared funds immediately.

## **Signing Documents**

Once we have verified your identity and you have signed a Client Authority, we are able to sign all documents relating to the transfer of title. However, there are also a number of bodies which require you to sign particular documents, for instance:

- the State Revenue Office (SRO) requires some documents to be electronically signed by you; and
- the Australian Tax Office (ATO) also requires a declaration that you are not a foreign resident.

We will provide you with the links to the relevant websites and instructions as to signing these documents.

## **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 make the Certificate of Title available for settlement. We will send you a Discharge Authority for signing which you will need to 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. 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 the deposit.

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.

## **Final Inspection**

The Purchaser is entitled to conduct a final inspection of the property in the week before settlement, which the agent will arrange. The purpose of the inspection is to establish that the property is in the same condition as at 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 to mitigate the risk in these cases.

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. For instance, a fixed dishwasher is a fixture which would be 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.

It is normal to leave improvements such as carpets, curtains, blinds and light fittings. These are included in the Contract. 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**

As settlement takes place electronically, proceeds of sale are generally available as cleared funds in your account on the day of settlement.

### **Keys**

Keys to the property are usually collected by the Purchaser from the agent at settlement. The agent should only hand over keys upon receipt of written authorisation from our office. We will send 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 is obliged thereafter. Rates are adjusted at settlement to ensure that this occurs. 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. Payment is then made to the rating authority for any amount owing and rates are therefore paid until the end of the rating year.

### **Foreign Resident Capital Gains Withholding (FRCGW)**

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 your accountant's assistance in this respect.

See: [https://www.ato.gov.au/frwt\\_certificate.aspx](https://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**

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

### **Completion**

We will provide you with full financial details relating to the settlement and we will also advise the council, water authority and SRO of your sale.

## FEE STRUCTURE AS AT JULY 2024

### STANDARD CONVEYANCING – SALE

Transaction	Legal Fees
Residential/Commercial conveyancing sale	\$1,400 including GST, plus disbursements

The above fee structure is for transactions up to \$2 million. Our costs for transactions over \$2 million are determined by negotiation.

### ADDITIONAL SERVICES – SALE

**Section 27 Deposit Release:** An additional fee of \$220 maybe payable if you require us to facilitate early release of your deposit. This will be added to your invoice at settlement. Seeking release of the deposit is frequently made more difficult by the failure of banks to respond to requests in a timely manner, and by the purchasers often being reluctant to agree to such release. These issues routinely require our office to follow up numerous times to obtain responses to our requests.

### SCHEDULE OF COMMON DISBURSEMENTS AS AT 1 JULY 2024

*(subject to change by providers without notice)*

Disbursement	Fee (Including GST)	Why We Order it
Title Search	\$33.60	Required by the Sale of Land Act
Title Instrument (Covenant, Caveat etc.)	\$24.56	Required by the Sale of Land Act
Copy of Plan of Land	\$26.76	Required by the Sale of Land Act
Title Alert	\$11.81	To be aware of any dealings with the Title
Greater Western Water Information Statement	\$61.25	Discloses any possible unregistered easements
South East Water Information Statement	\$65.96	
Yarra Valley Water Information Statement	\$57.89	
Barwon Water Information Statement	\$64.45	
Hobsons Bay / Maribyrnong / Brimbank / Melton City Council / Moorabool Shire Council Land Information Certificate (approx., depending on council)	\$70.21	Discloses various charges which may affect the land, things such as:  Failure to clear land

Wyndham / Greater Geelong City Council Land Information Certificate	\$64.85	Flammable cladding charge; and Fire services Levy.
State Revenue Office Land Tax Certificate	\$49.55	Discloses any land tax liability (where property is not PPR)
Owners Corporation Certificate (Standard - 10 Days)	\$203.81	Required by the Sale of Land Act and includes information required by the Owners Corporation Act when selling land subject to an Owners Corporation
Owners Corporation Certificate (Priority - 5 Days)	\$290.39	
Owners Corporation Certificate (Priority Express - 2 Days)	\$342.31	
Council Building Certificate (approx., depending on council)	\$94.85	Discloses building permits issued in the last 10 years
PEXA (Electronic Settlement) Service Fee	\$137.39 or, where there is more than one title to the property, \$157.19	Fee charged by PEXA for electronic settlement

## WILLS AND POWERS OF ATTORNEY

We recommend that you review your Will regularly. Considering whether to give a Power of Attorney (Personal, Financial and Legal or Medical Treatment Appointment, or both) ('EPA') is also advisable. Our fees in this regard are as follows:

	STANDARD			COMPLEX	
	Single	Couple		Single	Couple
Will	\$500	\$700	Wills	\$800	\$1200
One EPA	\$300	\$500	One EPA each	\$300	\$500
Both EPAs	\$500	\$800	Both EPAs each	\$500	\$800
Will and one EPA	\$700	\$900	Wills and one EPA each	\$1000	\$1400
Will and both EPAs	\$800	\$1000	Wills and both EPAs each	\$1100	\$1500

Payment may be made by direct debit, cash, EFT or cheque. Credit card and EFTPOS facilities are not available.

### **Please Note**

Home visits can be arranged and will incur an additional charge of \$200.

Complex Wills and Testamentary Trust Wills may be required if your circumstances are more complicated. We will discuss this with you in detail if required.