
Jason Adam Midgley and Bridget Ellen Midgley

Contract of Sale

**Property: Unit 1, 4 Belcher Street
HERNE HILL VIC 3218**



WARNING TO ESTATE AGENTS
DO NOT USE THIS CONTRACT FOR SALES OF 'OFF THE PLAN' PROPERTIES
UNLESS IT HAS BEEN PREPARED BY A LEGAL PRACTITIONER

Contract of Sale of Real Estate*

Part 1 of the form of contract published by the Law Institute of Victoria Limited and The Real Estate Institute of Victoria Ltd

Property address **UNIT 1, 4 BELCHER STREET, HERNE HILL VIC 3218**

The vendor agrees to sell and the purchaser agrees to buy the property, being the land and the goods, for the price and on the terms set out in this contract.

The terms of this contract are contained in the -

- particulars of sale; and
- special conditions, if any; and
- general conditions

in that order of priority.

SIGNING OF THIS CONTRACT

WARNING: THIS IS A LEGALLY BINDING AGREEMENT. YOU SHOULD READ THIS CONTRACT BEFORE SIGNING IT.

Purchasers should ensure that, prior to signing this contract, they have received –

- a copy of the section 32 statement required to be given by a vendor under section 32 of the *Sale of Land Act 1962* in accordance with Division 2 of Part II of that Act; and
- a copy of the full terms of this contract.

The authority of a person signing -

- under power of attorney; or
- as director of a corporation; or
- as agent authorised in writing by one of the parties -

must be noted beneath the signature.

Any person whose signature is secured by an estate agent acknowledges being given by the agent at the time of signing a copy of the terms of this contract.

SIGNED BY THE PURCHASER:

..... on/...../2020

Print names(s) of person(s) signing:

State nature of authority, if applicable:

This offer will lapse unless accepted within [10] clear business days (3 clear business days if none specified)

SIGNED BY THE VENDOR:

..... on/...../2020

Print name(s) of person(s) signing: **JASON ADAM MIDGLEY AND BRIDGET ELLEN MIDGLEY**

State nature of authority, if applicable:

The **DAY OF SALE** is the date by which both parties have signed this contract.

IMPORTANT NOTICE TO PURCHASERS

Cooling-off period (Section 31 of the *Sale of Land Act 1962*)

You may end this contract within 3 clear business days of the day that you sign the contract if none of the exceptions listed below applies to you.

You must either give the vendor or the vendor's agent **written** notice that you are ending the contract or leave the notice at the address of the vendor or the vendor's agent to end this contract within this time in accordance with this cooling-off provision.

You are entitled to a refund of all the money you paid EXCEPT for \$100 or 0.2% of the purchase price (whichever is more) if you end the contract in this way.

EXCEPTIONS: The 3-day cooling-off period does not apply if:

- you bought the property at or within 3 clear business days **before or after** a publicly advertised auction;
- the property is used primarily for industrial or commercial purposes; or
- the property is more than 20 hectares in size and is used primarily for farming; or
- you and the vendor have previously signed a contract for the sale of the same land in substantially the same terms; or
- you are an estate agent or a corporate body.

*This contract is approved by the Law Institute of Victoria Limited, a professional association within the meaning of the *Legal Profession Act 2004*, under section 53A of the *Estate Agents Act 1980*.

NOTICE TO PURCHASERS OF PROPERTY OFF-THE-PLAN

Off-the-plan sales (Section 9AA(1A) of the *Sale of Land Act 1962*)

the contract of sale and the day on which you become the registered proprietor of the lot.

You may negotiate with the vendor about the amount of the deposit moneys payable under the contract of sale, up to 10 per cent of the purchase price.

The value of the lot may change between the day on which you sign the contract of sale of that lot and the day on which you become the registered proprietor.

A substantial period of time may elapse between the day on which you sign

Particulars of sale

Vendor's estate agent

Name:	Real Estate Geelong		
Address:	52 North Valley Road, Highton VIC 3216		
Email:	wes@realestate-geelong.com.au		
Tel:		Mob: 0419 315 727	Fax: Ref: Wes Thornton

Vendor

Name:	Jason Adam Midgley and Bridget Ellen Midgley
Address:	Unit 1, 4 Belcher Street, Hamlyn Heights VIC 3215
ABN/ACN:	

Vendor's legal practitioner or conveyancer

Name:	Regional Conveyancing		
Address:	Level 1, Suite 5, 343 Pakington Street, Newtown VIC 3220		
Email:	rachael@regionalconveyancing.com		
Tel:	03 52232222	Fax:	Ref: 20-XXXX Rachael Coumans

Purchaser

Name:	
Address:	
ABN/ACN:	

Purchaser's legal practitioner or conveyancer

Name:			
Address:			
Email:			
Tel:		Fax:	Ref:

Land (general conditions 3 and 9)

The land is described in the table below –

Certificate of Title reference	being lot	on plan
Volume 11417 Folio 248	1	PS712549C

OR

described in the copy of the Register Search Statement and the document or part document referred to as the diagram location in the Register Search Statement, as attached to the section 32 statement if no title or plan references are recorded in the table above or as described in the section 32 statement if the land is general law land.

The land includes all improvements and fixtures.

Property address

The address of the land is: Unit 1, 4 Belcher Street, Herne Hill VIC 3218

Goods sold with the land (general condition 2.3(f)) (list or attach schedule if required) - All fixed floor coverings, light fittings, window furnishings and all fixtures and fittings of a permanent nature. – Vacant Land

Payment (general condition 11)

Price \$ See Schedule 1 - Openn Negotiation Conditions Purchase Price Confirmation

Deposit \$ by (of which \$ has been paid)

Balance \$ payable at settlement

GST (general condition 13)

The price includes GST (if any) unless the words '**plus GST**' appear in this box

If this sale is a sale of land on which a 'farming business' is carried on which the parties consider meets requirements of section 38-480 of the GST Act or of a 'going concern' then add the words '**farming business**' or '**going concern**' in this box

If the margin scheme will be used to calculate GST then add the words '**margin scheme**' in this box

Settlement (general condition 10)

is due on

unless the land is a lot on an unregistered plan of subdivision, in which case settlement is due on the later of:

- the above date; or
- 14 days after the vendor gives notice in writing to the purchaser of registration of the plan of subdivision.

