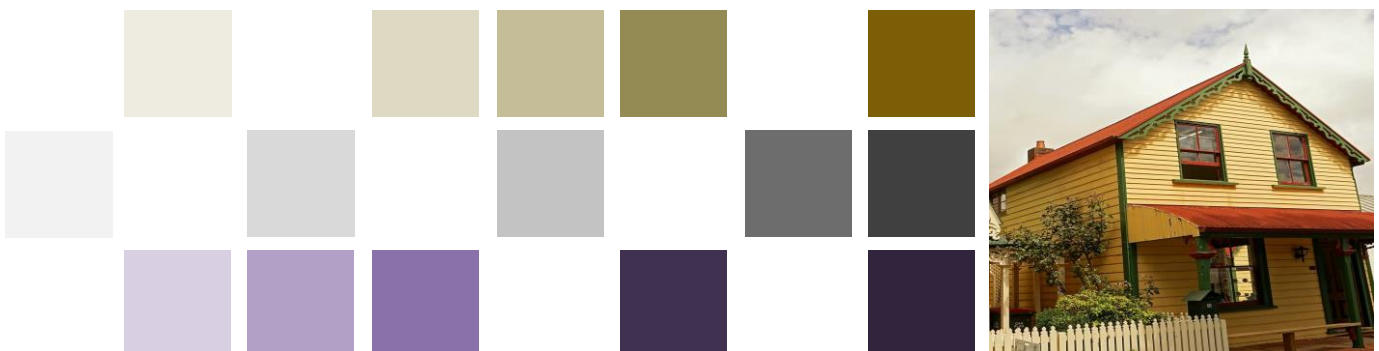


Regulatory Impact Statement for the proposed Local Government (Land Information) Regulations 2021

Department of Jobs, Precincts and Regions

March 2021



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Glossary

Abbreviation

AIC (Vic)

DJPR

ELNO

LIC

Land Tax Act

the 1989 Act

the New Act

current Regulations

PEXA

proposed Regulations

LGV

Land Tax Regulations

LUV

NOA

RIS

SRO

Valuation of Land Act

VLRS

Water Act

2015 RIS

Stands for

Australian Institute of Conveyancers Victorian Division

Department of Jobs, Precincts and Regions

Electronic Lodgment Network Operator

Land Information Certificate

Land Tax Act 2005

the *Local Government Act 1989* (Vic)

the *Local Government Act 2020* (Vic)

Local Government (General) Regulations 2015

Property Exchange Australia

Local Government (Land Information) Regulations 2021

Local Government Victoria

Land Tax Regulations 2015

Land Use Victoria

Notice of Acquisition or Notices of Acquisition

Regulatory Impact Statement

State Revenue Office

Valuation of Land Act 1960

Victorian Land Registry Services

Water Act 1989

Regulatory Impact Statement Local Government (General) Regulations 2015

Foreword

This Regulatory Impact Statement (RIS) has been prepared with respect to the proposed Local Government (Land Information) Regulations 2021 – to be made under the new *Local Government Act 2020*.

The RIS should be read in conjunction with the proposed Regulations, which are provided as a separate document.

This RIS sets out the objectives of the proposed Regulations, explains their effect and assesses the nature and scope of the problem that the proposed Regulations seek to address. It also sets out the likely impacts (costs and benefits) and discusses alternatives.

How to respond to the proposed Regulations

Councils, other interested parties and members of the public are invited to make submissions responding to the RIS or the proposed Regulations.

The closing date for submissions is **3 June 2021**.

Comments may be provided via email to the following email address:

lgy@ecodev.vic.gov.au or through the website: <https://engage.vic.gov.au/local-government-act-2020/local-government-land-information-regulations-2021>

Hard copy submissions will also be accepted and should be addressed to:

Tracy Helman
Local Government Victoria,
Department of Jobs, Precincts and Regions,
GPO Box 4509, Melbourne, Victoria 3001

For further assistance about the public comment process, or to obtain copies of the RIS and proposed Regulations, please phone Tracy Helman at Local Government Victoria on (03) 9651 9999.

Executive summary

From July 2021, the *Local Government Act 2020* (the new Act) will legislate the requirement for purchasers to provide information to councils about the acquisition of land (notices of acquisition, NOA) and for councils to provide a land information certificate (LIC) to a person on request. As part of the Victorian Government's extensive reform of the local government framework, the new Act has been introduced to improve local government democracy, accountability and service delivery for all Victorians.¹

The new Act is mainly replacing the *Local Government Act 1989* (the current Act). While many elements of the old legislation are changing, the requirements relating to NOA and LICs will not materially change from the current Act to the new Act.

The Department of Jobs, Precincts and Regions (DJPR) is introducing New Local Government (Land Information) Regulations 2021 (proposed Regulations) to support the administration of the new Act. These will replace, with limited changes, elements of the current Local Government (General) Regulations 2015 relating to NOA and LICs that are being repealed.

Purpose of this document

Under the *Subordinate Legislation Act 1994* (SL Act), a RIS is required to be prepared for proposed regulations that are expected to have a significant impact. The responsible Minister must ensure a RIS is prepared for public consultation.

DJPR has engaged Sapere Research Group to prepare this RIS in accordance with Better Regulation Victoria's (BRV's) Victorian Guide to Regulation² and the *Subordinate Legislation Act 1994*.

The key purpose of the RIS is to assess the impact of different options for replacing the current Regulations. The rigorous assessment of regulatory proposals within a RIS ensures that regulation best serves the Victorian community.

LICs

When land is transferred, some outstanding debt associated with the property, such as the payment of rates and charges, remains with the property and so the debt is transferred over to the new owner of the property.^{3,4} Purchasers of land, therefore, need a mechanism to obtain accurate information about any debts attached to the land they are purchasing, otherwise they might find themselves unknowingly taking on debts attached to the land.

¹ Local Government Victoria, <https://www.localgovernment.vic.gov.au/council-governance/local-government-act-2020>.

² Office of the Commissioner for Better Regulation, 2016, Victorian Guide to Regulation: A handbook for policy makers in Victoria, Department of Treasury and Finance, Melbourne.

³ Section 156(6) of the Local Government Act 1989.

⁴ An exception is non-rateable land, such as land used for charitable purposes or government-owned land.

Under section 121 of the new Act, a person may apply to a council for a certificate specifying the prescribed information in relation to matters affecting any land in the municipal district (a Land Information Certificate, LIC). An application for a LIC must be in the prescribed form, and the council may charge a prescribed fee.

The proposed Regulations support the administration of the new Act in respect to LICs by prescribing the information to be included in a LIC and the fee that councils can charge for providing a LIC.

NOA

Councils need information about who owns properties in their municipalities to perform many of their functions. The main way that councils currently obtain this information is when they receive notifications about the transfer of ownership of a property.

Under the new Act, a person who acquires land in a municipal district must give a notice in relation to the acquisition of the land to the chief executive officer of the municipal district within the prescribed period. It is proposed to continue the current prescribed period of one month in the new Regulations.

The proposed Regulations support the administration of the new Act in respect to LICs by prescribing the form of the NOA, the particulars to be included, and period within which the NOA must be submitted.

Some other public bodies also need and obtain information about property transfers through notices lodged by owners. The State Revenue Office (SRO) requires information about property ownership in order to levy land taxes. The *Land Tax Act 2005*⁵ (Land Tax Act) and the Land Tax Regulations 2015⁶ (Land Tax Regulations) require a person acquiring land to give notice of the acquisition to the Registrar of Titles within one month after acquiring the land. The Land Tax Regulations specify that the prescribed information that must be contained in the notice is the same information as prescribed for the NOA in the Local Government Regulations.

Information from acquisition notices received by the SRO is also shared with the Valuer-General's office, as permitted under section 103(3) of the Land Tax Act, to enable it to provide property and valuation data to assist valuers in making valuations as well as to other bodies for statistical analysis.⁷

Options being considered (non-fee options)

Given the legislative framework that is in place for LICs and NOA, the scope of this RIS is focused on identifying feasible options for prescribing in regulation the requirements for the LIC and NOA.

Stakeholder consultation was undertaken for this RIS to collect views on the effectiveness of the current Regulations and the need for any proposed changes to be reflected in the new Regulations. While the consultation indicates no broad concerns about the requirements for LICs and NOA as prescribed in the current Regulations, many councils raised the issue of how the NOA form is

⁵ Section 103.

⁶ Regulation 5.

⁷ Under section 5 of the *Valuation of Land Act 1960* (Valuation of Land Act).

submitted to councils. A person who acquires land typically creates a NOA form on the electronic platform of the Electronic Lodgment Network Operator, PEXA,⁸ as part of the broader conveyancing process.^{9,10} The person must then print the NOA form and manually submit it to the relevant council. Councils observe that NOA forms are sometimes not submitted to council because conveyancers and lawyers (representing purchasers) have not understood that the NOA is not submitted automatically from PEXA to councils and that the process needs to be undertaken manually. Failure to lodge the NOA prevents councils from obtaining the required information about new owners of property in their municipalities, or causes delays in when they receive the information. DJPR acknowledges the issue but notes that the new Act does not provide scope to regulate the manner in which the NOA is submitted to councils.¹¹ In stakeholder consultation, PEXA has acknowledged the technology challenges to finding potential solutions for the 79 individual councils in relation to receiving NOA information and the commitment of PEXA to arrive at a solution. It is open to councils to work with PEXA to resolve some of the technology challenges PEXA have identified and finding a solution that provides a more streamlined submission process of the NOA.

Two councils noted that a number of conveyancers use the old NOA form which does not have all prescribed information included e.g. provision for dates of birth and email contact details. This means unnecessary time for staff to follow up is needed. DJPR notes this feedback and will work with relevant professional associations such as the AIC (Vic) and the Law Institute of Victoria to increase awareness of the requirement to use the new form that captures the requirements of the proposed remade regulations.

A small number of councils also raised the following issues:

- The application for a LIC should include title and plan details of the property to reduce the number of LIC requests that provide incorrect information and to reduce the amount of follow up by councils required.
- The prescribed information requirements are vague and should be made more clear.
- The time and resources required for the LIC process are high and not covered by the fee.
- Prescribed particulars for a NOA should include updated Titles and Title Plans.

DJPR is seeking further views from councils on these issues as part of the RIS Public Comment process and encourages councils to provide a response via this process (see section 1.4.2 for further information).

Other issues raised but not considered to be within the scope of the proposed Regulations, or for which DJPR will address in the implementation via education and guidance, are outlined in Appendix B of the RIS.

⁸ Property Exchange Australia.

⁹ This involves lodgment of transactions (instruments) with Land Registry. Electronic lodgment is the use of an Electronic Lodgment Network to lodge transactions. Electronic lodgment in Victoria is described on the Department of Environment, Land, water and Planning website at <https://www.land.vic.gov.au/land-registration/for-professionals/about-electronic-lodgment>.

¹⁰ A paper NOA form can also be used, but most conveyancers and lawyers lodge the form electronically.

¹¹ Which is the same as the current Act.

Taking the above considerations into account, this RIS considers a Base Case of no regulations against a proposed option whereby the current Regulations relating to LICs and NOA will be replicated in proposed Regulations, as follows:

- **Base Case:** the case that would exist in the absence of regulations, i.e. if no new regulations were made to replace the current Regulations. This would mean that no requirements are prescribed for LICs and NOA. It is important to note that the Base Case is a counter-factual scenario used to provide a common point of comparison for all options and is not being considered as an option for the new Regulations.
- **Proposed Option – Current Regulations relating to LICs and NOA to be replicated in proposed Regulations:**
LICs would be required to include information that is currently required to be included, including:
 - the date of issue of the certificate
 - valuation information consisting of:
 - the Council valuation of the land using the net annual value, site value and capital improved value systems of valuation
 - the current level of value date¹²
 - Information in relation to rates and charges and other money (e.g. any money owing on the land) including the amount and type of all rates and charges levied on the land and when they are due, any rates and charges levied on the land that are paid or unpaid, the amount of arrears in relation to rates and charges levied on the land, and other money
 - any current notices or orders on the land.

For NOA, the proposed Regulations would prescribe the persons required to give a NOA to council as those acquiring land in a district and that a NOA must be given within one month after acquisition. The information to be provided in a NOA would include:

- personal details of the transferor and transferee, including name, address and whether the land will be the transferee's principal place of residence, and date of birth of the transferee
- property details in relation to the land, including street address, lot number and plan number, Folio, Crown allotment number, municipal property number, area of the land and unit of entitlement
- transfer details including the date of contract, the GST amount, total sale price, deposit and date of possession or transfer, and whether or not the transfer is a terms of sale
- type of property: residential or not
- contact details and certification
- relevant property code.

Options analysis

The options in this RIS were assessed using Multi-Criteria Analysis (MCA) supported by quantitative information where available (see Table i, below).

¹² This means the date for the current level of value.

Table i MCA criteria

Criteria	Description	Weighting
1. Benefits to community and government	The information benefits for the community and government: <ul style="list-style-type: none"> ○ For community, it will enable parties to land transfers to have access to accurate information in a cost-efficient way about rates and charges liabilities that are attached to the land. ○ For government, it will provide Councils, the SRO and the Valuer-General with access to reliable information about the owners of land in their municipality. 	50%
2. Cost to community and government	The administration cost of the proposed regulations, i.e. for councils in preparing and providing certificates and for purchasers of land in providing NOA. Note that while these are scored together, they are discussed separately.	50%

Results of the analysis for LIC options are summarised in Table ii. The **Proposed Option for LICs (Current Regulations relating to LICs to be replicated in proposed Regulations)** is assessed as slightly better than the Base Case of no regulations and is therefore the preferred option. It will enable parties to land transfers to have access to accurate information in a cost-efficient way about rates and charges liabilities that are attached to the land. This information allows any outstanding liabilities attached to the land to be settled at transfer and enables purchasers to manage their financial risk. The costs of producing the LIC (incurred by councils but charged to people requesting a certificate via a prescribed fee), which are estimated to total \$8.5 million per year or \$71 million over the 10-year forecast period of 2021 to 2031 (in NPV terms),¹³ are not considered to outweigh the benefits.

