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Consumer Property Law Review
Policy and Legislation Branch
Consumer Affairs Victoria

By email: consumerpropertylawreview@justice.vic.gov.au

CSV Submission to Consumer Property Law Review

Sale of land and business: options for reform

Consulting Surveyors Victoria (CSV) currently represents 120 member firms that have as principals or employees the vast majority of Licensed Surveyors that produce, lodge for certification and manage the plans of subdivision that create the more than 30,000 new parcel titles (including both land and building parcels) that come into existence in Victoria each year. Our members' clients range from the largest of national and international development companies through to a 'mum and dad' individual 'developer', undertaking a once in a lifetime dual occupancy development of their family home.

Our members are the originators of plans of subdivision that create subdivisions involving owners corporations, act as advisors to individual property owners and developers, large and small, whilst liaising closely with Land Victoria on an on-going basis to maintain and enhance the quality and usability of such plans of subdivision. Our members also interact with the public, owners corporation managers, solicitors, estate agents and conveyancers throughout the state on a regular basis in relation to title dealings, subdivision, redevelopment of existing plans and owners corporation management. On that basis the Association's members have a distinct interest in a number of particular aspects of the options for reform of the *Sale of Land Act 1962*.

As an organisation Consulting Surveyors Victoria will generally limit the comments in this submission to matters within the Options Paper that directly relate to our members' areas of expertise and experience.

CSV notes that in **Part B: Buying property 'off-the-plan'** of the Options document, the '**Background**' section commences with: '*An off-the-plan sale is one where a person buys a 'lot', such as an apartment or a unit, in a plan of subdivision before the plan is registered by the Registrar of titles and before building has been completed or, in some cases, commenced*'. Whilst we recognise that this definition may well represent a populist view of the application of off-the-plan sales, we believe that it fails to recognise the importance of the 'off-the-plan' pre-sale contract provisions applicable to broad acre land development, as included into the *Sale of Land Act 1962* at the time of introduction of the *Subdivision Act 1988*. These provisions have assisted in the high level of stability now evident within this critical component of the Victorian economy. It is noted that many contracts for purchase of vacant residential lots are now routinely entered into prior to development and servicing for the relevant subdivision has commenced.

Consulting Surveyors Victoria provides the following comments in respect to off-the-plan sales, which do not relate to the questions 8 and 9, but have relevance to the modernisation of the provisions relating to off-the-plan sales:

(1) Disclosure of works.

We believe modernisation of these provisions should consider the appropriateness of the terminology of *'the natural surface of the land'*. We note there is no definition of the meaning of this terminology within the current *Sale of Land Act 1962*. In most broad acre land developments, the majority of land would generally be considered to be 'natural surface' prior to commencement of development, but there are increasingly developments occurring on brown field and other converted use sites, where a 'natural surface' will not have existed for many years. Also, most larger building subdivisions occur on sites that have previously been used for other purposes and again no 'natural surface' could be identified. Accordingly, we believe that a terminology relating to the 'pre-development existing surface' or inclusion of such as part of a definition of 'natural surface' within the Act would be desirable.

(2) Amendments to the plan of subdivision.

We acknowledge that a requirement to summarise changes to the plan of subdivision would be achievable and could be effected impartially by surveyors. Under the current system of SPEAR lodgement of plans of subdivision, surveyors will generally detail the changes that occur when a new version of a plan of subdivision (noted by an alpha or numerical surveyor's version identifier) is prepared and issued to the developer, solicitor, municipality, service authority etc.

We however believe that a formalised format for a summary of changes would be desirable and that there should be an opportunity to categorise the type of amendments. Such formalised formatting would necessarily require variations for differing types of development. For instance, for land only subdivisions, we believe it prudent to record changes between versions on a lot by lot basis to make it clearer for solicitors and purchasers to see how a lot is affected at a glance. For complex built form developments, a different approach should apply, as there may be changes to the structure / context of such a development which may impact a purchaser of a lot without any direct change to that purchaser's lot.

Further we believe very minor amendments to plans, such as formatting and presentation changes should be exempted from any amendment listing requirements.

With regard to **Part E: Modernisation of the Sale of Land Act**, Consulting Surveyors Victoria supports **Option 12** - *Modernise the Sale of Land Act and improve its readability and operation* and believes that the matters raised in this submission will assist in your achievement of that goal.

Yours faithfully,



Andrew Harman
President