Lease (general condition 1.1)

At settlement the purchaser is entitled to vacant possession of the property unless the words '**subject to lease**' appear in this box in which case refer to general condition 1.1.

If '**Subject to Lease**' then particulars of the lease are:

☒ Not Applicable

Terms contract (general condition 23)

If this contract is intended to be a terms contract within the meaning of the *Sale of Land Act* 1962 then add the words '**terms contract**' in this box and refer to general condition 23 and add any further provisions by way of special conditions.

Loan (general condition 14)

The following details apply if this contract is subject to a loan being approved.

Lender:

Loan amount:

Approval date:

This contract does not include any special conditions unless the words '**Special Conditions**' appear in this box

Special Conditions

Special Conditions

1A Acceptance of title

General condition 12.4 is added:

Where the purchaser is deemed by section 27(7) of the *Sale of Land Act 1962* to have given the deposit release authorisation referred to in section 27(1), the purchaser is also deemed to have accepted title in the absence of any prior express objection to title.

1B Foreign resident capital gains withholding

- 1B.1 Words defined or used in Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* have the same meaning this special condition unless the context requires otherwise.
- 1B.2 Every vendor under this contract is a foreign resident for the purposes of this special condition unless the vendor gives the purchaser a special clearance certificate issued by the Commissioner under section 14-200 (1) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The specified period in the clearance certificate must include the actual date of settlement.
- 1B.3 This special condition only applies if the purchaser is required to pay the Commissioner an amount in accordance with section 14-200(3) or section 14-235 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* ("the amount") because one or more of the vendors is a foreign resident, the property is or will have a market value of \$2 million or more just after the transaction, and the transaction is not excluded under section 14-215(1) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.
- 1B.4 The amount is to be deducted from the vendor's entitlement to the contract consideration. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.
- 1B.5 The purchaser must:
 - (a) engage a legal practitioner or conveyancer ("representative") to conduct all legal aspects of settlement, including the performance of the purchaser's obligations in this special condition; and
 - (b) ensure that the representative does so.
- 1B.6 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests and instructions that the representative must:
 - (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this special condition if the sale of the property settles;
 - (b) promptly provide the vendor with proof of payment; and
 - (c) otherwise comply, or ensure compliance with, this special condition;
 despite
 - (d) any contrary instructions, other than from both the purchaser and the vendor; and
 - (e) any other provision in this contract to the contrary.
- 1B.7 The representative is taken to have complied with the obligations in special condition 1B.6 if:
 - (a) the settlement is conducted through the electronic conveyancing system operated by Property Exchange Australia Ltd or any other electronic conveyancing system agreed by the parties; and
 - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 1B.8 Any clearance certificate or document evidencing variation of the amount in accordance with section 14-253(2) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* must be given to the purchaser at least 5 business days before the due date for settlement.
- 1B.9 The vendor must provide the purchaser with such information as the purchaser requires to comply with the purchaser's obligation to pay the amount in accordance with section 14-200 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The information must be provided within 5 business days of request by the purchaser. The vendor warrants that the information the vendor provides is true and correct.
- 1B.10 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

2 Electronic Conveyancing

EC

Settlement and lodgement will be conducted electronically in accordance with the Electronic Conveyancing National Law and special condition 2 applies, if the box is marked "EC"

- 2.1 This special condition has priority over any other provision to the extent of any inconsistency. This special condition applies if the contract of sale specifies, or the parties subsequently agree in writing, that settlement and lodgement of the instruments necessary to record the purchaser as registered proprietor of the land will be conducted electronically in accordance with the Electronic Conveyancing National Law.
 - 2.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgement can no longer be conducted electronically.
 - 2.3 Each party must:
 - (a) be, or engage a representative who is, a subscriber for the purposes of the Electronic Conveyancing National Law,
 - (b) ensure that all other persons for whom that party is responsible and who are associated with this transaction are, or engage, a subscriber for the purposes of the Electronic Conveyancing National Law, and
 - (c) conduct the transaction in accordance with the Electronic Conveyancing National Law.
 - 2.4 The vendor must open the Electronic Workspace ("workspace") as soon as reasonably practicable. The workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation.
 - 2.5 The vendor must nominate a time of the day for locking of the workspace at least 7 days before the due date for settlement.
 - 2.6 Settlement occurs when the workspace records that:
 - (a) the exchange of funds or value between financial institutions in accordance with the instructions of the parties has occurred; or
 - (b) if there is no exchange of funds or value, the documents necessary to enable the purchaser to become registered proprietor of the land have been accepted for electronic lodgement.
 - 2.7 The parties must do everything reasonably necessary to effect settlement:
 - (a) electronically on the next business day; or
 - (b) at the option of either party, otherwise than electronically as soon as possible – if, after the locking of the workspace at the nominated settlement time, settlement in accordance with special condition 2.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.
 - 2.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any mistaken payment and to recover the mistaken payment.
 - 2.9 The vendor must before settlement:
 - (a) deliver any keys, security devices and codes ("keys") to the estate agent named in the contract,
 - (b) direct the estate agent to give the keys to the purchaser or the purchaser's nominee on notification of settlement by the vendor, the vendor's subscriber or the Electronic Network Operator,
 - (c) deliver all other physical documents and items (other than the goods sold by the contract) to which the purchaser is entitled at settlement, and any keys if not delivered to the estate agent, to the vendor's subscriber or, if there is no vendor's subscriber, confirm in writing to the purchaser that the vendor holds those documents, items and keys at the vendor's address set out in the contract, and
 - (d) direct the vendor's subscriber to give (or, if there is no vendor's subscriber, give) all those documents and items, and any such keys, to the purchaser or the purchaser's nominee on notification of settlement by the Electronic Network Operator.
 - 2.10 The vendor must, at least 7 days before the due date for settlement, provide the original of any document required to be prepared by the vendor in accordance with general condition 6.
- 3. The General Conditions are varied as follows:**
- 3.1 In General Condition 1.1(b) the words "exceptions and conditions" are inserted in after the word "reservations".
 - 3.2 In General Condition 14.2(b), the words "by providing a letter from the Lender, on bank letterhead, advising that the application for finance from the Recognised Lender has been declined for this property" are inserted after the word "loan".
- 4. If this Contract says that the Property is sold to a named purchaser "and/or nominee" (or similar words), the Purchaser may, at least 14 days before the Settlement Date, nominate a substitute or additional purchaser ("Nominee"), but the Purchaser remains personally liable**

