



edotasia

using the law to protect the natural and built environment

131 Macquarie Street
Hobart TAS 7000

tel: (03) 6223 2770
fax: (03) 6223 2074
email: edotas@edo.org.au

16 June 2014

Greg Brown
Acting Director of Local Government
LGD, Department of Premier and Cabinet
GPO Box 123
Hobart TAS 7001
By email: lgd@dpac.tas.gov.au

Dear Mr Brown

Local Government (General) Regulations 2005 - section 337 certificates

We would like to make some brief comments in relation to the review of the information required to be provided under s.337 of the *Local Government Act 1993*.

EDO Tasmania is a community legal centre specialising in planning and environmental law issues. To ensure that the public, particularly potential purchasers of land, have access to information about contamination risks, we have consistently advocated for such information to be available on a comprehensive, accessible public database (such as the LIST). However, in the absence of such a database, we recommend that amendments be considered to ensure that potential purchasers are alerted to contamination risks.

We appreciate that notices issued under Chapter 5A of the *Environmental Management and Pollution Control Act 1994 (EMPCA)* are registered on the title until revoked or a certificate of compliance has been issued. However, such notices are directed primarily at imposing obligations on the landowner to take action to investigate or address actual or potential contamination. The notices are not intended to provide general information regarding the contamination history of the site.

We also appreciate that comprehensive information regarding potential contamination of a site can be obtained through a Property Information Request to the Contaminated Sites Unit. However, many people may not be sufficiently aware of contamination risks to request this information. In contrast, most people will be aware of the need to obtain a s.337 certificate prior to purchasing a property.

Given the potential implications of past contamination, we recommend that information regarding contamination notices issued in respect of a property be provided as part of the s.337 certificate. This information would alert potential purchasers to the need to make a Property Information Request for more details regarding the risks associated with the property.

Section 74H of EMPCA requires copies of any contaminated site notice to be served on the council for the area in which the land is situated, therefore it will not be difficult for council to provide this information in the land information certificate.



We further recommend that details of any health advisory notices issued under the *Public Health Act 1997* be provided in the land information certificate. This would allow prospective purchasers to weigh up any risks and potential limitations on their use of the property prior to purchase.

Our suggested amendments to the Local Government (General) Regulations 2005 are set out below.

RECOMMENDED AMENDMENTS:		
▪ Amend Schedule 7, Part 2 ("Public Health and Environmental Matters") of the <i>Local Government (General) Regulations 2005</i> by inserting the following after No. 10:		
<i>Environmental Management and Pollution Control Act 1994</i>		
No.	Question	Answer
10A.	<i>Contaminated Sites Notice</i> <i>(a) Has the council a record of an investigation notice, a remediation notice or a site management notice being issued under <u>Part 5A, Division 3</u> of the Act in relation to the specified land?</i> <i>(b) If YES to (a), provide particulars.</i>	
<i>Public Health Act 1997</i>		
No.	Question	Answer
10B.	<i>Health Advisory Note</i> <i>(a) Has the council a record of any health advisory notes issued in relation to the specified land?</i> <i>(b) If YES to (a), provide particulars.</i>	

Thank you for the opportunity to make these comments. If you would like to discuss the comments further, please do not hesitate to contact me on 03 6223 2770.

Yours sincerely,
Environmental Defenders Office (Tas) Inc.

Per



Jess Feehely
Principal Lawyer