Table ii MCA summary – LICs

Criteria	Base Case	Proposed Option
Benefits (50%)	0	+6
Costs (50%)	0	-3
Weighted score	0	+1.5

Table 8 Results of the analysis for NOA are summarised below for the Base Case and the **Proposed Option for NOA (Current Regulations relating to NOA to be replicated in proposed Regulations)** (see Table iii). The Proposed Option for NOA is assessed as somewhat better than the Base Case of no regulations and is therefore the preferred option. The Proposed Option will enable councils, the SRO and the Valuer-General to receive information, including personal details, property details in relation to the land, transfer details, type of property, contact details and certification, and property code. It is not feasible for this information to be collected via other mechanisms, and the information is critical for these organisations to fulfil their statutory functions. This is considered to be a strong benefit and

¹³ This cost reflects an estimated cost of \$24.36 per LIC for approximately 350,000 LICs estimated per year.

given a score of +10. The costs of producing the certificate, which are estimated to total \$5.8 million per year or \$49 million over the 10-year forecast period of 2021 to 2031 (in NPV terms), are not considered to outweigh the benefits.

Table iii MCA summary - NOA

Criteria	Base Case	Proposed Option
Benefits (50%)	0	+10
Costs (50%)	0	-2
Weighted score	0	+4

Total quantified cost of the proposed Regulations

In total, the costs of the proposed Regulations (producing the LIC and providing the NOA) are estimated to be \$13.3 million per year or \$120 million over the 10-year forecast period of 2021 to 2031 (in NPV terms).¹⁴

Fees analysis

Under section 121(3) of the new Act, an applicant for a LIC must pay the prescribed fee to the council for the issue of a certificate.

The key issues in respect of cost recovery and fee setting are:

- whether fees should be established, and if so, what level of cost recovery they should achieve
- the costs base and efficiency of costs
- the structure and level of the fees.

There is a strong case that fees should fully recover council costs of providing a LIC. This is because the cost of the LIC should be paid for by the parties that give rise to the need for the regulation in the first place. There are no strong public policy reasons for the general ratepayers to fund costs imposed by vendors and purchasers.

Estimated costs for providing LICs are based on a survey of councils undertaken for this RIS. The average cost of providing a LIC is estimated to be \$24.36. Cost estimates range from an average of \$17.26 for metropolitan councils to \$30.86 for regional councils. There is no evidence to suggest that councils are not undertaking their functions in respect to LICs efficiently, taking into account differences across councils in respect to economies of scale and resourcing.

The options considered for LIC fees in this RIS are:

- **Base case:** regulations expire and no new regulations are introduced, i.e. no fee prescribed. Councils would not be able to recover costs.

¹⁴ This cost reflects an estimated cost of \$24.36 per LIC for approximately 350,000 LICs estimated per year.

- **Current Regulations relating to LIC fees to be replicated in proposed Regulations:** flat fee of 1.82 fee units (\$26.95) for all certificates.

A different flat fee option would have been considered if the results of the survey of councils indicated that the current fee of \$26.95 does not reflect costs. However, the estimated weighted¹⁵ average cost of \$24.36 based on the survey responses of 36 councils, which includes the cost of staff time but no other costs such as IT infrastructure, is considered to be close enough to the current cost of \$26.95 to not justify consideration of a different fee level.

Other fee structures considered include variable fee structures such as tiered fees, allowing councils to set their own fees, or allowing councils to set any fee up to a maximum fee level. Reasons these fee structures are not considered feasible include that the costs of administration would be significantly higher and the fee would be more difficult to understand (e.g. for conveyancers and lawyers operating across different municipalities with different fees). It would also be difficult to design a variable fee structure that reflects the costs of different councils. Allowing councils to set their own fees, or up to a maximum fee level, might also remove an incentive for councils with higher costs to seek improvement and efficiencies in their systems.

A MCA methodology was used to assess the flat fee of \$26.95 versus the Base Case against the criteria of cost-reflectivity, equity, simplicity and ease of understanding, and the cost of administration.

Table iv outlines the MCA scores for the Proposed Fee compared to the Base Case, and provides the weighted score. The Proposed Fee has a score of +3.3 compared to the Base Case and is assessed as somewhat better than the Base Case of no regulations. It is, therefore, the preferred option. This reflects that fees charged under the Proposed Fee are expected to recover close to the total cost of providing the LIC (cost reflectivity) and people requesting the LIC will pay for the LIC to be produced (equity). It is not assessed as strongly as the Base Case against the criteria of simplicity and ease of understanding, and cost of administration, because under the Base Case there is no fee to administer or understand.

Table iv MCA summary – LIC fees

Criteria	Base Case – no fee	Proposed Fee – current fee replicated in regulations (flat fee of \$26.95)
Cost-reflectivity (25%)	0	+10
Equity (25%)	0	+9
Simple and easy to understand (25%)	0	-3
Cost of administration (25%)	0	-3
Weighted score	0	+3.3

¹⁵ Weighted by number of LICs received by councils.

Implementation

The proposed remade Regulations largely continue the substance and form of the current Regulations.

DJPR will communicate the making of the new Regulations to key stakeholders. This will provide an opportunity for DJPR to provide education and guidance about key matters set out in the Regulations, such as the information to be provided in a LIC and the requirement for NOA to be submitted to councils. DJPR will review feedback received through the public comment period to determine how to tailor the education and guidance to be provided.

Evaluation

The proposed Regulations will sunset in 2031. This will be the next time the Regulations are due for a full formal evaluation, undertaken via preparation of a future RIS.

A 10-year period is a long time to leave fee regulations in place without review. A mid-term review of fees will, therefore, be undertaken (at five years). Early engagement with councils will be undertaken to enable rigorous assessment of costs related to the LIC process.

An implementation project is being undertaken which aims to support councils in relation to implementing the requirements of the new Act (including the Regulations). This implementation project regularly liaises with local councils and government stakeholders and would be able to determine at a high level if there are any issues with the forms or the regulations on an ongoing basis. Reflecting the move to a principles-based Act, DJPR will continue to work closely with local councils to support the local government sector to build councils' capacity and capability.

DJPR will consult with stakeholders on how the Regulations are working and whether they remain fit for purpose and enable the gathering of information that is required. This consultation will be undertaken mid-term and when the regulations are due to sunset.

Stakeholder consultation

Stakeholder consultation was undertaken to gather relevant information on the impact of the proposed Regulations and possible alternatives for different groups. The consultation process included as part of this RIS process included:

- a written online survey about the regulations relating to LICs and NOA sent to all 79 councils, with survey responses received from 34 councils
- consultation via phone or email with the SRO, Land Registry Services, PEXA, Landata, and conveyancers (Australian Institute of Conveyancers Victorian Division (AIC (Vic)) and individual conveyancers) who alongside lawyers typically represent vendors and purchasers of land.

A summary of stakeholder consultation findings is provided in Appendix B.

1. Background

This chapter provides background to the Regulatory Impact Statement that is being undertaken.

Local government is a key level of government in Australia. It comprises democratically elected councils that provide many essential services for their communities and regulate particular activities within their municipalities. In Victoria, there are 79 separate councils managing over \$110 billion of public assets¹⁶ and delivering services that cost about \$9 billion every year.¹⁷ Councils are reliant on the collection of revenue from rates and charges to deliver services. In 2018-19, revenue from rates levied represented 52 per cent of revenue for the sector.^{18,19}

Rates and charges are collected from the owners of land under the *Local Government Act 1989*. To support the levying of rates and charges, as well as other functions such as maintaining the voting roll and providing relevant information to property owners, it is important that councils obtain information about the owners of land in their municipalities and are kept up to date when a land transfer takes place. A land transfer occurs when a property changes hands from one owner to another.²⁰ Methods of land transfer include the property being bought or sold at auctions and private sales, as well as being gifted or acquired through a company or a trust.

According to the SRO, there are around 300,000 transfers of property per year in Victoria.²¹

When land is transferred, some outstanding debt associated with the property, such as the payment of rates and charges, remains with the property and so the debt is transferred over to the new owner of the property.^{22,23} Purchasers of land, therefore, need a mechanism to obtain accurate information about any debts attached to the land they are purchasing, otherwise they might find themselves unknowingly taking on debts attached to the land.

From July 2021, the *Local Government Act 2020* (the new Act) will legislate the requirement for purchasers to provide information to councils about the acquisition of land (NOA), and for councils to provide certain information about land to a person on request (land information). As part of the Victorian Government's extensive reform of the local government framework, the new Act has been introduced to improve local government democracy, accountability and service delivery for all Victorians.²⁴ The new Act is mainly replacing the *Local Government Act 1989* (the current Act). While many elements of the old legislation are changing, the requirements relating to NOA and LICs will not materially change from the current Act to the new Act. The new Act uses substantially the same words to describe the requirements, with the most substantial change being to define more clearly the CEO

¹⁶ Mostly comprising land, buildings and infrastructure, which are used to deliver services to the community.

¹⁷ Victoria Auditor General's Office, *Result of 2018–19 Audits: Local Government November 2019*, pp34-37.

¹⁸ *Ibid*, p.35.

¹⁹ Other revenue sources included cash contributions, user fees, government grants, and statutory fees and fines.

²⁰ In Victoria, land transfers fall under the *Transfer of Land Act 1958 (Vic)*.

²¹ Data provided by SRO.

²² Section 156(6) of the *Local Government Act 1989*.

²³ An exception is non-rateable land, such as land used for charitable purposes or government-owned land.

²⁴ Local Government Victoria, <https://www.localgovernment.vic.gov.au/council-governance/local-government-act-2020>.

of the council as the prescribed member of council to give the notice of acquisition to.²⁵ However, the provisions relating to “Rates and charges on rateable land” will remain in the current Act.

1.1 Current regulations

1.1.1 Land information certificates

Under section 121 of the new Act, a person may apply to a council for a certificate specifying the prescribed information in relation to matters affecting any land in the municipal district (a LIC). An application for a LIC must be in the prescribed form, and the council may charge a prescribed fee.

Regulations relating to LICs (and NOA) are a component of the Local Government (General) Regulations 2015 which provides for regulations of miscellaneous parts of the *Local Government Act 1989*, including notice of rates and charges and exemption from restriction on power to enter into contracts.

Regulation 13 of the current Regulations specifies the prescribed information that a LIC must include, including:

- The date of issue of the certificate
- Valuation information consisting of:
 - the Council valuation of the land using the net annual value, site value and capital improved value systems of valuation; and
 - the current level of value date.
- Information in relation to rates and charges and other money (e.g. any money owing on the land)
- Any current notices or orders on the land made under previous or current local government Acts or council local laws.

Under Regulation 14 of the current Regulations, the prescribed fee that must be sent with an application for a LIC is 1.82 fee units, with the current value of a fee unit specified at \$14.81 in Victorian Government Gazette Number G16 dated 23 April 2020. This means the prescribed fee is currently \$26.95.

Vendors and potential purchasers typically apply for a LIC in advance of a land sale, although it is usually the land conveyancer or lawyer who applies for the LIC on the vendor or purchaser's behalf.

The fees imposed impact vendors and potential purchasers. An important part of this RIS will be assessing whether the fee level that is established in the current Regulations is appropriate (i.e. satisfies cost recovery principles and reflects efficient costs of councils as per the Department of Treasury and Finance Cost Recovery Guidelines).

Full details of the requirements relating to LICs under the new Act and current Regulations are provided in Appendix A.

²⁵ *Local Government Act 2020* s 122.

The current Regulations relating to LICs and NOA are being repealed as part of the local government reform process and will involve repealing the components of the current Regulations relating to LICs and NOA. It is intended that new Local Government (Land Information) Regulations 2021 (proposed Regulations) will be introduced on 1 July 2021 when the relevant enabling provisions in the current Act expire and the new Act takes effect. See sections 0 and 1.4 for further discussion.

1.1.2 Notice in relation to acquisition of land

Councils need information about who owns properties in their municipalities to perform many of their functions. The main way that councils currently obtain this information is when they receive notifications about the transfer of ownership of a property.

Regulation 15 of the current Regulations prescribes the requirements for notices in relation to land acquisition (NOA) as required under section 122 of the new Act. A person who acquires land in a municipal district must give a notice in relation to the acquisition of the land to the chief executive officer of the municipal district within one month of acquiring the land, and must include the following information (noting this is in high-level summary form with the current Regulations prescribing a significant level of detail under each heading):

- personal details
- property details
- transfer details
- type of property and number of bedrooms if it is residential
- contact details
- relevant property code.

The full current Regulations for NOA are provided in Appendix 1.

1.2 Roles and responsibilities

1.2.1 LIC

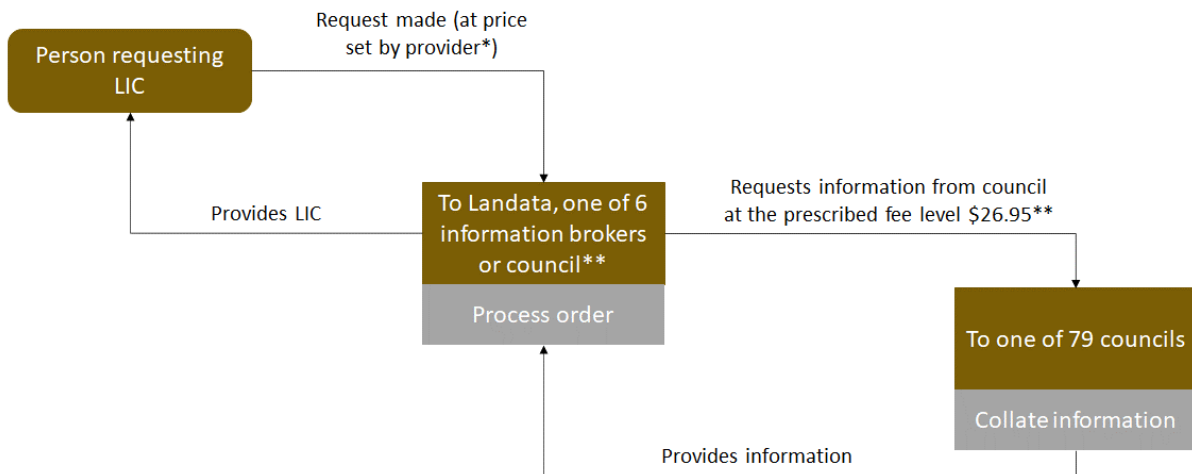
The following organisations have roles and responsibilities in relation to the LIC process:

- Councils: must provide a LIC on request. In practice almost all LIC requests are made via Landata or one of six information brokers. Councils can only collect the prescribed fee of \$26.95 for the provision of the LIC.
- Land Use Victoria (LUV): is part of the Department of Environment, Land, Water and Planning. LUV is the state's key agency for land registration, property information and a number of other land related functions. LUV is responsible for statutory functions in relation to land registry services and monitors and oversees the land registry services provided by Victorian Land Registry Services (VLRs), which has a 40-year concession to run commercial operations that were previously provided by LUV. These include the land titles and registry functions for the State of Victoria.