for the due performance of all the Purchaser's obligations under this Contract and must, if requested to do so by the Vendor, execute guarantees and/or provide or have the Nominee provide information and evidence required by the Vendor.

5. Property Sold "As Is"

The Purchaser acknowledges and agrees that it purchases the Property together with any improvements on an "as is" and "where is" basis and therefore:

- 5.1 as a result of the independent exercise of the Purchaser's own skill and judgment through inspection and investigation;
- 5.2 in its present condition and state of repair with all existing patent and latent defects, infestations, contamination and dilapidation;
- 5.3 in the knowledge that the property may contain fill; and
- 5.4 subject to any obligations that the Purchaser is to assume under the Vendor's Statement (for example under section 32D)
- 5.5 accepts that all structures or improvements (if any) on the Property are contained wholly within the title boundaries of the Property and that no structure or improvements of any adjoining property encroaches over or under the title boundaries to the Property;
- 5.6 acknowledges that the land offered for sale and inspected by the Purchaser is identical with that described in the title particulars given within the Contract of Sale. The Purchaser shall not make any requisition or claim any compensation for any alleged misdescription of the land or deficiency in its area or measurements nor call upon the Vendor to amend title or bear any part of the cost of doing so.

and that no representation or warranty has been made or given by the Vendor or by any person acting on behalf of the Vendor to the Purchaser or to any person acting on behalf of the Purchaser as to:

- 5.7 the marketability, quality or fitness for any purpose of the property or improvements;
- 5.8 the freedom of the Property from defects, infestations, contaminations or dilapidation;
- 5.9 the use to which the Property or improvements can lawfully be put;
- 5.10 whether development of any description may be carried out on the Property; or
- 5.11 whether the improvements on the Property have been built or placed there in accordance with each approval required by law for the building or placement of those improvements.

6. Subject to Services

Without limiting the generality of the Special Condition 5.1, the Purchaser acknowledges and agrees that the Property is sold, and the Purchaser will take title to the Property subject to, all existing Services (if any). In particular, the Purchaser will not make any requisition, objection, demand or claim for compensation, or rescind or terminate this Contract in respect of any of the following:

- 6.1 the nature, location, availability of any services;
- 6.2 if any service for any other property or building or any parts or connections for that service pass through the Property;
- 6.3 if any service is a joint service with any other land or building;
- 6.4 if any sewer or water main or connection passes through, in or over the Property;
- 6.5 if there is a manhole or vent on the Property; or
- 6.6 if the Property is subject to or has the benefit of any right or easements in respect of the service.

7. Purchasers Buying Unequal Interests

7.1 Proportions

If there is more than one purchaser, it is the Purchaser's responsibility to ensure this Contract currently records, at the Date of Sale, the proportions in which they are buying the Property ("proportions").

7.2 Payment of Duty

If the proportions recorded in the Transfer differ from those recorded in this Contract, it is the Purchaser's responsibility to pay any additional duty which may be assessed as a result of the variation.

7.3 Indemnity

The Purchasers fully indemnify the Vendor, the Vendor's agent and the Vendor's solicitors against any claims or demands which may be made against any of them in relation to any additional duty payable as a result of the proportions in the Transfer differing from those in this Contract.

8. Whole Agreement - No Representation**8.1 Whole Agreement**

The Purchaser agrees that this Contract and the original Vendor's Statement (as included in this Contract) contain the complete and only agreement between the Vendor, the Vendor's agents and the Purchaser.

8.2 No Representation or Warranty

The Purchaser acknowledges that the agents referred to in this Contract have acted as agents for the Vendor and that, except for any disclosure by the Vendor or their agents to the Purchaser in accordance with the provisions of the *Sale of Land Act 1962 (Vic)*, the Vendor and its agents have not given any information, representation or warranty with the intention or knowledge that it would be relied upon, and no such information, representation or warranty has in fact been relied upon.

9. Goods**9.1 Only goods listed**

The Purchaser acknowledges that the only goods sold with the Property or which are included with the Property are those listed in the Particulars of Sale.

9.2 No warranty as to condition or quality.

The goods are sold "as is" and no warranty promise or representative is made as to the quality of condition of such goods.

10. Where improvements exist on the property the Vendor gives no warranty:

10.1 That the improvements erected on the Land or any alterations or additions to the improvements comply with any building legislation. The Purchaser must not make any requisition or objection or claim any compensation in respect of any non-compliance with any building legislation and must not call upon the Vendor to bear all or any part of the cost of complying with any building legislation;

10.2 The Vendor does not warrant the improvements purporting to be on the Property are wholly on the Property or that improvements of adjoining owners do not encroach on the Property. The sale is subject to each encroachment (if any) which exists and the Purchaser is not entitled to make requisition, objection or demand, or claim any compensation in relation to it or rescind or terminate this Contract due to any such encroachment. The Purchaser may conduct an identification survey of the Property at the Purchaser's own expense.

