

I have read with considerable interest the Issues Paper provided by the Institute in relation to the proposal to introduce Vendor Disclosure legislation in Tasmania together with a cooling off period. I am aware also that the Office of Consumer Affairs and Fair Trading are developing the legislative proposal.

Having earlier been a conveyancing practitioner for over 12 years in private practice, later in the Land Titles Office Titles Investigation Branch and over 20 years in the Local Government Division of Dept Premier and Cabinet involved in State legislation and Council administration, I am aware of the need for a set of linked reforms in this area.

It is certainly true that information asymmetry seriously disadvantages a purchaser when entering into an agreement to buy real estate in Tasmania. Time is required to acquire and assess the most relevant information relating to real estate, much of which can only be determined and cross checked by physical inspection and specialist advice.

Provision by the Vendor of relevant, current, objective documentation and information (often uniquely in the Vendor's possession) is critical to prudent risk assessment and price negotiation by the purchaser or his representative.

It is noted that provision of a section 337 Council Certificate is proposed as one of the required documents to be furnished to a prospective purchaser. The currency of that information is also a factor as the Certificate is effectively a snapshot of the situation affecting a property on a specified day drawn from the records of the Council (not from an inspection). It should offer an alert to the need for further appropriate enquiries or requisitions of the Vendor or technical expert.

Following the commencement of the *Building Act 2000* on 1 July 2004, the Director of Local Government approved an updated version to reflect the new Act and associated regulations. A copy of the updated version with the new references etc is enclosed for your information. A copy has also been provided to CAFT.

Regards

Bob

COUNCIL CERTIFICATE OF LAND INFORMATION

SECTION 337 LOCAL GOVERNMENT ACT 1993

Specified Land (Property Address):

.....
Specified Highway (Road frontage)

.....
Unique Property Identification No

Title Reference :.....Sealed Plan No.Lot No.

Name of Applicant:

Postal Address.....

NOTICE

The form of this certificate has been approved by the Director of Local Government for the purposes of section 337 of the *Local Government Act 1993*. It has been adopted after consultation with representatives of Councils, the Local Government Association of Tasmania, the Law Society of Tasmania Property Law Committee and relevant State Government Agencies. Approval for its use is effective from 1 July 2004.

The information provided in this certificate is derived from the existing records of the Council as they relate to the specified land. Unless otherwise stated or arranged, the Council has not conducted an inspection of the specified land for the purpose of providing the information.

The information is certified to correctly reflect the Council records as at the date shown on the concluding page of this certificate.

6(a)	<p>Has the Council a record of an application being made for an on-site wastewater management system?</p> <p>(b) If YES to (a), was the application approved, what system was approved for installation and on what conditions?</p> <p>(c) Was the system installed satisfactorily according to those conditions, if any?</p> <p>(d) If the application was approved, has the approval since been suspended or cancelled?</p> <p>(e) If YES to (d), give particulars.</p>	
7(a)	<p>Has the Council served a notice under section 182 of the <i>Local Government Act 1993</i> in respect of fencing which has not been satisfied?</p> <p>(b) If YES to (a) give particulars.</p>	
8(a)	<p>Has the Council served a notice under section 183 of the <i>Local Government Act 1993</i> in respect of the rehabilitation of land and the notice has not yet been satisfied?</p> <p>(b) If YES to (a), give particulars of the notice.</p>	
9(a)	<p>Has the Council given an undertaking under section 183 (2) of the <i>Local Government Act 1993</i> not to issue a notice to rehabilitate the land?</p> <p>(b) If YES to (a), give particulars.</p>	
10(a)	<p>Has the Council served a notice under section 184 of the <i>Local Government Act 1993</i> in respect of tree roots and the notice has not been satisfied?</p> <p>(b) If YES to (a), give particulars of the notice.</p>	
11(a)	<p>Has the Council issued a notice to treat under Part 2 of the <i>Land Acquisition Act 1993</i> and the notice has not been withdrawn?</p> <p>(b) If YES to (a), give particulars.</p>	
12(a)	<p>Is the Council responsible for the maintenance and repair of the specified highway(s)?</p> <p>(b) If YES to (a), does that responsibility apply to the part of the specified highway to which the specified land has access?</p>	