- Landata²⁶ and six information brokers (PSI Global, GlobalX Terrain Pty Limited, Citec Confirm, Equifax Australia Information Services and Solutions Pty Limited, InfoTrack Pty Limited, SAI Global Property Division Pty Ltd): people can apply to councils, Landata or the information brokers for a LIC.

Figure 1 **Error! Reference source not found.** shows the LIC process from the request of a LIC through to provision of the LIC.

Figure 1 LIC process



Note:

* The prescribed fee is for the cost recovery of council costs but commercial providers may charge a higher price. For example, Landata charges \$36.66.

** While LIC request can be made directly to councils, almost every request is actually made to Landata or an information broker. If a request was made to council the entire process would occur within the council.

Source: Developed by Sapere based on information collated from public documents and interviews with stakeholders.

1.2.2 NOA

The following organisations have roles and responsibilities in relation to the NOA process:

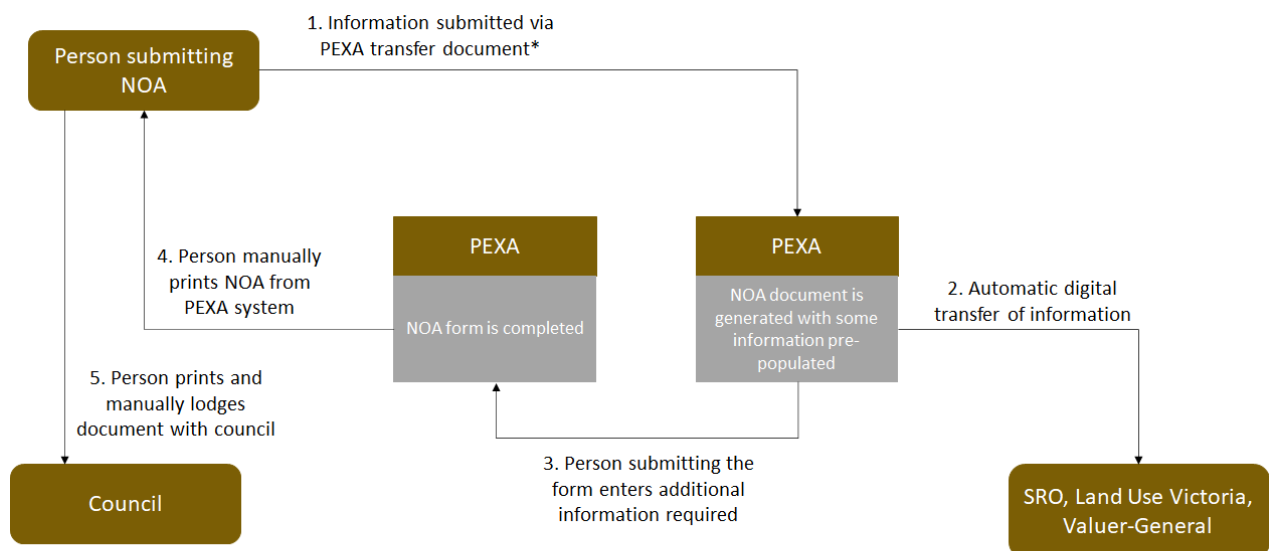
- Councils: receive the NOA from purchasers of land. Councils use the information to support various council functions.
- PEXA (Property Exchange Australia): is an Electronic Lodgment Network Operator (ELNO). There are only three ELNOs in Victoria, and PEXA is the only ELNO that allows for the lodgment of nearly all instrument types with the Land Registry. All transactions (instruments), (including land transfers, mortgages, caveats and subdivisions, among others) must be lodged electronically in Victoria (noting some very limited exclusions apply to allow paper-based lodgment). The NOA can be submitted using a paper-based form or can be created electronically as part of the broader land transfer documentation that must be electronically lodged.

²⁶ Landata is a business of VLRS which is focused on delivering property information including title, survey, valuation and property sales, property certificates and planning certificates.

- SRO: is the Victorian Government's revenue management agency, a semi-autonomous service agency acting under a framework agreement between the Victorian Treasurer, the Secretary of the Department of Treasury and Finance, and the Commissioner of State Revenue. The SRO's role is to administer Victoria's taxation legislation and collect a range of taxes, duties and levies. In order to levy land tax, it uses information collected via the local government notice of acquisition to obtain information about land being transferred.
- The Valuer General: is the Victorian Government's authority on statutory valuations. The Valuer-General oversees valuations for Victorian Government property transactions and rating valuations. This includes valuations for council rates and land tax assessments. To enable land valuations to take place, SRO shares notice of acquisition information with the Valuer-General.
- Land Use Victoria (LUV): as described in section 1.2.1.

Error! Reference source not found. shows the preparation and submission process for NOA using electronic lodgment via PEXA.

Figure 2 NOA process using electronic lodgment via PEXA



Note:

* Information for a range of Transfer processes/requirements is submitted in a single process (not just relating to NOA). Most of the information will be prepopulated in the NOA from the other data provided by the PEXA user for the Transfer of Land Document.

Source: Developed by Sapere based on information collated from public documents and interviews with stakeholders.

1.3 Proposed regulations

This RIS is part of the fourth and final tranche of the local government reform process and will involve repealing the components of the current Regulations relating to LICs and NOA and introducing new Local Government (Land Information) Regulations 2021 (proposed Regulations) on 1 July 2021 when the relevant enabling provisions in the current Act expire and the new Act takes effect. New regulations are required to be made under the new Act to enable the requirements relating to LICs and NOA to take effect.

1.4 Regulatory Impact Statement

Under the *Subordinate Legislation Act 1994* (SL Act), a RIS is required to be prepared for proposed regulations that are expected to have a significant impact. The responsible Minister must ensure a RIS is prepared for public consultation.

DJPR has engaged Sapere Research Group to prepare this RIS in accordance with BRV's Victorian Guide to Regulation²⁷ and the *Subordinate Legislation Act 1994*.

It is noted that a RIS was produced in 2015 as part of a review of the Local Government (General) Regulations 2015. This RIS is available on the BRV website.²⁸

1.4.1 RIS process

The key purpose of this RIS is to assess the impact of different options for replacing the current Regulations. The rigorous assessment of regulatory proposals within a RIS ensures that regulation best serves the Victorian community. The general approach to the assessment was as follows:

(1) Identification of the problem

This involved consideration of the nature and extent of the problem that the proposed Regulations aim to address, including the need for government intervention, the risks of non-intervention and the objectives of such intervention.

(2) Identification of the options to achieve the objectives of the proposed Regulations

Options that could address the defined problems were identified. Options which were deemed less feasible or less relevant were identified but not pursued any further.

(3) Stakeholder consultations

Stakeholder consultation was undertaken to gather relevant information on the impact of the proposed Regulations and possible alternatives for different groups. The consultation process included as part of this RIS process included:

²⁷ Office of the Commissioner for Better Regulation, 2016, Victorian Guide to Regulation: A handbook for policy makers in Victoria, Department of Treasury and Finance, Melbourne.

²⁸ BRV website, <https://www.vic.gov.au/regulatory-impact-statements-2015>.

- A written online survey about the regulations relating to LICs and NOA sent to all 79 councils, with survey responses received from 34 councils with the following representation across council groupings:²⁹
 - Small Shire 11
 - Large Shire 7
 - Metropolitan 8
 - Regional City 5
 - Interface 3
- Consultation via phone or email with the SRO, Land Registry Services, PEXA, Landata, and conveyancers (AIC (Vic) and individual conveyancers) who alongside lawyers typically represent vendors and purchasers of land.

In addition, the development of options has included consideration of a range of stakeholder input provided to DJPR as part of the local government reform process.

Appendix B describes the stakeholder consultation undertaken for this RIS and summarises the consultation findings.

(4) Assessment of the costs and benefits, and identification of preferred option

Assessment of the costs and benefits under all options, relative to a Base Case of no regulations, was undertaken consistent with the requirements of the Victorian Guide to Regulation. Fees options are also assessed against the Department of Treasury and Finance's Cost Recovery Guidelines (the Cost Recovery Guidelines).³⁰ The analysis uses data sourced from councils, Landata, the SRO, and data gathered through independent research.

Based on the analysis undertaken, a preferred option was identified.

(5) Assessment of other impacts

We have considered the likely small business and competition impacts of the preferred option.

(6) Implementation and evaluation

The arrangements for implementation and evaluation of the preferred option are described.

1.4.2 Public comment

The proposed Regulations and this RIS will be released for a minimum of 28 days to provide councils, members of the public and other interested parties the opportunity to provide feedback. The process for responding to the RIS is outlined in the foreword to this report.

²⁹ Council groupings are used by Local Government Victoria to present comparative analysis of council performance on the Know Your Council website. A population threshold of 15,000 has been applied to determine membership of the small and large rural councils, rounded to the nearest thousand. It should be noted that there is otherwise no underpinning statistical or demographic factors for selection of these groupings.

³⁰ Department of Treasury and Finance, 2013, *Cost Recovery Guidelines*, January.

DJPR welcomes and will consider all submissions received during the period of public comment. DJPR will prepare a Response to Public Comment summarising the submissions received and its response, including a decision on whether any amendments to the proposed Regulations are needed.

Submissions to the review, and the Response to Public Comment document, will also be made available on Engage Victoria.

Interested parties are encouraged to provide any views on the proposed Regulations. In providing feedback, interested parties may wish to comment on the following:

- Do you think that the regulations should require an application for a LIC to include title and plan details of the property? If so, what benefits do you think this would bring? Are there any potential barriers to this information being required?
- Do you think that there is a lack of clarity in the prescribed information requirements, which needs to be addressed through amendments to the regulations? If so, can you please provide specific examples?
- Do you think that the regulations should prescribe that the particulars to be included in the NOA provided to councils should include updated Titles and Title Plans? If so, what benefits do you think this would bring? Are there any potential barriers to this information being required?
- Do you consider the proposed prescribed fee is appropriate and reasonable for covering the costs of councils in producing a LIC?

2. Problem analysis

This chapter discusses the underlying problem that is being addressed by the proposed Regulations.

2.1 The problems addressed by the Regulations

2.1.1 Land information certificate

Ownership of land in Victoria, whether developed or not, causes an obligation to pay rates and charges to the relevant municipal council.³¹ The only exceptions to this obligation are for land that is non-rateable, such as government-owned land or land used for charitable purposes.

The owner of land is liable to pay the rates and charges on that land.³² This means that instead of a debt being attached to a person, as is usually the case in financial matters, the debt is attached to the land and is transferred with the land if ownership changes. This is also the case for land taxes.

It is, therefore, important for a person purchasing land to have accurate information about any unpaid rates or charges. If a person did not have access to this information, they would be at risk of unknowingly taking on significant financial liability. Average rates per property assessment per annum across all Victorian councils were \$1,775 in 2019-20.³³ Because rates are calculated by multiplying the valuation of the property by the rate in the dollar, and the rate in the dollar also varies across councils, rates can vary significantly across different properties and council areas. For example, the average rate per property assessment per year can range from under \$1,500 in some councils to up to nearly \$2,500 at other councils.³⁴ Unpaid rates and charges on a property could, therefore, amount to thousands of dollars.

A person selling land is required by section 32 of the *Sale of Land Act 1962* ("Sale of Land Act") to provide a prospective purchaser with a statement containing information about financial matters in respect of the land. This includes any charge over the land that has been imposed under an Act of Parliament, the amount of any rates, taxes, charges or other similar outgoings affecting the land and any interest payable on any amount owing that is unpaid, and a statement that the total amount does not exceed the amount specified in the statement. This statement is commonly known as a Section 32. When land is sold, any outstanding rates and charges debts are resolved at settlement, with the purchase price being adjusted downward by the value of any unpaid or overdue amounts.

While the Section 32 statement requires vendors to provide information about financial matters, it could be difficult for purchasers to verify that the information provided is correct because the

³¹ Under section 155 of *Local Government Act 1989*, a Council may declare the following rates and charges on rateable land: general rates, municipal charges, service rates, service charges, special rates and special charges.

³² Section 156 of *Local Government Act 1989*.

³³ <https://knowyourcouncil.vic.gov.au/>, All Council Average for Average rate per property assessment, 2019-20.

³⁴ Ibid.

information is held only by the relevant council and the vendor. However, it is noted that the extent to which this is a problem is difficult to verify.

To help provide transparency about this matter, the new Act requires a council to provide a LIC to a person who requests one. The LIC is typically requested by vendors (as a reliable source of information for their Section 32 statement) and purchasers.

Under the Act, the LIC must include prescribed information which is to be specified in regulations. This RIS focuses on the problems that would occur in the absence of any regulations being made. In such a case, people would still be able to request that councils provide a LIC. Because regulations have been in place for a long time, councils might continue to provide the same form of LIC with the same information as has previously been the case. However, over time there may be some deterioration in the service level as systems and staff change. There is a risk that if there is no regulation about the prescribed information required and no prescribed fee (see further discussion on fees in section 2.1.2), some councils might begin not to provide LICs or reduce the type and quality of information provided in LICs.