10.3 That the use to which the Vendor has previously put the Property is permissible.

11. FIRB Approval

The purchaser warrants that the provisions of the *Foreign Acquisitions and Takeovers Act 1975 (C'th)* do not require the purchaser to obtain consent to enter this contract. If there is a breach of the warranty contained in clause 8.1 (whether intentional or not) the purchaser must indemnify and compensate the vendor for any loss, damage or cost which the vendor incurs as a result of the breach. This warranty and indemnity do not merge on completion of this contract.

12. Planning Schemes

The purchaser buys subject to any restrictions imposed by and to the provisions of the Greater Geelong City Council Planning Scheme and any other Town Planning Acts or Schemes.

13. Adjustment of Outgoings (the following is added to GC 15.1)

All rates, taxes, assessments and other outgoings in respect of the land shall be adjusted as at the date of settlement. If the property has any land tax payment attributed to it, the annual payment is to be apportioned at settlement between Vendor and Purchaser and any outstanding Land Tax is to be collected in the Settlement Statement.

14 GST Withholding

The following conditions apply if this sale includes a taxable supply of residential premises or potential residential land as defined in the GST act;

Notice to withhold required to be given by Vendor <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Withholding required by Purchaser <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input checked="" type="checkbox"/> No withholding payment for residential premises because	<input type="checkbox"/> No withholding payment for potential residential land because
<input checked="" type="checkbox"/> the premises are not newly constructed.	<input type="checkbox"/> the land includes a building used for commercial purposes
<input type="checkbox"/> the premises were created by substantial renovation	<input type="checkbox"/> the purchaser is registered for GST and acquires the property for a creditable purpose
<input type="checkbox"/> the premises are commercial residential premises	<input type="checkbox"/> the land is existing residential land

Definitions

14A.1 In this special condition, unless expressed otherwise:

- (a) section references are to Schedule 1 of the *Taxation Administration Act 1953* (Cwth) as amended by *Treasury Laws Amendment (2018 Measures No. 1) Act 2018* (Cwth) and asterisked terms have the same meanings as when used in that schedule;
- (b) **ATO** means the Australian Taxation Office;
- (c) **Commissioner** means the Commissioner of the ATO;
- (c) **LRN** means a unique lodgement reference number issued by the ATO in respect of the supply of the property under this contract;
- (d) **PRN** means a unique payment reference number issued by the ATO in respect of the supply of the property under this contract;
- (e) **Purchaser Attorney** has the meaning given in special condition 14A.11
- (f) **Purchaser Notification Form 1** means the GST property settlement withholding notification form 1 available on the ATO website at <https://www.ato.gov.au/gstpropertysettlementform1/>;
- (g) **Purchaser Notification Form 2** means the GST property settlement date confirmation form 2 available on the ATO website at <https://www.ato.gov.au/gstpropertysettlementform2/>;
- (h) **Purchaser representative** has the meaning given in special condition 14A.10(a);
- (i) **settlement** means the time when the first *consideration for the *supply (other than consideration provided as a deposit) is first provided;
- (j) **settlement funds** means the funds provided, or made available, by the purchaser to effect settlement; and
- (k) **withholding sum** has the meaning given in special condition 14A.4.

Vendor notification

14A.2 The purchaser must, within 5 business days of a written request by the vendor, provide the vendor with such information as the vendor requires to determine whether section 14-255 applies to the supply of the property under this contract. The purchaser warrants that any information provided in response to such a request is true and correct as at the date it is provided and as at settlement.

14A.3 If section 14-255(1) applies to the supply of the property under this contract, the vendor must give the purchaser the written notice required by that section at least 3 business days prior to settlement.

Purchaser notification

14A.4 If section 14-250 requires the recipient of the supply of the property under this contract to pay to the Commissioner an amount (**withholding sum**), the purchaser must:

- (a) complete and lodge such online notification forms as the Commissioner may require to enable payment of the withholding sum to the Commissioner, including:

- (i) lodgement of Purchaser Notification Form 1 as soon as reasonably practicable after the day of sale but no later than 2 business days prior to settlement; and

- (ii) lodgement of Purchaser Notification Form 2 as soon as reasonably practicable on or after settlement but no later than 2 business days after settlement; and

- (b) in relation to each online notification form referred to in special condition 14A.3(a), within 2 business days of lodgement of such form, notify the vendor, or the vendor's representative, in writing that the form has been lodged, the date it was lodged, the PRN and LRN issued by the ATO (if any) and include a copy of the lodged form (if possible).

Payment of withholding sum

14A.5 At settlement, the purchaser must comply with sections 14-250 and 16-30 by deducting and paying an amount equal to the withholding sum to the Commissioner from the settlement funds as follows:

- (a) if settlement is conducted by electronic conveyancing under special condition 8, by an electronic transfer of funds to the Commissioner effected via the electronic conveyancing system; and
- (b) in all other cases, by giving the vendor a bank cheque payable to the Commissioner for the withholding sum, and this must be reflected in the settlement statement.

14A.6 If the purchaser gives to the vendor a bank cheque under special condition 14A.4(b), the vendor must, as soon as reasonably practicable following settlement, pay the bank cheque to the Commissioner.

14A.7 An amount paid or applied by the purchaser under special condition 14A.4 and in accordance with sections 14-250 and 16-30 is treated as having been paid to the vendor.

14A.8 The purchaser is responsible for any interest, costs, charges or penalties payable to the Commissioner on account of non-payment or late payment of the withholding sum.

14A.9 Except as expressly set out in this special condition, the rights and obligations of the parties under this contract including, without restriction, any obligation of the vendor to apply the margin scheme, are unchanged.

Purchaser representative

14A.10 The purchaser must:

- (a) engage a legal practitioner or conveyancer (**Purchaser representative**) to conduct all the legal aspects relating to the transfer and settlement of the property under this contract, including performance of the purchaser's obligations under this special condition and section 14-250; and
- (b) ensure that the Purchaser representative does so.

