

FACT SHEET

RESIDENTIAL PROPERTY TRANSACTIONS BILL 2013

The *Residential Property Transactions Bill 2013* repeals the existing vendor disclosure scheme contained in Part 10 of the *Property and Land Transactions Act 2005*. This scheme was based on answers to a series of questions that the vendor was required to give to purchasers. In developing the detail of this scheme, it was found to be impossible to create questions that did not create legal risk for the vendor or ambiguity for the purchaser. For these reasons, the new scheme takes a different approach and relies entirely on the provision of third party documents.

The key policy of this Bill is to address illegal building works and to identify costly remediation work. The Bill also adopts the existing practice of obtaining a building inspection report prior to settlement. Currently, the standard industry contract for sale provides that an inspection report can be obtained by agreement of both vendor and purchaser. This Bill provides that a purchaser has a right to obtain a building inspection report, which can be exercised during the cooling off period.

The Bill clarifies existing law around the sale of property. The standard industry contract for sale provides that the contract can be rescinded where a property is not able to be used for a residential purpose. As there is doubt about the application of this contractual provision, the Bill will make this clear.

The Bill provides that the following matters are implied as a term of any contract for the sale of a residential dwelling:

- unless otherwise disclosed in the contract, there are no restrictions on the use of the property that may hinder or prevent the use of the property as a residential dwelling;

- a purchaser can, during the cooling off period, exercise an option to arrange for a building inspection from an appropriately qualified building inspector;
- a purchaser can, during the cooling off period, exercise an option to apply for a building certificate, from the relevant local council.

A purchaser can rescind a contract for sale if it is established that the property cannot be used for a residential purpose. A purchase can also rescind the contract if remedial works are identified that exceed 1% of the purchase price or a council is unable to issue a building certificate (for example, where there are unapproved building works).

Prescribed documents

The legislation will require the vendor to provide certain documents to the purchaser as part of the contract for sale. These documents will include:

- a copy of the relevant folio of the register or, in the case of general law system land, a copy of the last conveyance or mortgage;
- a copy of the title plan;
- a copy of any agreement with a Planning Authority that would affect the future use of the property; and
- a local government 337 certificate;
- a copy of the last local government rates notice for the property;
- a copy of all easements and covenants;
- a copy of a section 56ZQ certificate for water supply and sewerage.

If the property is part of a strata scheme the vendor will also be required to provide:

- a copy of any variation to the standard by-laws for strata schemes;
- details of any current and ongoing liabilities of the lot owner to the body corporate;
- details of relevant insurance held by the body corporate; and
- details of the secretary or manager of the body corporate.

Cooling-off periods:

The Bill will also provide for a cooling off period of 5 business days from the signing of a contract. During the cooling off period, the purchaser will have an option to arrange, at their own cost, for a building inspection and/or a local government building certificate.

This Bill has been developed as a result of extensive consultation with the community and in consultation with the Law Society of Tasmania, the Real Estate Institute of Tasmania and the Local Government Association.