Over time it is expected that LICs would also begin to be prepared differently across councils. This variation across councils could be difficult to navigate for vendors, purchasers and the conveyancers and lawyers who represent them. Conveyancers and lawyers typically operate across a range of councils, which means that different approaches are likely to involve learning costs (e.g. navigating different systems) and may cause confusion. There is also potentially a problem for councils if they do not provide complete or accurate information on money owed to them (due to no requirement for a uniform LIC). They risk incurring additional expenses being required to recover charges from purchasers who were not aware of the debt because the council did not disclose the debt to the parties. Purchasers of land may also challenge the debt if they believe they were not provided complete or accurate information by councils in the LIC.

Vendors will continue to be responsible to provide information to prospective purchasers under the Sale of Land Act; however, they may lose a reliable source of information for their Section 32 certificates, and purchasers may be unable to separately verify the information. It is possible that vendors and purchasers might need to independently source information about rates and charges attaching to a property through some other mechanism. This would lead to costs that are expected to be higher than the current arrangement because of inefficiencies in the information search. It is also possible that there might be costs as a result of poor information, such as purchasers unknowingly taking on financial liabilities; however, the extent to which this is likely to occur is uncertain.

It is difficult to measure the size of the costs associated with the problem because the current regulatory framework has been in place for many years. No data is available on the extent to which lack of accurate information about the liabilities attached to land being transferred leads to financial costs for the purchaser. There is also no data on the proportion of land transfers where there are rates and charges liabilities attached to the land at time of transfer.

2.1.2 Fee to be paid for certificate

The new Act provides that an application for a LIC must be accompanied by the prescribed fee. If a fee is not prescribed, it is likely that councils will still be incurring costs to provide the LIC service (if they continue to provide the service). However, people requesting a LIC would not be paying a fee. A

potential scenario is that the service is cross-subsidised by other revenue—for example, from rates and charges collected by the council.

Cost recovery principles

Cost recovery principles generally support the concept that those who utilise services or give rise to the need for a regulatory activity pay for the cost of those services, rather than have them funded by others, e.g. through general taxation, or in the case of councils, rates and charges. Under full cost recovery, there is no cross-subsidy of those who impose the costs.

General Victorian Government policy is that there should be full cost recovery for regulatory fees unless this would substantively undermine other important objectives. This ensures that those who give rise to the need for regulation bear the costs of administering and enforcing it.³⁵

The principle of fully internalising the costs of regulation is supported by the Cost Recovery Guidelines, which state that costs should be recovered directly, where possible, “from those that benefit from, or whose actions give rise to the need for, the government good/service/activity.”³⁶

Cost Recovery Guidelines

The Cost Recovery Guidelines recognise that there are circumstances where it may be desirable to recover less than full costs, or not to recover costs at all, including:

- Practical implementation issues make cost recovery infeasible.
- There are benefits to unrelated third parties (sometimes referred to as ‘positive externalities’).
- Social policy or vertical equity considerations are considered to outweigh the efficiency objectives associated with full cost recovery.
- Full cost recovery might adversely affect the achievement of other government policy objectives.

None of these circumstances are considered to apply in the case of LICs. There are either limited or no public benefits arising from LICs, and no equity, policy or practical administration difficulties related to the fee. Without a fee, the people (mainly vendors and purchasers) that give rise to the need for LICs to be legislated in the first place will not bear the costs of the LICs. They would not receive appropriate price signals about the value of all the resources being used to provide the service. It is also possible that having no fee would result in too many requests for LICs being made, leading to inefficient allocation of resources. From an equity perspective, the cost of the fee is extremely small compared to the value of the sale of property.

The total amount of fee revenue collected for LICs is estimated to be about \$8.5 million per year (see costing in section 3.4.1). This represents a small amount of council revenue, with total revenue collected across all councils in Victoria per year sitting at over \$11 billion.³⁷ While it is a relatively small

³⁵ Office of the Commissioner for Better Regulation, 2016, *Victorian Guide to Regulation: A handbook for policy makers in Victoria*, Department of Treasury and Finance, Melbourne, p.25.

³⁶ Department of Treasury and Finance, 2013, *Cost Recovery Guidelines*, January.

³⁷ Victoria Auditor General's Office, *Results of 2018–19 Audits: Local Government November 2019*, p.34.

amount, councils will nevertheless have to find an alternative funding source if they continue to provide LICs but cannot collect a fee for them.

2.1.3 Notice of acquisition

Councils need information about properties in their municipality and about the owners of the properties in order to perform many of their functions, including:

- Levying rates and charges
- Enrolling property owners on the voters' roll
- Issuing statutory notices for planning and other matters
- Contacting people about council services and activities.

As part of the current RIS process, councils were asked about the benefits of requiring a NOA to be submitted. Councils consistently identified the following reasons:

- Property details: for identifying the property affected by the transfer.
- The name and address of the new owner: to enable council to levy rates and charges and for issuing notices of matters relating to the property. This is also important for the preparation of voters' rolls because land owners have automatic entitlements to vote in council elections, and addresses are needed for verifying entitlements and for postal voting processes.
- The dates of birth of land owners: these are used by the council and the Victorian Electoral Commission when preparing voters' rolls in order to distinguish between people with similar names and avoid duplications on the roll.
- Details of the property sale: for council's valuation processes, which are used for setting municipal rates, and for the SRO to levy land taxes.³⁸

One council noted:

First it is a legislative requirement that provides council with accurate information as the Purchasers conveyancer has access to the new owners details. This is an extremely important document for Local Government as the information contained in it covers a number of different uses, such as but not limited to, the purchased property details of the owner name, residential address, mailing address, date of birth, email address, mobile number, sale price. Most of this information is a requirement for other legislation that Council has to abide by.³⁹

As information about property owners and property values changes when a property is transferred, it is important that it is updated for council purposes. In the absence of regulations, the requirement under the new Act to provide a NOA would still exist, but there would be nothing to prescribe the form of the NOA, the information to be provided or the timeframe within which the NOA must be provided. In practice, the requirements of the new Act would not take effect, and councils would be limited in their ability to implement their functions effectively. Some functions might actually not be able to occur unless there was other intervention. Functions such as levying rates and charges to

³⁸ 2015 RIS, p.50.

³⁹ Council response to RIS survey, 2021.

owners of land and enrolling owners on the voting roll are integral parts of council work. The collection of information is a necessary input to this function.

Some other public bodies also need and obtain information about property transfers through notices lodged by owners. The SRO requires information about property ownership in order to levy land taxes. The *Land Tax Act 2005*⁴⁰ (Land Tax Act) and the Land Tax Regulations 2015⁴¹ (Land Tax Regulations) require a person acquiring land to give notice of the acquisition to the Registrar of Titles within one month after acquiring the land. The Land Tax Regulations do not separately describe the form of and information to be provided in a notice of acquisition. Rather, they specify that the prescribed information that must be contained in the notice is the same information as prescribed for the NOA in the Local Government Regulations.

Information from acquisition notices received by the SRO is also disclosed to the Valuer-General's office, as permitted under section 103(3) of the Land Tax Act. The Valuer-General uses this information to provide property and valuation data to assist valuers in making valuations as well as to other bodies for statistical analysis, under section 5 of the *Valuation of Land Act 1960* (Valuation of Land Act).

Any changes to requirements for the NOA in the proposed Regulations will therefore affect the application of the Land Tax Act and the Valuation of Land Act.

It is noted that water corporations also require information for the purpose of levying water rates. Section 159 of the *Water Act 1989* (Water Act) and the Water (Notice of Disposition of Land) Regulation 2010 require the seller of land to provide the water corporation with a disposition notice. The regulations prescribe the information that must be provided. This means any changes to the Local Government Regulations will not affect the application of the Water Act.

2.2 Are the Regulations still needed and are they fit for purpose?

In undertaking the reform of the local government framework and in preparing the proposed Regulations, the DJPR has conducted extensive consultation as outlined in Appendix B. Specific consultation for this RIS has also been undertaken.

It is considered that the Regulations are still needed and fit for purpose.

Stakeholders agree that the underlying need for regulation still exists and that the requirements of the current Regulations remain appropriate to be included in the proposed Regulations.

⁴⁰ Section 103.

⁴¹ Regulation 5.

2.3 Objectives of the proposed Regulations

The proposed Regulations support the purpose of the *Local Government Act 2020*, which is to give effect to section 74A(1) of the *Constitution Act 1975* which provides that local government is a distinct and essential tier of government consisting of democratically elected Councils having the functions and powers that the Parliament considers are necessary to ensure the peace, order and good government of each municipal district.

The objectives of the proposed Regulations are to ensure that:

- parties to land transfers have access to accurate information in a cost-efficient way about rates and charges liabilities that are attached to the land
- fees to be paid to councils for LICs are consistent with the government's Cost Recovery Guidelines
- councils, the SRO and the Valuer-General have access to reliable information about the owners of land in their municipality in order to carry out their functions, including the equitable imposition of rates and charges to those liable to pay them.

3. Identification and assessment of options for LICs and NOA

This chapter identifies the set of options considered for the proposed Regulations and assesses the options.

3.1 Identifying the options to be assessed

As part of the RIS process, it is important to consider different options that could achieve the Victorian Government's objectives. The *Subordinate Legislation Act 1994*, the Subordinate Legislation Act Guidelines, and the Victorian Guide to Regulation recommend that this includes considering a range of approaches, including non-regulatory options, approaches in other jurisdictions, and improvements to existing regulatory regimes and regulatory practice.

The new Act legislates that a person may apply to council for a LIC, and that a person who acquires land must give a NOA to council. Under the Act, the following matters are to be prescribed in legislation:

- The information to be provided in a LIC and the fee that an applicant must pay to the council for the issue of a certificate.
- The form of and particulars to be provided in the NOA, and the time period within which a NOA must be given to council.

Given the legislative framework that is in place for LICs and NOA, the scope of this RIS is focused on identifying feasible options for prescribing in regulation the requirements for the LIC and NOA. The RIS does not consider a broad range of regulatory and non-regulatory approaches for LICs and NOA.

As part of the reform of local government that has been occurring, the Victorian Government has undertaken extensive consultation with the local government sector (see Appendix B for a summary of consultation undertaken). This consultation has not identified any concerns with the current Regulations relating to LICs and the NOA that need to be addressed in the new Regulations.

Stakeholder consultation was undertaken for this RIS to collect views on the effectiveness of the current Regulations and the need for any proposed changes to be reflected in the new Regulations. While the consultation indicates no broad concerns about the requirements for LICs and NOA as prescribed in the current Regulations, many councils raised the issue of how the NOA form is submitted to councils. A person who acquires land typically creates a NOA form on the electronic platform of the Electronic Lodgment Network Operator, PEXA,⁴² as part of the broader conveyancing process.^{43,44} The person must then print the NOA form and manually submit it to the relevant council.

⁴² Property Exchange Australia.

⁴³ This involves lodgment of transactions (instruments) with Land Registry. Electronic lodgment is the use of an Electronic Lodgment Network to lodge transactions. Electronic lodgment in Victoria is described on the Department of Environment, Land, water and Planning website at <https://www.land.vic.gov.au/land-registration/for-professionals/about-electronic-lodgment>.

⁴⁴ A paper NOA form can also be used, but most conveyancers and lawyers lodge the form electronically.

Councils observe that NOA forms are sometimes not submitted to council because conveyancers and lawyers (representing purchasers) have not understood that the NOA is not submitted automatically from PEXA to councils and that the process needs to be undertaken manually. Failure to lodge the NOA prevents councils from obtaining the required information about new owners of property in their municipalities, or causes delays in when they receive the information. DJPR acknowledges the issue but notes that the new Act does not provide scope to regulate the manner in which the NOA is submitted to councils.⁴⁵ In stakeholder consultation undertaken for this RIS, PEXA has acknowledged the technology challenges to finding potential solutions for the 79 individual councils in relation to receiving NOA information and the commitment of PEXA to arrive at a solution. It is open to councils to work with PEXA to resolve some of the technology challenges PEXA has identified and find a solution that provides a more streamlined submission process of the NOA.

Two councils noted that a number of conveyancers use the old NOA form which does not have all prescribed information included, e.g. provision for dates of birth and contact details (email). This means unnecessary time for staff to follow up is needed. DJPR notes this feedback and will work with relevant professional associations such as the AIC (Vic) and the Law Institute of Victoria to increase awareness of the requirement to use a form that reflects the requirements of the proposed new regulations.

A small number of councils also raised the following issues:

- The application for a LIC should include title and plan details of the property to reduce the number of LIC requests that provide incorrect information and to reduce the amount of follow up by councils required.
- The prescribed information requirements are vague and should be made more clear.
- Prescribed particulars for a NOA should include updated Titles and Title Plans.

These issues have been raised by only a small number of councils, and DJPR does not have sufficient information to consider the issues in this RIS. DJPR is therefore seeking further views from councils on these issues as part of the RIS Public Comment process and encourages councils to provide a response via this process (see section 1.4.2 for further information).

A small number of councils also noted that the time and resources required for the LIC process are high and not covered by the fee. Fees and cost recovery arrangements are discussed in Chapter 4.

Other issues raised but not considered to be within the scope of the proposed Regulations, or for which DJPR will address in the implementation via education and guidance, are outlined in Appendix B of the RIS.

Taking these considerations into account, this RIS considers a Base Case of no regulations against options for LICs and NOA that replicate the current Regulations in the proposed Regulations. DJPR will consider the need for any amendment to the proposed Regulations following the review of submissions to the public comment process.

⁴⁵ Which is the same as the current Act.

