

Section 7 of the *Land and Business (Sale and Conveyancing) Act 1994* and the role of the EPA

Updated May 2018¹

EPA 514/10: This information sheet provides advice about the environmental information available to prospective buyers of property in South Australia.

Introduction

The *Land and Business (Sale and Conveyancing) Act 1994* (LBSC Act) and the *Land and Business (Sale and Conveyancing) Regulations 2010* (LBSC Regulations) are set in place to provide consumer protection for those buying property in South Australia. Sections 7 and 8 of the Act specify that a statement of government interests—on the required form (Form 1 or 2)—is to be provided by a vendor or their agent to a prospective buyer before settlement of land or a small business.

The Environment Protection Authority (EPA) has a statutory obligation under the LBSC Act to provide information relating to environment protection. The following sections of this information sheet outline the type of information the EPA is required to respond to, including questions related to both current and historical information.

Charges and prescribed encumbrances

A factor that may affect the possession or enjoyment of the land is recorded as a charge and/or prescribed encumbrance affecting the land. The EPA provides a response to questions relating to the following charges and/or encumbrances:

- an environment performance agreement
- environment protection order
- clean-up order
- clean-up authorisation
- site contamination assessment or remediation order
- notice of declaration of special management area
- notation of a site contamination audit report
- notice of prohibition or restriction on taking of groundwater.

¹ Last updated June 2017

Licences and exemptions

Questions specifically relating to licences and exemptions are also included. A positive response to these questions may indicate that a potentially contaminating activity has taken place at the land. Specifically, the questions relate to:

- whether a current environmental authorisation (licence) under the *Environment Protection Act 1993* (the Act) allows the operation of a waste or recycling depot, the production of a listed waste or other prescribed activities of environmental significance under Schedule 1 of the Act (with some minor exceptions)
- whether an environmental authorisation (licence) which is no longer in force issued under the Act allowed for the operation of a waste or recycling depot, the production of a listed waste or other prescribed activities of environmental significance under Schedule 1 of the Act (with some minor exceptions)
- details of exemptions, both current and no longer in force, issued under the Act
- whether a licence to operate a waste depot or to produce waste of a prescribed kind was ever issued under the repealed South Australian *Waste Management Commission Act 1979*, or the repealed *Waste Management Act 1987*.

Pollution and site contamination on the land

With the commencement of legislation in the Act, specific to site contamination in 2009, a number of questions were included in the LBSC Regulations to specifically identify this issue for potential land owners. The EPA will respond to questions relating to:

- details of serious or material environmental harm
- details of site contamination of underground water
- whether the EPA holds a copy of any environmental assessment that is required to be recorded in the Public Register
- site contamination audit reports
- details of an agreement relating to an approved voluntary site contamination assessment or remediation proposal
- a notification relating to the commencement of a site contamination audit
- a notification relating to the termination of a site contamination audit
- whether there is any record of waste (within the meaning of the repealed *Waste Management Act 1987*) having been deposited between 1 January 1983 and 30 April 1995
- a report commonly referred to as a 'Health Commission Report' prepared by or on behalf of the South Australian Health Commission (under the repealed *Health Commission Act 1976*)
- a copy of a pre-1 July 2009 site audit report
- details relating to the termination before completion of a pre-1 July 2009 site audit.

Relationship with the Lands Titles Office

To maintain current certificate of title records, the EPA advises the Lands Titles Office (LTO)—through a linkage to the Land Ownership and Tenure System (LOTS)—of the title references of land where there is an environmental interest. This information is then provided to the potential buyer as an attachment to the Property Interest Report provided directly from the EPA.

The EPA has up to eight working days to respond to an enquiry.

Direct enquiries to the EPA

Any person can make a direct [Section 7 enquiry](#) to the EPA. The EPA will then provide information about the environmental issues described above. The request must be made in writing and provide the current certificate of title reference or currently plan and parcel number, and a return postal address. The EPA has up to eight working days to respond to a direct enquiry.

Enquiries direct to the EPA should be addressed to:

Senior Administration Officer – Section 7
Environment Protection Authority
GPO Box 2607, ADELAIDE SA 5001
Email: epasection7@epa.sa.gov.au

Disclaimer

This publication is a guide only and does not necessarily provide adequate information in relation to every situation. This publication seeks to explain your possible obligations in a helpful and accessible way. In doing so, however, some detail may not be captured. It is important, therefore, that you seek information from the EPA itself regarding your possible obligations and, where appropriate, that you seek your own legal advice.

Further information

Legislation

[Online legislation](#) is freely available. Copies of legislation are available for purchase from:

Service SA Government Legislation Outlet
Adelaide Service SA Centre
108 North Terrace
Adelaide SA 5000

Telephone: 13 23 24
Facsimile: (08) 8204 1909
Website: <shop.service.sa.gov.au>
Email: <ServiceSAcustomerservice@sa.gov.au>

General information

Environment Protection Authority
GPO Box 2607
Adelaide SA 5001

Telephone: (08) 8204 2004
Facsimile: (08) 8124 4670
Freecall: 1800 623 445 (country)
Website: <www.epa.sa.gov.au>
Email: <epainfo@sa.gov.au>