13(a)	Is the Council entitled to make any part of the specified highway(s) construction at the owner's expense?	
(b)	If YES to (a), provide particulars.	
14(a)	Has the Council resolved to undertake any road works in respect of the specified highway(s)?	
(b)	If YES to (a), provide particulars.	
15(a)	Has the Council decided to alter the level of the specified highway(s)?	
(b)	If YES to (a), provide particulars.	
16(a)	Has the Council decided to alter the line of the road reservation(s) of the specified highway(s)?	
(b)	If YES to (a), provide particulars.	
17(a)	Is there currently a construction scheme under Part V of the <i>Local Government (Highways) Act 1982</i> in relation to the specified highway(s)?	
(b)	If YES to (a), provide particulars.	
18	Omitted	
19(a)	Is there a water connection on or under the land connected to the Council's reticulated water supply?	
(b)	If YES to (a), do any conditions restrict the water supply?	
(c)	If NO to (a), is the land within a water district and within 30 metres from the Council's main pipe from which reticulated water is usually available to the land?	
20(a)	Is there a sewer connection on or under the land connected to the Council's sewerage collection system?	
(b)	If NO to (a), is the land within a sewerage district and within 30 metres from the Council's sewer main capable of supplying a sewer connection?	

<p>21(a)</p> <p>(b)</p>	<p>Is there a stormwater branch on or under the land connected to the Council's stormwater collection system?</p> <p>If NO to (a), is the land within a drainage district and within 30 metres from the Council's stormwater drain capable of providing a drainage connection?</p>	
<p>22(a)</p> <p>(b)</p>	<p>Are there any pipes under or through the land for which the Council has responsibility to maintain?</p> <p>If YES to (a), provide particulars.</p>	
<p>23(a)</p> <p>(b)</p>	<p>Is there any plumbing work for which a plumbing permit or special plumbing permit has been issued under the former <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> and the relevant permit is accepted as effective under Part 7 of the <i>Building Act 2000</i>?</p> <p>If YES to (a), has the Council a record of there being any plumbing work which has been commenced but for which a certificate of completion (plumbing work) has not yet been issued accepted as effective under section 113 of the <i>Building Act 2000</i>?</p>	
<p>24(a)</p> <p>(b)</p>	<p>Has the Council served, or resolved to serve, any plumbing notice or order under section 164 of the <i>Building Act 2000</i> that has not yet been satisfied?</p> <p>If YES to (a), give particulars of the notice.</p>	
<p>25(a)</p> <p>(b)</p>	<p>Is the land subject to a planning scheme?</p> <p>If YES to (a), what is the name of the planning scheme and the current zoning applicable to the land under that scheme?</p>	
<p>26(a)</p> <p>(b)</p>	<p>Has the Council a record of a planning permit having been issued in relation to the land?</p> <p>If YES to (a), provide particulars.</p>	
<p>27(a)</p> <p>(b)</p>	<p>Is there a special provision under a planning scheme for a buffer zone or buffer area restriction affecting the land?</p> <p>If YES to (a), provide particulars.</p>	