3.1.1 LIC

The options being considered for prescribing the information to be included in LICs are:

- **Base Case:** the case that would exist in the absence of regulations, i.e. if no new regulations were made to replace the current Regulations. This would mean that no requirements are prescribed for what information must be included in a LIC. It is important to note that the Base Case is a counter-factual scenario used to provide a common point of comparison for all options and is not being considered as an option for the new Regulations.
- **Proposed option for LICs – Current Regulations relating to LICs to be replicated in proposed Regulations:** LICs would be required to include information that is currently required to be included, including:
 - the date of issue of the certificate
 - valuation information consisting of:
 - the Council valuation of the land using the net annual value, site value and capital improved value systems of valuation
 - the current level of value date⁴⁶
 - Information in relation to rates and charges and other money (e.g. any money owing on the land) including the amount and type of all rates and charges levied on the land and when they are due, any rates and charges levied on the land that are paid or unpaid, the amount of arrears in relation to rates and charges levied on the land, and other money
 - any current notices or orders on the land.

Appendix A outlines in the current Regulations relating to LICs.

3.1.2 NOA

The options being considered for the NOA are:

- **Base Case:** the case that would exist in the absence of regulations i.e. if no new regulations were made to replace the current Regulations. This would mean that no requirements are prescribed in relation to the NOA. It is important to note that the Base Case is a counter-factual scenario used to provide a common point of comparison for all options.
- **Proposed Option for NOA – Current Regulations relating to the NOA to be replicated in proposed Regulations:** As per the current Regulations, the proposed Regulations would prescribe the persons required to give a NOA to council as those acquiring land in a district and that a NOA must be given within one month after acquisition. The information to be provided in a NOA would include:
 - personal details of the transferor and transferee, including name, address and whether the land will be the transferee's principal place of residence, and date of birth of the transferee

⁴⁶ This means the date for the current valuation.

- property details in relation to the land, including street address, lot number and plan number, Folio, Crown allotment number, municipal property number, area of the land and unit of entitlement
- transfer details including the date of contract, the GST amount, total sale price, deposit and date of possession or transfer, and whether or not the transfer is a terms of sale
- type of property: residential or not
- contact details and certification
- relevant property code.

Appendix A outlines in the current Regulations relating to NOA.

3.2 Methodology

The options in this RIS have been assessed using Multi-Criteria Analysis (MCA) supported by quantitative information where available. This approach provides a structured and transparent way of evaluating the options given the limited quantitative data that is available to assess the benefits of the options.

MCA requires judgement of how the proposed options will contribute to a series of criteria that are chosen to reflect the benefits and costs associated with each option. Each criterion is assigned a weight reflecting its importance to the policy decision, and a weighted score is then derived for each option. The option with the highest weighted score is the preferred option.

3.2.1 Criteria

The criteria selected to assess options for this RIS are shown in Table 1. Benefits and costs have been weighted equally at 50 per cent each.

Table 1 Criteria and weightings

Criteria	Description	Weighting
1. Benefits to community and government	<p>The information benefits for the community and government:</p> <ul style="list-style-type: none"> ○ For community, it will enable parties to land transfers to have access to accurate information in a cost-efficient way about rates and charges liabilities that are attached to the land ○ For government, it will provide Councils, the SRO and the Valuer-General with access to reliable information about the owners of land in their municipality. 	50%
2. Cost to community and government	<p>The administration cost of the proposed regulations i.e. for councils in preparing and providing certificates and for purchasers of land in providing NOA. Note that while these are scored together, they are discussed separately.</p>	50%

3.2.2 Scoring scale

The criterion rating scale has a range of –10 to +10, where a score of zero represents no change from the Base Case. The whole scale is used to determine an appropriate score.

Table 2 Scoring scale

Score	Description
-10	Much worse than the Base Case
-5	Somewhat worse than the Base Case
0	No change from the Base Case
+5	Somewhat better than the Base Case
+10	Much better than the Base Case

Costs and benefits captured in this chapter include the items that are directly relevant and attributable to the proposed Regulations.

3.3 Data and assumptions

3.3.1 COVID-19

The COVID-19 health emergency represents the largest shock to the global economy in many decades. There is a high level of uncertainty around the rate at which different parts of the economy will recover from this crisis, including such things as property sales. In the face of such uncertainty, the approach adopted in this RIS is to use data and forecasts that reflect the pre-COVID situation, but note where appropriate any implications of this approach for findings.

3.3.2 Number of LICs and NOA

SRO has provided data on the total number of NOA.

Table 3 Number of NOA

Year	Number of NOA
2016	197,976
2017	206,634
2018	258,713
2019	311,586
2020	351,099

Source: SRO internal data.

The number of NOA should reflect the number of land transfers that occur each year, so the number of NOA has been used as a proxy for the number of LICs that are requested. A LIC would typically be requested for each property transfer in Victoria, although it is not compulsory and there might be

some exceptions (for example, transfers between family members). For some land transfers both vendors and purchasers request a LIC, which would increase the number of LICs above the number of land transfers. However, these are not considered to be material factors for the purpose of this RIS.

The 2020 figure of 351,099 has been used as the basis for forecasting because it is the most recent data available. While 2020 was impacted by the COVID-19 health emergency, this does not appear to have impacted the number of NOA, with the 2020 figure demonstrating strong upward growth that continues on from previous years. It is assumed that the number of LICs and NOA will be constant throughout the forecast period. This reflects uncertainty around the impact of COVID-19 into the future (e.g. due to economic or population factors). This is a simple approach but is considered reasonable and proportionate for this RIS. A different assumption would be unlikely to result in different findings.

3.3.3 Cost of time – Councils

The cost of time is estimated using an estimate of council wage rates for Band Levels 3 to 8 from a review of 15 Victorian Council Enterprise Bargaining Agreements.⁴⁷ A 75 per cent loading is applied for on-costs, and the estimated wage rates are shown in Table 3.⁴⁸

Table 4 Estimates of Band Level

Band level	3	4	5	6	7	8
Wage rate (hourly)	60	63	75	85	98	113

3.3.4 Cost of time – conveyancers/lawyers

The cost of time for conveyancers and lawyers, who typically undertake the NOA process on behalf of their purchaser clients, is estimated using the “professional all rates of pay” taken from Australian Bureau of Statistics (ABS) 2020 data (\$1,965.70)⁴⁹ and divided by the average working week (35 hours) as defined by the ABS, giving an hourly rate of \$56.16. This is inflated to 2020-21 dollars using the ABS percentage change in total hourly rates of pay,⁵⁰ and then a 75 per cent loading for on-costs is used to determine a total wage of \$100.74.

⁴⁷ There is some variation in council wage rates particularly between smaller councils (lower wage rates) and larger councils (higher wage rates), and there is also some complexity in wage rate structures e.g. multiple band levels. Some Enterprise Bargaining Agreements are difficult to quickly locate publicly. Reflecting a proportionate response to the size of the impact of this RIS, we have taken a simple average across a sample of councils. It is not considered that a more detailed approach would result in materially different level of rates assumed.

⁴⁸ Enterprise Bargaining Agreements provide wage rates for different years e.g. 2017, 2018 etc. Wage rate estimates have been inflated to 2021 dollars.

⁴⁹ Australian Bureau of Statistics, Average Weekly Earnings, Australia May 2020. Rate for Professional, Scientific & Technical Services.

⁵⁰ ABS, Wage Price Index, Australia, Series ID A85021553W. Data not available for 2020-21 so an average of rates for previous two years has been used.

3.3.5 Discount rates

Total costs in this analysis are presented as the sum of costs over the life of the Regulations (i.e. 10 years) and are discounted to net present values using a discount rate of 4 per cent, which is consistent with Department of Treasury and Finance guidelines for regulations of this nature.

3.4 Assessing the options

3.4.1 LIC

Criteria 1: Benefits to community and government – The information benefits for the community and government.

The information benefits for LICs accrue to vendors and purchasers.

As discussed in section 2.1.1, purchasers need financial information about the land that they are purchasing or considering purchasing, including any financial liabilities attached to the land that will transfer to the purchaser upon settlement. LICs assist vendors to provide information about the land they are selling as part of the Section 32 statement required to be provided under the *Sale of Land Act 1962*.

Under the **Base Case** of no regulations, a person can request a LIC from councils under the Act, but the information to be provided in a LIC would not be prescribed.

This RIS assumes that the Base Case of no regulations being made for prescribed LIC information will be accompanied by no prescribed fee for the LIC as well, i.e. it is not feasible that there would be a prescribed fee but not prescribed information.

In the absence of regulations, it is expected that:

- There may be some deterioration in the service level as systems and staff change and the level of priority given to the activity.
- Some councils might begin to provide LICs more slowly, or not provide LICs, or reduce the type and quality of information provided in LICs.
- Over time it is expected that LICs would also begin to be prepared differently across councils.

Variation across councils could be difficult to navigate for vendors, purchasers and the conveyancers and lawyers who represent them. This could lead to costs in navigating the different council approaches. If councils do not provide complete or accurate information on money owed to them (due to no requirement for a uniform LIC) they risk incurring additional expenses being required to recover charges from purchasers who were not aware of the debt.

There could also be gaps in information or complete absence of information which will cause costs for vendors and purchasers. Vendors will need to independently source information to ensure Section 32 statements are accurate, or there may be a decline in quality of Section 32 statements.

Purchasers may face a higher level of financial risk regarding the purchase of property (i.e. because they might not know full details about the liabilities attached to land and other financial matters about

the land). The level of exposure could be up to the level of rates unpaid on a property plus other monies owing. Average rates per property assessment per annum across all Victorian councils were \$1,775 in 2019-20. It is not known the extent to which rates and charges or other monies are owing on average at the time of property transfers in Victoria.

Alternatively, purchasers may seek other mechanisms for managing the risk, for example private contract or market insurance.

It is possible that, to protect the integrity of their industry, real estate agents may undertake a form of self-regulation and introduce a self-regulated system of LICs to support the transaction process. This potential scenario has not been explored in any level of detail to assess whether it is feasible or likely.

The Base Case is scored at 0 under our MCA approach.

Under **the Proposed Option for LICs – Current Regulations relating to LICs to be replicated in proposed Regulations**, a person requesting a LIC would receive valuation information including the council valuation of the land using the net annual value, site value and capital improved value systems of valuation, the current level of value date, information in relation to rates and charges and other money (e.g. any money owing on the land), and any current notices or orders on the land.

This would enable purchasers to fully understand the rates that they will need to pay and any liabilities attached to the land that will be transferred to them. This Option is considered significantly less costly than the Base Case, where vendors might need to use other mechanism to gather information or manage their financial risk such as private contract or insurance. Given this, **the Proposed Option for LICs receives a score of +6 for the criteria:** a score in the mid-range is given reflecting that there is expected to be significant benefit as a result of this option, but there is also uncertainty related to the benefit due to lack of data on the size of the problem (i.e. likely financial risk).

Criteria 2: Cost to community and government – The administration cost of the proposed regulations, i.e. preparing and providing certificates and notices.

Costs to the community and government are the direct costs incurred to comply with the regulation.

Costs to the community

There are no mandatory costs to the community as people are not required to request a LIC. The service is only requested if a person determines that they will obtain value from obtaining the LIC information and therefore requests a LIC. However, ultimately people who request the LIC will pay the cost in the form of the prescribed fee.

Costs to government

The costs are borne by the council that must provide a LIC on request. Costs include:

- receiving the request
- collecting the data for inclusion in the LIC
- preparing the LIC
- providing the LIC to the requesting person.

In practice, as described in section 1.2.1 of this RIS, almost all requests for LICs are received by either Landata or the six information brokers. These businesses then make a request to the relevant council

for a LIC, and councils are able to collect the prescribed fee (currently \$26.95) for providing the LIC. The LIC is typically one part of a set of information being developed by Landata and information brokers for vendors and purchasers.

A survey of councils was undertaken for this RIS to collect data on the time spent by councils on providing a LIC. Thirty-four councils provided a response to the survey, including eight metropolitan councils, three interface councils, five regional city councils, seven large shire councils and 11 small shire councils. Based on estimates of time spent on the LIC process and the wage cost of councils, the weighted average time across all councils surveyed spent on the LIC activity was \$24.36 per LIC.⁵¹ Using a per annum estimate of LICs generated in Victoria each year of 351,099, the total cost of the LIC process to councils each year is \$8.5 million. The NPV of this cost over 10 years from 2021 to 2030 is \$71 million. This is the cost of **the Proposed Option for LICs – Current Regulations relating to LICs to be replicated in proposed Regulations.**

On the basis of type of council (metropolitan, large shire, interface, small shire, regional city), it is noted that there was variation in the average cost across councils, as shown in **Error! Reference source not found.**, with results indicating that metropolitan councils have lower costs – most likely due to economies of scale with higher volumes of LICs being produced and having highly automated systems. It is also possible that some characteristics of properties being sold in regional and rural areas could contribute to higher LIC processing costs; for example, one council noted that it takes more time to process a LIC for a farm property. It should be noted that within these categories there is substantial variation. For example, results for one metropolitan council indicated a cost above \$30 for producing a LIC.

In consultation for this RIS, a small number of councils noted that the time and resources required for the LIC process are high and not covered by the fee. The information on costs collected from councils suggests that while there is a range of costs across individual councils (higher and lower than the \$26.95 LIC fee), the LIC fee is reflective of average council costs. It is noted that a mid-term review of fees will be undertaken to assess whether the current fees continue to remain efficient and appropriate.

Table 5 Cost to produce LICs – by council type based on sample of councils (34 survey responses out of 79 councils)

Council type	Weighted average cost to produce LIC (\$)
Metropolitan	17.32
Large shire	28.37
Interface	26.49
Small shire	24.29
Regional city	30.94

⁵¹ Weighted by number of LICs per council.

Under the Base Case, the information that must be included in a LIC would not be prescribed in regulation. Within the scope of this RIS, and given the available data and information, it is not possible to quantify what would be the cost to councils of providing LICs if there were no regulations. As discussed above, it is likely that councils would continue to provide LICs because of the systems and staff that they have in place, but the service could decline over time, particularly if there is no prescribed fee. It seems reasonable to conclude that the cost to councils of providing LICs would, therefore, decline over time and be less than if there were regulations in place. Having said that, other scenarios that might occur in the absence of regulations (private contracting, market insurance, self-regulation of the real estate industry) are likely to cost more to establish and operate than the LIC current arrangements in place. However, these are not a cost of the regulation so are not included here.