Purchaser breach

- 14A.11 The purchaser irrevocably appoints each of the vendor and the vendor's representative individually as the purchaser's attorney (**each a Purchaser Attorney**), and in the purchaser's name (or in the name of the Purchaser Attorney) and on the purchaser's behalf, to complete and lodge any online notification form referred to in special condition 14A.4(a) and do all other things reasonably required to complete and lodge such form, in the event of a breach of special condition 14A.4 by the purchaser.
- 14A.12 The purchaser grants to the vendor, and the vendor may take, a charge over the property after settlement in the event that the purchaser does not pay the withholding sum to the Commissioner in accordance with section 14-250, section 16-30 or special condition 14A.4, until such time as the purchaser pays the withholding sum (and any associated interest, costs, charges or penalties) to the Commissioner.
15. Schedule 1 (Open Negotiation Terms and Conditions) Forms part of this contract. The sale of the property shall be conducted pursuant to the terms of Schedule 1 and both the Vendor and the Purchaser should be bound by those terms.
16. The Purchasers acknowledge that:-
- (a) The vendors have not obtained, and will not be providing them with, a Building Permit for the works to the kitchen as it was not required.
 - (b) The value of the works for the kitchen was less than \$16,000.00 and the Vendors are, therefore, not required to provide a Certificate evidencing insurance.
 - (c) The Vendor will provide the Purchasers with a 137B Owner Builder report within 14 days of an unconditional contract of sale.

And that they will make no demands or requisitions in relation thereto.

GUARANTEE AND INDEMNITY

TO: The withinnamed and described Vendor (hereinafter called "the Vendor")

IN CONSIDERATION of the Vendor having at the request of the person whose name address and description are set for the in the Schedule hereto (hereinafter called "the Guarantor") agreed to sell the land described in the within Contract of Sale to the withinnamed Purchaser (hereinafter called "the Purchaser") the Guarantor HEREBY GUARANTEES to the Vendor the due and punctual payment by the Purchaser of the purchase money and interest payable thereon as detailed in the said Contract of Sale and all other monies that are payable or may become payable pursuant thereto (hereinafter called "the monies hereby secured") AND ALSO the due performance and observance by the Purchaser of all and singular the covenants provisions and stipulations contained of implied in the said Contract of Sale and on the part of the Purchaser to be performed and observed AND THE GUARANTOR HEREBY EXPRESSLY ACKNOWLEDGES AND DECLARES that it has examined the said Contract of Sale and has access to a copy thereof and further that this Guarantee is given upon and subject to the following conditions:-

- A. THAT in the event of the Purchaser failing to pay the Vendor as and when due the monies referred to in the within Contract the Guarantor will immediately pay such monies to the Vendor.
- B. THAT in the event of the Purchaser failing to carry out or perform any of its obligations under the said Contract the Guarantor will immediately carry out and perform the same.
- C. THE Guarantor shall be deemed to be jointly and severally liable with the Purchaser (in lieu of being merely a surety for it) for the payment of the purchase moneys interest and all other monies if any payable pursuant to the within Contract in the performance of the obligations herein contained and it shall not be necessary for the Vendor to make any claim or demand on or to take any action or proceedings against the Purchaser before calling on the Guarantor to pay the moneys or to carry out and perform the obligations herein contained.
- D. THAT no time or other indulgence whatsoever that may be granted by the Vendor to the Purchaser shall in any manner whatsoever affect a liability of the Guarantor hereunder and the liability of the Guarantor shall continue to remain in full force and effect until all monies owing to the Vendor have been paid and all obligations have been performed.

SCHEDULE

Vendor: **Jason Adam Midgley and Bridget Ellen Midgley**
Of Unit 1, 4 Belcher Street, Hamlyn Heights VIC 3215

Purchaser:
Of

Guarantor:
Of

IN WITNESS whereof the said Guarantors have set their hands and seals this

day of 201__

SIGNED SEALED AND DELIVERED by)
)
the said Guarantor)
)
in Victoria in the presence of:)

CONTRACT OF SALE OF REAL ESTATE—GENERAL CONDITIONS (August 2018)

TITLE

1. Encumbrances

- 1.1. The purchaser buys the property subject to:
 - (a) any encumbrance shown in the Section 32 Statement other than mortgages or caveats; and
 - (b) any reservations in the crown grant; and
 - (c) any lease referred to in the particulars of sale.
- 1.2. The purchaser indemnifies the vendor against all obligations under any lease that are to be performed by the landlord after settlement.
- 1.3. In this General Condition "Section 32 Statement" means a Statement required to be given by a vendor under Section 32 of the **Sale of Land Act 1962** in accordance with Division 2 of Part II of that Act.

2. Vendor warranties

- 2.1. The warranties in general conditions 2.2 and 2.3 replace the purchaser's right to make requisitions and inquiries.
- 2.2. The vendor warrants that the vendor:
 - (a) has, or by the due date for settlement will have, the right to sell the land; and
 - (b) is under no legal disability; and
 - (c) is in possession of the land, either personally or through a tenant; and
 - (d) has not previously sold or granted any option to purchase, agreed to a lease or granted a pre-emptive right which is current over the land and which gives another party rights which have priority over the interest of the purchaser; and
 - (e) will at settlement be the holder of an unencumbered estate in fee simple in the land; and
 - (f) will at settlement be the unencumbered owner of any improvements, fixtures, fittings and goods sold with the land.
- 2.3. The vendor further warrants that the vendor has no knowledge of any of the following:
 - (a) public rights of way over the land;
 - (b) easements over the land;
 - (c) lease or other possessory agreement affecting the land;
 - (d) notice or order affecting the land which will not be dealt with at settlement, other than the usual rate notices and any land tax notices;
 - (e) legal proceedings which would render the sale of the land void or voidable or capable of being set aside.
- 2.4. The warranties in general conditions 2.3 and 2.4 are subject to any contrary provisions in this contract and disclosures in the Section 32 Statement required to be given by a vendor under Section 32 of the **Sale of Land Act 1962** in accordance with Division 2 of Part II of that Act.
- 2.5. If sections 137B and 137C of the **Building Act 1993** apply to this contract, the vendor warrants that:
 - (a) all domestic building work carried out in relation to the construction by or on behalf of the vendor of the home was carried out in a proper and workmanlike manner; and
 - (b) all materials used in that domestic building work were good and suitable for the purpose for which they were used and that, unless otherwise stated in the contract, those materials were new; and
 - (c) domestic building work was carried out in accordance with all laws and legal requirements, including, without limiting the generality of this warranty, the **Building Act 1993** and regulations made under the **Building Act 1993**.
- 2.6. Words and phrases used in general condition 2.6 which are defined in the **Building Act 1993** have the same meaning in general condition 2.6.

