

FACTSHEET: KEY ONGOING OBLIGATIONS WHEN PURCHASING RURAL PROPERTY - MATTERS FOR DISCUSSION WITH PURCHASER CLIENTS

It is important that purchasers of rural properties are aware of their ongoing obligations when owning rural land. Solicitors acting for a purchaser should consider bringing the following matters to the attention of their clients.

This factsheet cross-references other factsheets produced by the Law Society regarding rural conveyancing which are available on the Law Society's website at <https://www.lawsociety.com.au/advocacy-and-resources/publications-and-resources/my-practice-area/rural-issues>.

Attached to this factsheet is an interactive form which will allow a solicitor or client to make a note of the specific ongoing obligations that may apply to a particular property.

COINCIDING LEGAL AND PRACTICAL ACCESS

Purchasers of rural and non-urban land may need to ensure that coinciding legal and practical access can be gained to the property from a public road. Further information about access to land can be found in the [Law Society's Factsheet "Access and Area"](#).

Purchasers of rural land should be aware of arrangements in relation to mining and coal seam gas land access. Further information on these matters can be found in the [Law Society's Factsheet "Mining and Coal Seam Gas Land Access"](#).

CONDITIONS OF LAND USE

The local council, NSW Crown Lands, NSW Office of Water, NSW Environment Protection Authority and other government agencies control various aspects of rural land use. This can include development approval, building approval, land clearing, irrigation and intensive livestock production.

A number of State Environmental Planning Policies will apply within a particular council area. A number of those policies may apply to the specific land that has been purchased. It is recommended that purchasers contact the local council for a list of applicable policies.

CONTAMINATION SITES

Purchasers should be aware that depending on past uses of the land, parts of the property may be contaminated. The inquiries that should be made by prospective purchasers prior to entering into a contract are set out in the [Law Society's Factsheet, "Pre-contractual Enquiries"](#). Depending on the outcomes of those inquiries the purchasers may have ongoing obligations to manage the property or to comply with any existing orders, notices or undertakings.

An unregistered septic system on a property may need to be registered, inspected or upgraded. Any such system may also need to be maintained by the purchaser. For information on pre-contractual enquiries that may need to be made in respect of septic systems see the [Law Society's Factsheet, "Pre-contractual Enquiries"](#).

CROWN LANDS

When a property enclosing a Crown land road is sold, any enclosure permit granted in respect of the road remains with the property and the new owner of the land is liable for payment of the annual rent or any instalments owing if the road has been purchased. The purchaser must notify the Department of Industry within 28 days. Further information about rural properties and crown land is available in the [Law Society's Factsheet, "Crown Land and Related Issues"](#).

DOMESTIC PETS

It is important to ensure that the occupier understands the need to prevent their cats and dogs affecting wildlife and neighbours' livestock.

Owners of dogs and cats who have purchased rural property should also ensure their pets are registered with the local council. Pet owners should refer to the *Companion Animals Act 1998* (NSW) for other responsibilities.

FIRE SAFETY

It is important for purchasers of rural properties to be aware of the risk of fire. The NSW Rural Fire Service can provide advice on whether the land is fire prone. In some areas, the Rural Fire Service will also come and inspect the property to advise of any fire risks.

It is the responsibility of the landowner to take action to reduce the risk of fire on their property.

Always check with the local Rural Fire Service before starting any burning activities.

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It is important for the purchaser of the property to investigate whether the property is at risk of flooding. The purchaser may wish to contact the local council to find out if the land is in a flood zone. Geoscience Australia also provides information about flood prone areas through its [“Australian Flood Risk Information Portal”](#). It is important to note that if an area is flood prone it may affect the type of buildings that can be built on the property.

NATIVE VEGETATION

Purchasers of rural properties should be aware that the *Local Land Services Act 2013*, as amended by the *Local Land Services Amendment Act 2016*, provides a new regulatory framework for the management of native vegetation in NSW. New allowable activity provisions permit the clearing of native vegetation associated with everyday land management activities, such as the construction, operation and maintenance of rural infrastructure, including fence-lines, dams, sheds and trucks. Further information on the requirements for clearing land with native vegetation are set out in the [Law Society’s Factsheet “Native vegetation”](#).

NOXIOUS WEEDS AND PESTS

Weed and pest management can be expensive and time consuming for owners of rural land.

Noxious weeds can be a major environmental problem in parts of NSW. *The Biosecurity Act 2015* (NSW) imposes obligations on land occupiers in relation to weeds. Purchasers of rural properties should consider contacting the local council for advice regarding the landowners’ responsibilities for the control of noxious weeds and information about weed problems in the area.

Purchasers should be aware that they may be responsible for any previous notices issued by the local council or weeds county council under the repealed *Noxious Weeds Act 1993* (NSW).

The *Local Land Services Act 2013* (NSW) requires landholders to actively control declared pest animals. The Local Land Service will be able to advise the purchaser whether any pest control orders have been made in relation to the property.

PROPERTY BOUNDARIES AND FENCES

Purchasers of rural and non-urban properties should have a survey of the land completed prior to purchase to ensure that the existing fences reflect the actual boundaries of the property. Further information on area of land can be found in the [Law Society’s Factsheet “Access and Area”](#).

Boundary fences are the joint responsibility of the land owner and the adjoining owner (other than in the case of government agencies). The type and standard of fencing will vary based upon any existing dividing fence, land use, privacy and the type of fencing common in the area.

If the land owner and adjoining neighbour cannot agree on fencing work, the Local Court or the NSW Civil and Administrative Tribunal have the power to make an order under the *Dividing Fences Act 1993* (NSW).

WHS OBLIGATIONS

If the property being purchased is a working farm, purchasers should be aware of their obligations under the *Work Health and Safety Act 2011* (NSW).

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KEY ONGOING OBLIGATIONS TO BE AWARE OF

PROPERTY ADDRESS

LOCAL COUNCIL AREA

POTENTIAL ONGOING OBLIGATIONS RELATING TO THIS PROPERTY

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CONDITIONS OF LAND USE

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