Overall, lower costs are expected under the Base Case than under the Proposed Option. Therefore, the Proposed Option is given a score of -3 for the cost criteria, reflecting higher costs but also a degree of uncertainty about the extent to which councils will stop providing LICs.

Summary of MCA scores

Table 6 outlines the MCA scores for each LIC option and provides the weighted score. **The Proposed Option for LICs – Current Regulations relating to LICs to be replicated in proposed Regulations** – is assessed as slightly better than the Base Case of no regulations and is, therefore, the preferred option.

Table 6 MCA summary – LICs

Criteria	Base Case	Proposed option for LICs
Benefits (50%)	0	+6
Costs (50%)	0	-3
Weighted score	0	+1.5

3.4.2 NOA

Criteria 1: Benefits to community and government – The information benefits for the community and government.

The information benefits for NOAs accrue to both the community and the government (including councils, SRO, Valuer-General and LUV).

For the community, providing councils with the information required to update voter rolls is an important part of enabling people living in a municipality to exercise their automatic right to vote in council elections. Names and addresses are needed for verifying entitlements and for postal voting processes. Councils also use this information to provide communications to property owners about other matters, such as council services or planning issues.

As discussed in section 2.1.3, councils need information about transfers of land and the new owners of land in order to undertake essential functions such as levying rates and charges, enrolling property

owners on the voters' roll, issuing statutory notices for planning and other matters, and contacting people about council services and activities.

SRO needs the same information to enable it to levy land tax, while the Valuer-General needs the information to provide property and valuation data to assist valuers in making valuations as well as to other bodies for statistical analysis (these are statutory functions for both SRO and the Valuer-General). LUV needs information about land transfers to enable it to fulfil its statutory responsibilities for land.

Under the **Base Case** of no regulations, the requirement under the new Act to provide a NOA would still exist, but there would be nothing to prescribe the form of the NOA, the information to be provided or the timeframe within which the NOA must be provided. In practice the requirements of the new Act would not take effect and councils would be limited in their ability to implement their functions effectively, including critical functions such as levying rates and enrolling voters on the roll. In Victoria, there are 79 separate councils delivering services that cost about \$9 billion every year. Councils are reliant on the collection of revenue from rates and charges to deliver services. In 2018-19, revenue from rates levied represented 52 per cent of revenue for the sector. Lack of information about owners of land would be a significant barrier to revenue collection and service delivery. The same situation would apply to the SRO, which would have difficulty levying land tax without details of property owners, and to the Valuer-General, which would not have the information available to carry out its valuation activities.

It is expected that over time councils, SRO and the Valuer-General would need to find a solution to this problem via another mechanism. This would need to involve a change to legislation or new legislation making it compulsory for purchasers to provide the information.

The Base Case is scored at 0 under our MCA approach.

The **Proposed Option for NOA** would involve replicating current Regulations relating to the NOA in the proposed Regulations. Upon the transfer of land councils and the government departments and agencies would receive information including personal details, property details in relation to the land, transfer details, type of property, contact details and certification, and property code. This would enable them to carry out their respective functions. Based on survey results, councils seem comfortable with the level of prescribed information currently in place, and minimal requests for change were identified. Given this, **the Proposed Option receives a score of +10 for the benefits criteria**, because it is not feasible for councils, SRO and the Valuer General to collect the information via other mechanisms. Under the current legislative framework the Act provides the head of power requiring a NOA to be submitted, with the regulations prescribing the detail. Councils could not compel purchasers of land to submit the same information via other mechanisms. The information collected from the NOA is critical for these organisations to fulfil their statutory functions. If councils did not have access to the NOA information, it would delay or make difficult the levying of rates and voter roll processes. If the SRO and Valuer-General did not have access to the information, they would not be able to levy land tax and have the information necessary for land valuations respectively.

Criteria 2: Cost to community and government – The administration cost of the proposed regulations, i.e. preparing and providing certificates and notices.

Costs to the community and government are the direct costs incurred to comply with the regulation. Under the Base Case, there is no requirement to provide a notice of acquisition, so costs are zero for

both the community and government. Councils and Victorian Government departments and agencies such as the SRO, Valuer-General and LUV rely on the information provided in the NOA so will likely need to find other mechanisms to source this information, however this will not be a cost of the proposed regulations and is not considered here.

Cost to community

The cost to community is the cost of time taken to submit the information for a NOA and provide the NOA to council. As discussed in Chapter 1, conveyancers and lawyers typically perform this task on behalf of purchasers of land who they are engaged by and paid a fee for the conveyancing service. The NOA is typically created electronically as part of the broader Transfer of Land documentation that must be electronically lodged via PEXA, however lodging electronically is not a mandatory requirement and purchasers can complete a paper-based form and submit it to councils.⁵² When using PEXA, a user enters information into PEXA for the Transfer of Land document. PEXA pre-populates a NOA form using information collected for the broader Land Transfer documents and then requests the user to provide the following additional information (that is only required for a NOA):

- Property Details, including municipality details, property dimension, nature of property
- Transferor and transferee details, including identity of transferee and principal place of residence, total sale price and deposit paid, whether the purchase is a Terms of Sale, whether there is a written contract of sale for this property, the date of possession/transfer (settlement date).

Once these details are entered, the NOA has been prepared. For the requirement to submit the NOA to councils, the NOA needs to be printed from PEXA, signed and sent to the relevant council by the purchaser of land or their representative (conveyancer or lawyer). NOA information is automatically transferred to the SRO, Valuer-General and LUV in a daily bulk transfer of all NOA information received each day.

The cost of entering these details and printing and sending to councils is the cost to the community. As the task is generally completed by conveyancers and lawyers who are familiar with the system and requirements, there is minimal learning to be undertaken for each individual NOA submitted.

Stakeholder consultation undertaken for this RIS involved talking to conveyancers about the time taken to input data into the PEXA information to generate a NOA, and to print and send the form to councils. The AIC (Vic) and 2 individual conveyancers were spoken to. Based on estimates provided, the average time spent on this activity was estimated to be up to 10 minutes in total, including approximately five minutes for filling in the form (could vary up or down depending on nature of the transfer) and up to five minutes for creating an email, attaching the printed NOA form⁵³ and sending the email. At a cost of time of \$100.64 per hour (see section 3.3.3), the estimate per individual NOA created is \$16.79. Each year approximately 311,586 NOA are generated for land transfers in Victoria. Therefore, the total cost for the community of the NOA process is \$5.9 million per year or present value total cost of \$49 million over 10 years.

⁵² A stakeholder anecdotally estimated that well over 90 per cent of NOA forms are lodged electronically.

⁵³ Printed to file.

Table 7 Calculation of NOA cost

	Time (mins)	Wage rate (hr)	Cost per NOA	No. of NOA in Victoria (p.a.)	Total cost of NOA (p.a.)	NPV of total cost of NOA over 10 years
Cost of submitting NOA	10	100.74	\$16.79	351,099	\$5.9m	\$49m

Cost to government

Under the **Base Case**, there are no costs as there are no regulations for NOA. It is possible that councils, SRO and the Valuer-General would seek another mechanism to collect information in order to fulfil their functions, but this would not be a cost of regulation.

Under **the Proposed Option for NOA**, the cost to government is the infrastructure cost of maintaining the NOA element of the PEXA system and any ongoing costs such as responding to questions of people submitting a NOA form. Both these costs are minimal, particularly given that the NOA element of the process is small and the system infrastructure would exist if the NOA was not required. This has been confirmed in consultation with PEXA undertaken for this RIS.

In summary for this criteria, most of the cost of the NOA requirement is incurred by the community. This is a cost of \$5.9 per year, or \$49 million over 10 years in NPV terms.

For the purpose of the MCA this is considered to be a moderate cost so the **Proposed Option is given a score of -2 compared to the Base Case of 0.**

Summary of MCA scores

Table 8 outlines the MCA scores for each NOA option, and provides the weighted score. **The Proposed Option for NOA – Current Regulations relating to NOA to be replicated in proposed Regulations** – is assessed as somewhat better than the Base Case of no regulations and is therefore the preferred option.

Table 8 MCA summary – NOA

Criteria	Base Case	Proposed Option for NOA
Benefits (50%)	0	+10
Costs (50%)	0	-2
Weighted score	0	+4

4. Identifying and assessing LIC fees options

This chapter identifies the set of LIC fee options considered for the proposed Regulations and assesses the options.

4.1.1 Cost recovery considerations

The key issues in respect of cost recovery and fee setting are:

- whether fees should be established, and if so, what level of cost recovery they should achieve
- the costs base and efficiency of costs
- the structure and level of the fees.

Cost recovery principles generally support the concept that those who utilise services (or give rise to the need for a regulatory activity) pay for the cost of those services, rather than have them funded by others (typically through general taxation). Under full cost recovery, taxpayers do not subsidise those who use the service, or impose the costs which are to be recovered.

Cost recovery can advance both equity and efficiency objectives, although in some cases these objectives may need to be balanced against each other. General Victorian government policy is that unless there is good reason not to, regulatory fees and user charges should be set on a full cost recovery basis.⁵⁴ Full cost represents the value of all the resources used or consumed in the provision of an output or activity. In particular, full cost recovery:

- promotes the efficient allocation of resources by sending the appropriate price signals about the value of all the resources being used in the provision of government goods, services and/or regulatory activities
- ensures that those that have benefited from government-provided goods and services, or those that give rise to the need for government regulation, pay the associated cost (those parties that do not benefit or take part in a regulated activity do not have to bear the costs).

The principle of fully internalising the costs of regulation is supported by the Department of Treasury and Finance's *Cost Recovery Guidelines*, which state that costs should be recovered directly, where possible, "from those that benefit from, or whose actions give rise to the need for, the government good/service/activity."⁵⁵

The *Cost Recovery Guidelines* also recognise that there are situations where it may be desirable to recover less than full costs, or not to recover costs at all. Examples include circumstances where:

- practical implementation issues make cost recovery infeasible

⁵⁴ Office of the Commissioner for Better Regulation, 2016, *Victorian Guide to Regulation: A handbook for policy makers in Victoria*, Department of Treasury and Finance, Melbourne.

⁵⁵ Department of Treasury and Finance, 2013, *Cost Recovery Guidelines*, January.

- there are benefits to unrelated third parties (sometimes referred to as ‘positive externalities’)
- social policy or vertical equity considerations are considered to outweigh the efficiency objectives associated with full cost recovery
- full cost-recovery might adversely affect the achievement of other government policy objectives.

The *Victorian Guide to Regulation* requires that, where proposed regulations impose fees or charges, the proposed fees be assessed against the principles in the *Cost Recovery Guidelines*. The *Cost Recovery Guidelines* suggest 10 key steps should be examined:

- Step 1 Is the provision of the output or level of regulation appropriate?
- Step 2 What is the nature of the output or regulation?
- Step 3 Who could be charged?
- Step 4 Is charging feasible, practical and legal?
- Step 5 Is full cost recovery appropriate?
- Step 6 Which costs should be recovered?
- Step 7 How should charges be structured?
- Step 8 Are cost recovery charges based on efficient costs?
- Step 9 What is the importance of consultation?
- Step 10 How should cost recovery arrangements be monitored and reviewed?

4.1.2 Legal authority

Under section 121(3) of the new Act, an applicant for a LIC must pay the prescribed fee to the council for the issue of a certificate. The same provision applies under the current Act with a fee of 1.82 fee units prescribed under the Local Government (General) Regulations 2015. With the current value of a fee unit specified at \$14.81 in Victorian Government Gazette Number G16 dated 23 April 2020, the prescribed fee is currently \$26.95.

4.1.3 Rationale for government intervention

Best practice regulation aims to address failures pertaining to market outcomes at minimum cost to consumers and industry. In order to make a case for government intervention, the problem the proposed Regulations are seeking to address must be established. Chapter 3 considered options for prescribing information to be included in a LIC and determined that the preferred option is that the current Regulations relating to LICs be replicated in proposed Regulations.

In this context, assessing the nature and extent of the problem should consider the need for fees on a ‘first principles’ basis—that is, to consider whether fees are needed to recover council costs at all (as opposed to assessing whether they should be kept, amended or removed). The Base Case, therefore, is a scenario where councils do not charge fees for their activities associated with providing a LIC. Under this scenario, councils would be required to make up the revenue shortfall from other sources such as general ratepayer revenue.

There is a strong case that fees should fully recover council costs of providing a LIC. This is because the cost of the LIC should be paid for by the parties that give rise to the need for the regulation in the

first place. As discussed in section 2.1.2 of this RIS there are no strong public policy reasons for the general ratepayers to fund costs imposed by vendors and purchasers.

4.1.4 Recoverable costs

Deriving fees that align with cost recovery principles requires:

- establishing a cost base
- ensuring cost recovery charges are based on efficient costs
- activity-based costing (where possible), to help determine fee relativities (for example, an activity that takes longer should have a higher fee, and vice-versa).

For the provision of a LIC to meet their obligation under the new Act, the key activities undertaken by councils include:

- Receive application
- Verify property
- Collate and source data to include in the LIC, including checking information sources
- Prepare certificate
- Check and authorisation of certificate
- Send certificate
- Administer and receive payment

Costs to councils of providing the LIC service was outlined in section 3.4.1. All of these costs are recoverable via the prescribed fee (the recoverable cost base).

The costs of any functions that are not a fundamental part of, or directly related to the output are excluded from the cost base. Consistent with the Cost Recovery Guidelines, costs associated with the broad development of policy/regulation and general parliamentary servicing roles of government are excluded.

4.1.5 Efficient costs

Estimated costs for providing LICs are based on a survey of councils undertaken for this RIS. Cost estimates range from an average of \$17.26 for metropolitan councils to \$30.86 for regional councils. Potential reasons for this were discussed in section 3.4.1. There is no evidence to suggest that councils are not undertaking their functions in respect to LICs efficiently, taking into account differences across councils in respect to economies of scale and resourcing.