28(a)	Has the Council determined a building line or building setback under its planning scheme, as referred to in section 3 of the <i>Building Act 2000</i> ?	
(b)	If YES to (a), what is the building line or building setback applicable to the land?	
29	Omitted.	
30(a)	Has the Council a record of having been notified that the land is within a declared landslip area, or that an order is to be made under Part 9A-Landslip Areas of the <i>Mineral Resources Development Act 1995</i> that will apply to the land?	
(b)	If YES to (a), what has the land been declared or ordered to be?	
31	Omitted.	
32(a)	Has the Council a record of having issued a notice requiring the owner of the land to take action in relation to building work not complying with the former <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> ?	
(b)	Has the Council a record of having issued a notice or order to demolish a building, effective under Part 11 of the <i>Building Act 2000</i> or Part 5 of the <i>Public Health Act 1997</i> , on the owner of the land?	
(c)	If YES to (a) or (b), provide particulars.	
33(a)	Has the Council a record of having issued a certificate of occupancy under section 48 of the former <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> ?	
(b)	Has the Council a record of having issued an occupancy permit under section 98 of the <i>Building Act 2000</i> in relation to the buildings on the land?	
34(a)	Has the Council a record of there being any building erected on the land since 1 January 1994 for which a certificate of completion has not been issued under section 49 of the former <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> or a certificate of completion (building) issued under section 112 of the <i>Building Act 2000</i> ?	
(b)	If YES to (a), what is the building involved?	

<p>35(a)</p> <p>(b)</p>	<p>Has the Council a record of having served a notice in respect of illegal works under section 58 of the former <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> or of having issued a building order under section 171 of the <i>Building Act 2000</i>, and that notice or order has not yet been satisfied?</p> <p>If YES to (a), provide particulars of the notice or order.</p>	
<p>36(a)</p> <p>(b)</p>	<p>Has the Council a record of a certificate of material compliance for any building on the land having been issued under the former <i>Building Regulations 1994</i> or of a permit of substantial compliance having been issued under section 188 of the <i>Building Act 2000</i>?</p> <p>If YES to (a), give particulars of the certificate or permit.</p>	
<p>37(a)</p> <p>(b)</p>	<p>Does the Council record in relation to the land show an endorsement that “This building was not the subject of the normal application, permit and inspection procedures” as applying to any of the buildings on the land in accordance with the former <i>Building Regulations 1994</i>, or with section 195 of the <i>Building Act 2000</i>?</p> <p>If YES to (a), provide particulars of the building it applies to.</p>	
<p>38(a)</p> <p>(b)</p>	<p>Does the Council record show that there are any unsatisfied orders to uncover, orders to open up work, orders to demolish or inspection notices issued under the former <i>Building Regulations 1994</i> in relation to building work on the land or any unsatisfied building notices or orders under Part 11 of the <i>Building Act 2000</i>?</p> <p>If YES to (a), provide particulars.</p>	
<p>39(a)</p> <p>(b)</p>	<p>Has the Council a record of being notified by the builder that an indemnity policy is in force in respect of a residential building on the land, for the purposes of compliance with the <i>Housing Indemnity Act 1992</i>?</p> <p>If YES to (a), provide particulars.</p>	
<p>40(a)</p> <p>(b)</p>	<p>Has the Council a record of having served any other notice or order under the former <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> still affecting the land or the use of the land?</p> <p>Has the Council a record of having served any other notice or order under the former <i>Local Government Act 1962</i> still affecting the land or the use of the land?</p>	

<p>40(c)</p> <p>(d)</p> <p>(e)</p>	<p>Has the Council a record of having served, or resolved to serve, any other notice or order on the owner or occupier of the land under the <i>Building Act 2000</i>?</p> <p>Has the Council a record of having issued a notice on the owner of the land to take action under the <i>Sewers and Drains Act 1954</i> or the <i>Waterworks Clauses Act 1952</i>, which remains unsatisfied?</p> <p>If YES to (a),(b),(c) or (d), provide particulars.</p>	
<p>41(a)</p> <p>(b)</p>	<p>Has the Council a record of having commenced, or resolved to commence, civil enforcement proceedings in relation to the specified land under section 64 of the <i>Land Use Planning and Approvals Act 1993</i>?</p> <p>If YES to (a) provide particulars.</p>	

Signed:
(for General Manager)

Date of Certificate: