

Sale of Land Act 1970

Approved form of statutory warning where the vendor of lot(s) to be created by subdivision of land is not the registered proprietor of the land

The following is the approved form of the statutory warning that is required to be included within any future lot contract by section 13C of the *Sale of Land Act 1970*:

Warning for Purchasers - Sale of Land Act 1970

This contract is a "future lot contract" for the purposes of Part 3 of the Sale of Land Act 1970,

That is because at the date of execution of this contract for the sale of land, the vendor is **not** the registered proprietor of the land which is to be subdivided to create the lot(s) to be transferred at settlement under this contract.

The vendor cannot transfer ownership of those lot(s) to the purchaser until after becoming the registered proprietor of that land (whether or not there are any other conditions to be satisfied before the transfer of ownership).

Accordingly, the purchaser should consider the potential risks of entering into this contract for sale of land and should consider seeking independent professional advice prior to entering into this contract.

Important Things to Note:

The following 7 points paraphrase some key requirements of sections 13A – 13I of the Sale of Land Act 1970. This information is provided to help the vendor and purchaser understand future lot contracts, but does not form a part of the contract itself. To understand the rights and obligations of all parties, refer to ss13A – 13I of the Sale of Land Act 1970.

1 Vendor's condition required in a contract

Section 13B of the *Sale of Land Act 1970* requires that a future lot contract be subject to a **vendor's condition**. That vendor's condition must make the contract conditional on the vendor becoming, or being entitled to become, the registered proprietor of the land which is to be subdivided to create the lot(s) to which the contract relates within 6 months from the date of execution of the contract, or by any other period as specified in the contract, or in a variation signed by both parties (**specified period**).

2 Reasonable endeavours must be used to satisfy vendor's condition

Section 13G of the *Sale of Land Act 1970* requires that all reasonable endeavours must be made to satisfy the vendor's condition before the expiry of the specified period. These reasonable endeavours include taking steps to obtain the necessary

regulatory approvals and lodging the necessary plans for the subdivision or proposed subdivision

3 Information required to be given to the purchaser

Under section 13G of the *Sale of Land Act 1970* the vendor is required to inform the purchaser of steps taken to satisfy the vendor's condition within a reasonable timeframe, if the purchaser requests this information in writing.

4 Requirement for vendor to notify purchaser if the vendor's condition is satisfied (section 13H of Sale of Land Act 1970)

After the date of, becoming, or being entitled to become, the registered proprietor of the lot(s) to which the contract relates, the vendor must notify the purchaser in writing of this within 10 working days. Failure to do this will be taken as the vendor's condition not being satisfied, and gives the purchaser (but not the vendor) the right to terminate the contract.

5 Consequences if vendor's condition is not satisfied (section 13I of Sale of Land Act 1970)

If the vendor's condition is not satisfied the:

- purchaser has the right to terminate the contract;
- vendor has the right to terminate the contract provided that the vendor has complied with section 13G and made all reasonable endeavours to satisfy the vendor's condition before expiry of the specified period.

In either case, the deposit must be returned to the purchaser.

6 Obligations relating to deposit or other money (section 13E of Sale of Land Act 1970)

The vendor must ensure that money payable by the purchaser under the contract is held in trust by a solicitor, licensed real estate agent, or licensed settlement agent in an authorised deposit-taking institution. The handling of such money must meet the requirements of sections 13B – 13F, 13H and 13I of the *Sale of Land Act 1970*.

7 Notification requirement for termination of contract (section 13I(1) and (2) of Sale of Land Act 1970)

If a party to the contract (vendor or purchaser), has the right to terminate the contract, they may do so by notifying the other party in writing of the termination.