4.1.6 Level of cost recovery

As discussed in section 2.1.2, general Victorian Government policy is that regulatory fees and user charges should be set on a full cost recovery basis because it ensures that both efficiency and equity objectives are met. We do not consider there is a case for charging less than full cost recovery for LICs as most if not all benefits accrue to users driving the need for LICs (vendors/purchasers) and it is important to provide a signal about the cost of providing the information.

4.1.7 Identifying the options

The options being considered for LIC fees are:

- **Base case:** regulations expire and no new regulations are introduced i.e. no fee prescribed. Councils would not be able to recover costs.
- **Current Regulations relating to LIC fees to be replicated in proposed Regulations:** flat fee of 1.82 fee units (\$26.95) for all certificates.

A different flat fee option would have been considered if the results of the survey of councils indicated that the current fee of \$26.95 does not reflect costs. However, the estimated weighted⁵⁶ average cost of \$24.36 based on the survey responses of 36 councils, which includes the cost of staff time but no other costs such as IT infrastructure, is considered to be close enough to the current cost of \$26.95 to not justify consideration of a different fee level.

4.1.8 Fee design options considered but assessed as not feasible

Other fee structures considered include variable fee structures such as tiered fees (for example, different fees for different types of property or different fees for different council segments such as metro versus regional), allowing councils to set their own fees, or setting a maximum fee so councils could set any fee up to a maximum fee level.

A major advantage of a variable fee structure is that it enables fees to be set that more accurately recover costs from those parties that impose the costs. Where processes have a greater degree of variability (for LICs this could be variability across different councils or council regions), predicting service or regulatory costs in advance and setting a single fixed fee becomes more difficult, so variable fees offer flexibility and ability to target costs more effectively. Some parties may also impose higher costs than others. Thus, a variable structure could enable fees to reflect these differences. A disadvantage of a variable fee structure is that it is more difficult to design and administer. It can also be more difficult for parties to understand and for applicants to predict the fee they will pay in advance (depending on the basis for the variation and actual design), which might impose a barrier to entry.

For LIC fees, variable structures are not considered feasible. The design of an appropriate fee that reflects the costs of different councils would be challenging. For example, while there is some variation in costs across types of councils based on type of council (e.g. the average cost of producing a LIC for metropolitan councils is lower than regional costs), at the individual council level the average cost varies within segments (e.g. one metropolitan council has an average cost per LIC of \$5 while another has an average cost of \$34.50). It would be difficult to set a fee level that accurately reflects the costs of different councils. A variable fee would also be more costly to administer and more difficult to understand (e.g. for conveyancers and lawyers operating across different municipalities with different fees). The current practical operation of the system whereby most people apply for a LIC via Landata or an information broker – and these providers then source the LIC from the respective council –

⁵⁶ Weighted by number of LICs received by councils.

would also become more difficult with variable pricing; Landata and the information brokers would potentially have to have a fee schedule with different fees for different councils.

Allowing councils to set their own fees, or up to a maximum fee level, has been considered but also not considered feasible for the same reasons as for variable fee structures. It might also remove an incentive for councils with higher costs to seek improvement and efficiencies in their systems.

4.1.9 Methodology for assessing fee options

The fee options in this RIS have been assessed using MCA, using the criteria outlined in Table 9. The criteria are weighted equally.

The same approach for scoring is used as for the assessment of LIC and NOA requirements in section 3 (see section 3.2).

Table 9 Fees MCA Criteria

Criteria	Description	Weighting
Cost-reflectivity	<ul style="list-style-type: none"> The extent to which the total fees charged reflect the total costs of providing those services. 	25%
Equity	<ul style="list-style-type: none"> The degree to which the parties that give rise to specific costs bear (only) those costs.⁵⁷ 	25%
Simple and easy to understand	<ul style="list-style-type: none"> The ability to easily determine what fee applies in various situations, including the ability for people to understand the fees to be applied in advance. 	25%
Cost of administration	<ul style="list-style-type: none"> The level of administrative costs associated with calculating and levying fees. 	25%

4.2 Assessing the LIC fee options

The options being considered for LIC fees are:

- **Base case:** regulations expire and no new regulations are introduced i.e. no fee prescribed. Councils would not be able to recover costs.
- **Current Regulations relating to LIC fees to be replicated in proposed Regulations:** flat fee of 1.82 fee units (\$26.95) for all certificates.

4.2.1 Base case: no fee

Under the MCA scoring scale, the Base Case is given a score of 0 on all criteria.

⁵⁷ It is noted that a common consideration in the equity criteria in RISs is the extent to which fees take into account the ability to pay and not present a barrier to entry, particularly for small businesses or less financially well off members of the community. Given the size of the fee being considered versus the value of land transactions, this consideration is not considered relevant to this RIS.

Cost-reflectivity

The Base Case of no fee does not recover costs. The service would need to be funded via an alternative funding source, such as general ratepayers.

Equity

The Base Case of no fee has a poor equity outcome because all of the costs of LICs would be funded by all taxpayers via consolidated revenue rather than by the parties that give rise to the costs (vendors and purchasers).

Simple and easy to understand

Because there is no fee, people can understand and have complete certainty about what they will pay – nothing.

Cost of administration

There are no costs under the Base Case.

4.2.2 Proposed Fee Option: current Regulations relating to LIC fees to be replicated in proposed Regulations (fee of \$26.95)

Cost-reflectivity

Based on survey results collected from councils, survey results indicate an average cost of providing a LIC of \$24.36 (see section 3.4.1). This is within a close enough range to \$26.95 to conclude that there is no material over or under cost recovery occurring. A score of +10 is given.

Equity

The Proposed Fee Option is more equitable than the Base Case because it recovers the costs to councils of providing LICs. Because it is a flat fee, the fee is the same for all people requesting a LIC. This means that requests for LICs that are less costly to process are charged the same fee as requests that are more costly to process. However, this is not considered a material factor because the service is very homogeneous with minimal variation in cost to service across different LIC requests. A score of +9 is given compared to the Base Case.

Simple and easy to understand

A flat fee is simple and easy to understand, although not as simple and easy as having no fee charged. A score of -3 is given.

Cost of administration

There are additional administrative costs compared to the Base Case; however, a simple flat fee is straightforward and low cost to administer. A score of -3 is given.

4.2.3 Summary of MCA scores – LIC fees

Table 10 outlines the MCA scores for the fees analysis. **The Proposed Fee Option** has a score of +3.3 compared to the Base Case and is assessed as somewhat better than the Base Case of no regulations. It is, therefore, the preferred option.

Table 10 MCA summary – LIC fees

Criteria	Base Case – no fee	Proposed Fee Option – current fee replicated in regulations (flat fee of \$26.95)
Cost-reflectivity (25%)	0	+10
Equity (25%)	0	+9
Simple and easy to understand (25%)	0	-3
Cost of administration (25%)	0	-3
Weighted score	0	+3.3

5. Small business and competition impacts

This section assesses the small business and competition impacts of the preferred option.

Small businesses may experience disproportionate effects from regulation for a range of reasons. This may include that the requirement applies mostly to small businesses, or because small businesses have limited resources to interpret compliance requirements or meet substantive compliance requirements compared to larger businesses. Small businesses may also lack the economies of scale that allow fixed regulatory costs to be spread across a large customer base.

While the proposed Regulations will impact small businesses if they are purchasers or vendors in a property transaction, there is no reason why small businesses should be disproportionately impacted. The size of the fee (\$26.95) is also immaterial compared to the cost of any property transaction and the time taken to complete a NOA is also very small, which means the impact on small businesses will be very small. It could in fact be argued that the regulations relating to LICs support small businesses because they provide an efficient mechanism for obtaining information that would be difficult and costly to obtain otherwise.

The Victorian Guide to Regulation also requires a RIS to assess the impact of regulations on competition. Regulations can affect competition by preventing or limiting the ability of businesses and individuals to enter and compete within particular markets. The size of the impact of the proposed Regulations is very small and not considered significant enough to impact on competition in the property market. As noted above, the LIC fee of \$26.95 is not sufficient to impact competition or limit the ability of businesses to enter the market.

6. Implementation and evaluation

This chapter discusses key issues to be considered in the implementation and evaluation of the Regulations.

6.1.1 Implementation

Finalise the remade Regulations

The release of the proposed Regulations and this RIS for a 28-day public comment period will provide key stakeholders and members of the public the opportunity to consider the proposed changes to the Regulations and provide feedback. At the conclusion of the public comment period the Victorian Government will review and consider each submission, and take account of the feedback on both the proposed Regulations and the RIS in finalising the Regulations.

On behalf of the Victorian Government, DJPR will prepare a Response to Public Comment document, which will discuss the comments provided in the public comment submissions and respond to those comments.

The Office of Chief Parliamentary Council (OCPC) will review and settle the Regulations, which will then be submitted to the Minister for Local Government for approval.

Implementing the new Regulations

The proposed remade Regulations largely continue the substance and form of the current Regulations.

An implementation project is being undertaken which aims to support councils in relation to implementing the requirements of the new Act (including the Regulations). Reflecting the move to a principles-based Act, DJPR will continue to work closely with local councils to support the local government sector to build councils' capacity and capability.

DJPR will communicate the making of the new Regulations to key stakeholders. This will provide an opportunity for DJPR to provide education and guidance about key matters set out in the Regulations, such as the information to be provided in a LIC, the requirement to use the new NOA form rather than the old form, and the requirement for NOA to be submitted to councils. DJPR will review feedback received through the public comment period to determine how to tailor the education and guidance to be provided. DJPR can also work with councils to establish clarity about the LIC information requirements.

DJPR would also be happy to facilitate a working group of councils seeking LIC or NOA process improvements.

6.1.2 Evaluation

The proposed Regulations will sunset in 2031. This will be the next time the Regulations are due for a full formal evaluation, undertaken via preparation of a future RIS.

As part of the implementation project being undertaken to support councils in relation to implementing the requirements of the new Act (including the Regulations), DJPR regularly liaises with

local councils and government stakeholders and would be able to determine at a high level if there are any issues with the forms or the regulations on an ongoing basis.

DJPR will consult with stakeholders on how the Regulations are working and if they remain fit for purpose and enable the gathering and provision of information that is required in a cost-effective manner, and whether the information requirements for LICs continue to be appropriate. This consultation will be undertaken mid-term and when the regulations are due to sunset.

The mid-term review will include a review of cost recovery arrangements to assess whether the current fee arrangements remain efficient and appropriate. This is prudent because it is possible that council processes and costs might change materially in the next five years (for example, some councils might automate their processes more).⁵⁸ This review will be supported by early engagement and will include surveying councils on the time spent on providing a LIC and the processes undertaken.

To support its evaluation processes, DJPR will continue to monitor the publicly available data in relation to land transfers, including property sales data published annually for Victoria's 79 municipalities by the Victorian Auditor-General.

More broadly, it is noted that as part of the regular engagement process that DJPR undertakes with councils, councils have an opportunity to provide feedback on any matters under the Local Government Act and regulations, including the requirements relating to land information.

DJPR will also continue to liaise with the Local Government Inspectorate in relation to council operations under the *Local Government Act 2020*. The Local Government Inspectorate role includes accepting and investigate complaints about council operations, monitoring governance and compliance with the Act, providing guidance and education for councils, and encouraging transparency and accountability across the sector.

⁵⁸ There is currently a range of automation in place across different councils.

Appendix A Legislative framework

Local Government Act 2020

Division 7 – Land information

121 Land information certificate

- (1) A person may apply to a Council for a certificate specifying the prescribed information in relation to matters affecting any land in the municipal district.
- (2) An application for a certificate must be—
 - (a) in the form prescribed by the regulations; and
 - (b) sent to the Chief Executive Officer.
- (3) An applicant must pay the prescribed fee to the Council for the issue of a certificate.
- (4) In addition to the prescribed information, a Council may provide in the certificate any other information concerning the land as the Council considers in its absolute discretion to be relevant.
- (5) A Council does not incur any liability in respect of any information provided in addition to the prescribed information in good faith.
- (6) A certificate is conclusive proof as at the date it is given of the prescribed information stated in the certificate.

122 Notice in relation to acquisition of land

- (1) A person who acquires any land in a municipal district must give an acquisition notice to the Chief Executive Officer of the Council of the municipal district in which the land is located—
 - (a) in a prescribed form containing prescribed particulars; and
 - (b) within a prescribed period.
- (2) A person is guilty of an offence if the person contravenes this section without having a reasonable excuse

Local Government (General) Regulations 2015

Regulation 13, Land information certificate

- (1) For the purposes of section 229(1) of the Act, a land information certificate must specify the following prescribed information—
 - (a) a statement containing the following—

"This certificate provides information regarding valuation, rates, charges, other moneys owing and any orders and notices made under the Local Government Act 1989, the Local Government Act 1958 or under a local law of the Council.