3. Identity of the land

- 3.1. An omission or mistake in the description of the property or any deficiency in the area, description or, measurements of the land does not invalidate the sale.
- 3.2. The purchaser may not:
 - (a) make any objection or claim for compensation for any alleged misdescription of the property or any deficiency in its area or measurements; or
 - (b) require the vendor to amend title or pay any cost of amending title.

4. Services

- 4.1. The vendor does not represent that the services are adequate for the purchaser's proposed use of the property and the vendor advises the purchaser to make appropriate inquiries. The condition of the services may change between the day of sale and settlement and the vendor does not promise that the services will be in the same condition at settlement as they were on the day of sale.
- 4.2. The purchaser is responsible for the connection of all services to the property after settlement and the payment of any associated cost.

5. Consents

The vendor must obtain any necessary consent or licence required for the sale. The contract will be at an end and all money paid must be refunded if any necessary consent or licence is not obtained by settlement.

6. Transfer

The transfer of land document must be prepared by the purchaser and delivered to the vendor at least 10 days before settlement. The delivery of the transfer of land document is not acceptance of title. Preparation and delivery of the document can be either in paper form or electronic format via an Electronic Lodgment Network Operator

7. Duties Online Settlement Statement

The vendor will initiate the preparation of a Duties Online Settlement Statement (DOLSS) as soon as practicable after the Contract Date and will provide the purchaser with online access to that document at least 10 days before settlement. The purchaser will sign the DOLSS no later than 7 days prior to settlement.

8. Release of Security Interest

- 8.1 This general condition applies if any part of the property is subject to a security interest to which the **Personal Property Securities Act 2009 (Cth)** applies.
- 8.2 For the purposes of enabling the purchaser to search the Personal Property Securities Register for any security interests affecting any personal property for which the purchaser may be entitled to a release, statement, approval or correction in accordance with general condition 8.4, the purchaser may request the vendor to provide the vendor's date of birth to the purchaser. The vendor must comply with a request made by the purchaser under this condition if the purchaser makes the request at least 21 days before the due date for settlement.
- 8.3 If the purchaser is given the details of the vendor's date of birth under condition 8.2, the purchaser must –
 - (a) Only use the vendor's date of birth for the purposes specified in condition 8.2; and
 - (b) Keep the date of birth of the vendor secure and confidential.
- 8.4 The vendor must ensure that at or before settlement, the purchaser receives –
 - (a) a release from the secured party releasing the property from the security interest; or
 - (b) a statement in writing in accordance with section 275(1)(b) of the **Personal Property Securities Act 2009 (Cth)** setting out that the amount or obligation that is secured is nil at settlement; or
 - (c) a written approval or correction in accordance with section 275(1)(c) of the **Personal Property Securities Act 2009 (Cth)** indicating that, on settlement, the personal property included in the contract is not or will not be property in which the security interest is granted.
- 8.5 Subject to general condition 8.6, the vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property –
 - (a) that -
 - (i) the purchaser intends to use predominantly for personal, domestic or household purposes; and
 - (ii) has a market value of not more than \$5000 or, if a greater amount has been prescribed for the purposes of section 47(1) of the **Personal Property Securities Act 2009 (Cth)**, not more than that prescribed amount; or
 - (b) that is sold in the ordinary course of the vendor's business of selling personal property of that kind.
- 8.6 The vendor is obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property described in general condition 8.5 if –
 - (a) the personal property is of a kind that may or must be described by serial number in the Personal Property Securities Register; or
 - (b) the purchaser has actual or constructive knowledge that the sale constitutes a breach of the security agreement that provides for the security interest.
- 8.7 A release for the purposes of general condition 8.4(a) must be in writing.
- 8.8 A release for the purposes of general condition 8.4(a) must be effective in releasing the goods from the security interest and be in a form which allows the purchaser to take title to the goods free of that security interest.
- 8.9 If the purchaser receives a release under general condition 8.4(a) the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.
- 8.10 In addition to ensuring that a release is received under general condition 8.4(a), the vendor must ensure that at or before settlement the purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.
- 8.11 The purchaser must advise the vendor of any security interest that is registered on or before the day of sale on the Personal Properties Security Register, which the purchaser reasonably requires to be released, at least 21 days before the due date for settlement.

- 8.12 The vendor may delay settlement until 21 days after the purchaser advises the vendor of the security interests that the purchaser reasonably requires to be released if the purchaser does not provide an advice under general condition 8.11.
- 8.13 If settlement is delayed under general condition 8.12 the purchaser must pay the vendor –
- (a) interest from the due date for settlement until the date on which settlement occurs or 21 days after the vendor receives the advice, whichever is the earlier; and
 - (b) any reasonable costs incurred by the vendor as a result of the delay - as though the purchaser was in default.
- 8.14 The vendor is not required to ensure that the purchaser receives a release in respect of the land. This general condition 8.14 applies despite general condition 8.1.
- 8.15 Words and phrases which are defined in the **Personal Property Securities Act 2009 (Cth)** have the same meaning in general condition 8 unless the context requires otherwise.

9. Builder warranty insurance

The vendor warrants that the vendor will provide at settlement details of any current builder warranty insurance in the vendor's possession relating to the property if requested in writing to do so at least 21 days before settlement.