This certificate is not required to include information regarding planning, building, health, land fill, land slip, flooding information or service easements. Information regarding these matters may be available from Council or the relevant authority. A fee may be charged for such information;

- (b) the date of issue of the land information certificate;
- (c) valuation information consisting of—

- i. the Council valuation of the land using the net annual value, site value and capital improved value systems of valuation; and
 - ii. the current level of value date;
- (d) information in relation to rates and charges and other money consisting of—
- i. the amount and type of all rates and charges levied on the land (including when the rates and charges are due); and
 - ii. any rates and charges levied on the land that are paid or unpaid; and
 - iii. the amount of arrears in relation to rates and charges levied on the land (if any); and
 - iv. the period for which all rates and charges apply; and
 - v. any money owed for works under the Local Government Act 1958 and, if so, the amount; and
 - vi. the potential liability for rates in relation to the land under the Cultural and Recreational Lands Act 1963; and
 - vii. the potential liability for the land to become rateable under sections 173 or 174A of the Act; and
 - viii. any money owed in relation to the land under section 94(5) of the Electricity Industry Act 2000; and
 - ix. any outstanding amount required to be paid for recreational purposes or any transfer of land to the Council for recreational purposes under section 18 of the Subdivision Act 1988 or the Local Government Act 1958; and
 - x. any money owed under section 227 of the Act; and
 - xi. any environmental upgrade charge in relation to the land which is owed under section 270 of the City of Melbourne Act 2001;
- (e) whether at the date of the land information certificate, any notice or order on the land has continuing application under the Act, the Local Government Act 1958 or under a local law of the Council and, if so, the details of the notice or order.
- (2) A land information certificate must be signed by—
- (a) a member of staff of the Council to whom the power to sign a land information certificate has been delegated; or
 - (b) a person appointed to be an authorised officer under section 224 of the Act

Regulation 15, Notice of acquisition

- (1) For the purpose of section 231(1) of the Act—
 - (a) a prescribed person who is required to give notice in relation to the acquisition of any land is a person who acquires any land in any municipal district; and
 - (b) the Chief Executive Officer of the Council which governs the municipal district in which the land acquired is located is a prescribed person to whom the notice of acquisition is to be given; and
 - (c) the prescribed period within which notice must be given is one month after acquisition of the land.
- (2) For the purpose of section 231(1)(a) of the Act, a notice of acquisition of land must be in a form containing the following prescribed particulars—
 - (a) personal details consisting of—
 - i. the full name of the transferor (and if applicable, the full name of the trust and trustee or, in the case of a company, the transferor's ACN); and

- ii. the full name of the transferee (and if applicable, the full name of the trust and trustee or, in the case of a company, the transferee's ACN); and
 - iii. the address and email address of the transferee at the time of transfer; and
 - iv. the address and email address of the transferor at the time of transfer; and
 - v. whether the land will be the transferee's principal place of residence; and
 - vi. if the land will not be the principal place of residence under paragraph (v), the address of the transferee's principal place of residence (for the purpose of preparing voters' rolls); and
 - vii. the addresses for correspondence to, or service on, the transferee (if different from the land being acquired) and of the transferor; and
 - viii. in the case of an individual, the date of birth of the transferee (for the purpose of preparing voters' rolls);
- (b) property details in relation to the land consisting of—
- i. the flat or unit number, street number, name of street or road, suburb, town or district and postcode; and
 - ii. Lot number and Plan number; and
 - iii. and Folio; and
 - iv. the name of the municipality; and
 - v. Crown Allotment Number; and
 - vi. Section or Portion, Parish; and
 - vii. Municipal Property Number (if known); and
 - viii. area of the land (including any accessory units) and unit of entitlement;
- (c) transfer details in relation to the land consisting of—
- i. the date of contract, the GST amount, the total sale price (including GST), deposit and date of possession or transfer; and
 - ii. whether or not the purchase is a terms sale;
- (d) whether or not the property is a residential property and if so, the number of bedrooms;
- (e) contact details and certification, including—
- i. the name, telephone number and email address of the transferee's Australian legal practitioner, licensed conveyancer or agent (if any); and
 - ii. the name, telephone number and email address of the transferor's Australian legal practitioner, licensed conveyancer or agent (if any); and
 - iii. provision for the certification by the transferee or Australian legal practitioner, licensed conveyancer or agent of the accuracy of the information provided;
- (f) the relevant property code, being one of the following—

Residential Land

100	Vacant site
101	Development site
102	Subdivisional land
103	Rural lifestyle site
<i>Single Residential</i>	
110	Dwelling
112	Row house/terrace
117	Rural lifestyle

Multiple Occupation

120	Unit
125	Flat
126	Car park
<i>Retirement/Aged care</i>	

Tourist accommodation

230	Hotel/motel
234	Caravan park
<i>Hospitality</i>	
240	Licensed premises/ restaurant
<i>Entertainment</i>	
250	Entertainment complex
251	Cinema complex

Personal Services

270	Health surgery
271	Health clinic
275	Veterinary clinic
<i>Vehicle Parking/sales</i>	

- 140 Retirement unit
- 141 Retirement complex
- 142 Aged Care complex

Commercial

- 200 Commercial site

Retail

- 210 Single retail
- 211 Multi. retail
- 212 Mixed use
- 213 Shopping centre
- 214 National retail
- 215 Service station
- 216 Multi-service station

Office

- 220 Office premises

Extractive industries

Quarry

- 410 Sand
- 411 Gravel/stone
- 412 Manufacturing materials
- 413 Soil

Primary production

Native Vegetation

- 500 Bush

Agriculture

- 510 Cropping
- Livestock Grazing*
- 520 Domestic grazing
 - 521 Non-native animals
 - 522 Native animals
 - 523 Sheep
 - 524 Beef cattle
 - 525 Dairy cattle

Livestock – special purpose

- 540 Feed lot
- 541 Poultry
- 544 Horse stud/stables
- 545 Piggery
- 546 Kennel/cattery

Horticulture

- 550 Market garden
- 551 Orchard/groves
- 561 Vineyard
- 562 Plant/nursery

- 280 Ground parking
- 281 Multi-level parking
- 284 Car yard

Industrial

- 300 Industrial site

Manufacturing

- 310 Factory
- 311 Processing factory

Warehouse

- 320 General warehouse
- 321 Open storage
- 325 Coolstore/coldstore
- 331 Abattoirs

Infrastructure

- 600 Vacant land

Gas or Fuel

- 610 Wells

Electricity

- 620 Power Station

Community services

Health

- 710 Public hospital
- 711 Private hospital

Education

- 720 Kindergarten
- 721 Government school
- 722 School camps
- 723 Private school
- 725 University
- 726 TAFE

Religious

- 740 Place of worship

Community

- 750 Hall

Sport

- 800 Sport vacant
- 820 Indoor sports
- 821 Outdoor sports

Appendix B Stakeholder consultation

The following is a summary of key themes identified from the survey of councils that was undertaken. Thirty-six councils completed the survey.

Theme	Summary of discussion points in consultation	Response
Land information certificates		
Information to be included in a LIC	<p>A small council noted that the current requirements can be vague, and often it is the interpretation of the user regarding what needs to go on the certificate.</p> <p>A metro council noted that the regulations should be made clear as to what information is meant to be included and what does not need to be shown. The council also proposed that an Industry wide standard template for LICs, with information as to what information is required.</p>	<p>Feedback is sought on the level of clarity of the information requirements in the proposed Regulations and specific suggestions for improvement. DJPR can work with councils to establish clarity about the LIC information requirements.</p>
	<p>Five councils (two large, one small, one metro and one regional) proposed that all applications should have the title and plan details of the property included. One of the councils stated that this would result in a reduction in LIC requests with incorrect information. A large council said that the application should show whether applicant recognises when they are enquiring after only part of a bigger lot (multiple parcels but potentially a subdivision).</p>	<p>Feedback is sought on whether the information requirements should be expanded to include title and plan information, or any other type of information.</p>
Time limit	<p>One metro council proposed that the regulations should prescribe that a LIC is valid for a specific number of days, while a large council proposed that certificates should only be valid for 30 days, after which point a new LIC needs to be paid for.</p>	<p>The <i>Local Government Act 2020</i> does not provide scope to regulate a time period for which a LIC is valid. Section 121(6) of the Act states that a certificate is conclusive proof as at the date it is given of the prescribed information stated in the certificate.</p>
Time spent on providing a	<p>There were a number of comments about how much time the LIC process takes overall. A metro council noted that the LIC process is very</p>	<p>Analysis of the fee in section 4.2 of this RIS indicates that the</p>

LIC, and LIC fee	<p>labour intensive, with a large number of certificates issued weekly. A small council noted that as the property market has surged the demand for LICs has increased markedly and is impacting on the council's small staff numbers. A small council stated that it does not consider that \$27 is adequate payment for the time taken to produce and issue the LICs. It noted that certificates for large farms can take a lot of time to check and produce. It stated that the fee should be increased to allow for time taken. A regional council also observed that the LIC fee doesn't reflect the time it takes to process and issue and distribute.</p> <p>A metro council commented on the time spent in verifying lot and plans with Landata/SAI Global along with assisting conveyancers by giving balance updates.</p> <p>An interface council stated that it is a problem that there is no standard for including discretionary cost recovery charges i.e. fire prevention charges, no standard for time to produce a certificate from receipt to issue, no information on what constitutes an urgent certificate, and no standard on urgent certificate charge. It noted that these things vary significantly from council to council.</p>	<p>prescribed fee of \$26.95 is reasonable to recover the costs to council of providing a LIC. Feedback is sought on the analysis of fees undertaken in this RIS.</p>
Other miscellaneous comments	<p>A metro council suggested that the LIC process should be tied in with the sales process and NOA being received somehow.</p> <p>A large council said that follow up by applicants should be via Landata or information brokers and not direct to councils.</p> <p>A metro council and a small council commented on incorrect applications for LICs, saying that applications are not completed correctly, e.g. applicant puts the type of street (e.g. Road) in the street name field therefore the application takes longer to process.</p> <p>A regional council stated that irregularities from council to council on format and processing times could be addressed and proposed</p>	<p>The LIC and NOA have different heads of power under the <i>Local Government Act 2020</i>, and different regulatory purposes. Connecting the two processes is not considered feasible.</p> <p>DJPR would be happy to facilitate a working group of councils seeking LIC process improvements.</p>

standard templates for certificates with predefined conditional wording.

Notice of Acquisition

Process for submitting NOA to council and timing

There was strong support for the NOA to be sent automatically to Councils rather than relying on the user to manually submit the form. 21 councils (seven metro, four large, seven small, two regional, one interface) provided comments on this issue. There is a strongly held view that some conveyancers don't realise the process does not occur automatically. Some councils also refer to delays in receiving the NOA (sometimes months). Councils can therefore be unaware of property sales. It can also cause delays in issuing of rates notices.

Councils noted automatic transfer will save council having to chase up data, and council will be able to process in a quicker manner as the data can be provided in a bulk format which can be uploaded to computer systems more efficiently. A small council also suggested the transfer could happen in a single weekly bulk transfer and stated that this occurs in NSW and Queensland.

A metro council noted that the introduction of PEXA has resulted in an increased number of missing NOA.

A small council noted that although it is the responsibility of the conveyancer to forward the notice, it is difficult for council to enforce as council is not always aware when a sale has occurred.

A metro council said that conveyancers should be reminded of the need to manually submit the NOA to council.

A metro council noted that needs to be able to genuinely enforce cost recovery on solicitors and conveyancers who have not met their legal obligation in sending an accurate NOA within 30 days of settlement and that the title office should be on-sending the sales/NOA information they receive to council.

Refer to Chapter 3 for discussion of this issue.

It is open to councils to work with PEXA to resolve some of the technology challenges PEXA have identified and finding a solution that provides a more streamlined submission process of the NOA.

DJPR will also work with relevant professional associations such as the AIC (Vic) and the Law Institute of Victoria to provide guidance and increase awareness of the requirements in relation to the NOA and providing information to council.

Incorrect information provided	<p>Seven councils (four metro, two regional, one small) observed that information provided can sometimes be incorrect or missing e.g. the title information.</p> <p>An interface council states that NOA should be signed by property purchaser declaring all contact details and future mailing address are correct.</p> <p>A metro council suggested a mandatory online form with mandatory fields would assist with accurate data.</p>	<p>DJPR will work with relevant professional associations such as the AIC (Vic) and the Law Institute of Victoria to increase awareness of the requirements in relation to the NOA and providing information to council.</p>
Old manual NOA forms	<p>Two councils noted that a number of conveyancers use the old NOA form which does not have all prescribed information included e.g. provision for dates of birth and contact details (email). This means unnecessary time for staff to follow up is needed.</p>	<p>DJPR will work with relevant professional associations such as the AIC (Vic) and the Law Institute of Victoria to increase awareness of the requirement to use the new form that captures the requirements of the proposed remade regulations.</p>
Notice of disposition	<p>Three councils (one metro, two small) proposed that the Notice of Disposition should be re-introduced. One council said that the removal of the requirement to lodge a Notice of Disposition took away the mechanism for the vendor to advise of the sale, leaving it entirely at the hands of the purchaser, which is not always guaranteed. One council said the removal took away a mechanism to check the information provided.</p> <p>A metro council said that receive far too many Notices of Disposition which are no longer required to be submitted to council.</p>	<p>The head of power for a Notice of Disposition is no longer available under the <i>Local Government Act 2020</i> and so is not an option for consideration in the proposed new Regulations. Legislative change is required for this proposal, but is not being considered currently.</p> <p>It is noted that the requirement to submit a Notice of Disposition was included in the Local Government (General) Regulations 2004 but was not included as a requirement in the Local Government (General) Regulations 2015. The option of requiring a Notice of Disposition was assessed in the 2015 RIS.</p>

<p>Format of NOA form</p>	<p>Comments from six councils (two metro, two large, one interface, one small) were received on the poor format and readability of NOA forms received by councils, with councils commenting on the layout, the font size (too small).</p> <p>Another council noted that the PEXA submitted ones are formatted clearer than hand written templates and are easier to check over, especially for multi parcel sales. Conversely, another council said that the new NOA that are being provided are not as clear and user friendly as the old ones they used to receive.</p>	<p>While the format of the NOA form is not considered an issue that is within the scope of the regulations, councils can provide specific feedback directly to PEXA in relation to the format of the form, or via this RIS consultation process. DJPR would also be happy to facilitate a working group of councils seeking NOA process improvements.</p>
<p>Other</p>	<p>A council noted that updated Titles/Title Plans would be very appreciated if they were required to be sent attached to the Acquisition. It noted that they are very valuable for verification of areas and continual improvement of the property database, which is of benefit to the public as VicMap data is improved through this process.</p> <p>A large council observed that the NOA often only lists volume folios not the parcel particulars which is not information council always holds.</p> <p>A metro council noted that all applications should have a land title no older than 30 days submitted with the application.</p> <p>A large council noted suggest that perhaps the LIC applications and NOA should be done in the same process.</p> <p>A regional council noted that enforcement options need to be easier.</p>	<p>Feedback is sought on whether the information requirements for NOA should be expanded to include title and plan information.</p>

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