10. Settlement

- 10.1 At settlement:
- (a) the purchaser must pay the balance; and
 - (b) the vendor must:
 - (i) do all things necessary to enable the purchaser to become the registered proprietor of the land; and
 - (ii) give either vacant possession or receipt of rents and profits in accordance with the particulars of sale.
- 10.2 The vendor's obligations under this general condition continue after settlement.
- 10.3 Settlement must be conducted between the hours of 10.00 a.m. and 4.00 p.m. unless the parties agree otherwise.

11. Payment

- 11.1 The purchaser must pay the deposit:
- (a) to the vendor's licensed estate agent; or
 - (b) if there is no estate agent, to the vendor's legal practitioner or conveyancer; or
 - (c) if the vendor directs, into a special purpose account in an authorised deposit-taking institution in Victoria specified by the vendor in the joint names of the purchaser and the vendor.
- 11.2 If the land sold is a lot on an unregistered plan of subdivision, the deposit:
- (a) must not exceed 10% of the price; and
 - (b) must be paid to the vendor's estate agent, legal practitioner or conveyancer and held by the estate agent, legal practitioner or conveyancer on trust for the purchaser until the registration of the plan of subdivision.
- 11.3 The purchaser must pay all money other than the deposit:
- (a) to the vendor, or the vendor's legal practitioner or conveyancer; or
 - (b) in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.
- 11.4 At settlement, payments may be made or tendered:
- (a) up to \$1,000 in cash; or
 - (b) by cheque drawn on an authorised deposit-taking institution; or
 - (c) by electronically transferring the payment in the form of cleared funds.
- However, unless otherwise agreed:
- (d) payment may not be made by credit card, debit card or any other financial transfer system that allows for any chargeback or funds reversal other than for fraud or mistaken payment; and
 - (e) any financial fees or deductions from the funds transferred, other than any fees charged by the recipient's authorized deposit-taking institution, must be paid by the remitter.
- 11.5 For the purpose of this general condition 'authorised deposit-taking institution' means a body corporate in relation to which an authority under section 9(3) of the **Banking Act 1959 (Cth)** is in force.
- 11.6 The purchaser must pay the fees on up to three bank cheques drawn on an authorized deposit-taking institution. If the vendor requests that any additional cheques be drawn on an authorized deposit-taking institution the vendor must reimburse the purchaser for the fees incurred.

12. Stakeholding

- 12.1 The deposit must be released to the vendor if:
- (a) the vendor provides particulars, to the reasonable satisfaction of the purchaser, that either—
 - (i) there are no debts secured against the property; or
 - (ii) if there are any debts, the total amount of those debts does not exceed 80% of the sale price; and
 - (b) at least 28 days have elapsed since the particulars were given to the purchaser under paragraph

- (a); and
- (c) all conditions of S27 of the **Sale of Land Act 1962 ("the Act")** have been satisfied.
- 12.2 The stakeholder must pay the deposit and any interest to the party entitled when the deposit is released, the contract is settled, or the contract is ended.
- 12.3 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.
- 12.4 Where the purchaser is deemed by Section 27(7) of the Sale of Land Act 1962 to have given the deposit release authorization referred to in Section 27(1) of the Act, the purchaser is also deemed to have accepted title in the absence of any prior objection to title.

13. GST

- 13.1 The purchaser does not have to pay the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price unless the particulars of sale specify that the price is 'plus GST'.
However, the purchaser must pay to the vendor any GST payable by the vendor:
 - (a) solely as a result of any action taken or intended to be taken by the purchaser after the day of sale, including a change of use; or
 - (b) if the particulars of sale specify that the supply made under this contract is of land on which a farming business is carried on and the supply does not satisfy the requirements of section 38-480 of the GST Act; or
 - (c) if the particulars of sale specify that the supply made under this contract is a going concern and the supply does not satisfy the requirements of section 38-325 of the GST Act.
- 13.2 The purchaser must pay to the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price if the particulars of sale specify that the price is 'plus GST'.
- 13.3 If the purchaser is liable to pay GST, the purchaser is not required to make payment until provided with a tax invoice, unless the margin scheme applies.
- 13.4 If the particulars of sale specify that the supply made under this contract is of land on which a farming business is carried on:
 - (a) the vendor warrants that the property is land on which a farming business has been carried on for the period of 5 years preceding the date of supply; and
 - (b) the purchaser warrants that the purchaser intends that a farming business will be carried on after settlement on the property.
- 13.5 If the particulars of sale specify that the supply made under this contract is a 'going concern':
 - (a) the parties agree that this contract is for the supply of a going concern; and
 - (b) the purchaser warrants that the purchaser is, or prior to settlement will be, registered for GST; and
 - (c) the vendor warrants that the vendor will carry on the going concern until the date of supply.
- 13.6 If the particulars of sale specify that the supply made under this contract is a 'margin scheme' supply, the parties agree that the margin scheme applies to this contract.
- 13.7 This general condition will not merge on either settlement or registration.
- 13.8 In this general condition:
 - (a) 'GST Act' means **A New Tax System (Goods and Services Tax) Act 1999 (Cth)**; and
 - (b) 'GST' includes penalties and interest.

14. Loan

- 14.1 If the particulars of sale specify that this contract is subject to a loan being approved, this contract is subject to the lender approving the loan on the security of the property by the approval date or any later date allowed by the vendor.
- 14.2 The purchaser may end the contract if the loan is not approved by the approval date, but only if the purchaser:
 - (a) immediately applied for the loan; and
 - (b) did everything reasonably required to obtain approval of the loan; and
 - (c) serves written notice ending the contract on the vendor within 2 clear business days after the approval date or any later date allowed by the vendor; and
 - (d) is not in default under any other condition of this contract when the notice is given.
- 14.3 All money must be immediately refunded to the purchaser if the contract is ended.

15. Adjustments

- 15.1 All periodic outgoings payable by the vendor, and any rent and other income received in respect of the property must be apportioned between the parties on the settlement date and any adjustments paid and received as appropriate.
- 15.2 The periodic outgoings and rent and other income must be apportioned on the following basis:
 - (a) the vendor is liable for the periodic outgoings and entitled to the rent and other income up to and including the day of settlement; and
 - (b) the land is treated as the only land of which the vendor is owner (as defined in the **Land Tax Act 2005**); and
 - (c) the vendor is taken to own the land as a resident Australian beneficial owner; and
 - (d) any personal statutory benefit available to each party is disregarded in calculating apportionment.

TRANSACTIONAL**16. Time**

16.1 Time is of the essence of this contract.

16.2 Time is extended until the next business day if the time for performing any action falls on a Saturday, Sunday or bank holiday.

17. Service

17.1 Any document sent by –

- (a) express post is taken to have been served on the next business day after posting, unless proven otherwise;
- (b) registered post is taken to have been served on the fourth business day after posting, unless proven otherwise;

- (c) regular post is taken to have been served on the sixth business day after posting, unless proven otherwise;

- (d) email is taken to have been served at the time of receipt within the meaning of section 13A of the *Electronic Transactions (Victoria) Act 2000*.

17.2 Any demand, notice, or document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party. It is sufficiently served if served on the party or on the legal practitioner or conveyancer:

- (a) personally; or
- (b) by pre-paid post; or
- (c) in any manner authorised by law or the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner.
- (d) by email

17.3 This general condition applies to the service of any demand, notice or document by or on any party, whether the expression 'give' or 'serve' or any other expression is used.

18. Nominee

The purchaser may nominate a substitute or additional transferee, but the named purchaser remains personally liable for the due performance of all the purchaser's obligations under this contract.

19. Liability of signatory

Any signatory for a proprietary limited company purchaser is personally liable for the due performance of the purchaser's obligations as if the signatory were the purchaser in the case of a default by a proprietary limited company purchaser.

20. Guarantee

The vendor may require one or more directors of the purchaser to guarantee the purchaser's performance of this contract if the purchaser is a proprietary limited company.

21. Notices

The purchaser is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made on or after the day of sale that does not relate to periodic outgoings. The purchaser may enter the property to comply with that responsibility where action is required before settlement.

22. Inspection

The purchaser and/or another person authorised by the purchaser may inspect the property at any reasonable time during the 7 days preceding and including the settlement day.

23. Terms contract

23.1 If this is a 'terms contract' as defined in the **Sale of Land Act 1962**:

- (a) any mortgage affecting the land sold must be discharged as to that land before the purchaser becomes entitled to possession or to the receipt of rents and profits unless the vendor satisfies section 29M of the **Sale of Land Act 1962**; and
- (b) the deposit and all other money payable under the contract (other than any money payable in excess of the amount required to so discharge the mortgage) must be paid to a legal practitioner or conveyancer or a licensed estate agent to be applied in or towards discharging the mortgage.

23.2 While any money remains owing each of the following applies:

- (a) the purchaser must maintain full damage and destruction insurance of the property and public risk insurance noting all parties having an insurable interest with an insurer approved in writing by the vendor;
- (b) the purchaser must deliver copies of the signed insurance application forms, the policies and the

- insurance receipts to the vendor not less than 10 days before taking possession of the property or becoming entitled to receipt of the rents and profits;
- (c) the purchaser must deliver copies of any amendments to the policies and the insurance receipts on each amendment or renewal as evidence of the status of the policies from time to time;
- (d) the vendor may pay any renewal premiums or take out the insurance if the purchaser fails to meet these obligations;
- (e) insurance costs paid by the vendor under paragraph (d) must be refunded by the purchaser on demand without affecting the vendor's other rights under this contract;
- (f) the purchaser must maintain and operate the property in good repair (fair wear and tear excepted) and keep the property safe, lawful, structurally sound, weatherproof and free from contaminations and dangerous substances;
- (g) the property must not be altered in any way without the written consent of the vendor which must not be unreasonably refused or delayed;
- (h) the purchaser must observe all obligations that affect owners or occupiers of land;
- (i) the vendor and/or other person authorised by the vendor may enter the property at any reasonable time to inspect it on giving 7 days written notice, but not more than twice in a year.

24. Loss or damage before settlement

- 24.1 The vendor carries the risk of loss or damage to the property until settlement.
- 24.2 The vendor must deliver the property to the purchaser at settlement in the same condition it was in on the day of sale, except for fair wear and tear.
- 24.3 The purchaser must not delay settlement because one or more of the goods is not in the condition required by general condition 24.2, but may claim compensation from the vendor after settlement.
- 24.4 The purchaser may nominate an amount not exceeding \$5,000 to be held by a stakeholder to be appointed by the parties if the property is not in the condition required by general condition 24.2 at settlement.
- 24.5 The nominated amount may be deducted from the amount due to the vendor at settlement and paid to the stakeholder, but only if the purchaser also pays an amount equal to the nominated amount to the stakeholder.
- 24.6 The stakeholder must pay the amounts referred to in general condition 24.5 in accordance with the determination of the dispute, including any order for payment of the costs of the resolution of the dispute.

25. Breach

A party who breaches this contract must pay to the other party on demand:

- (a) compensation for any reasonably foreseeable loss to the other party resulting from the breach; and
- (b) any interest due under this contract as a result of the breach.

DEFAULT

26. Interest

Interest at a rate of 2% per annum plus the rate for the time being fixed by section 2 of the **Penalty Interest Rates Act 1983** is payable on any money owing under the contract during the period of default, without affecting any other rights of the offended party.

27. Default notice

- 27.1 A party is not entitled to exercise any rights arising from the other party's default, other than the right to receive interest and the right to sue for money owing, until the other party is given and fails to comply with a written default notice.
- 27.2 The default notice must:
 - (a) specify the particulars of the default; and
 - (b) state that it is the offended party's intention to exercise the rights arising from the default unless, within 14 days of the notice being given—
 - (i) the default is remedied; and
 - (ii) the reasonable costs incurred as a result of the default and any interest payable are paid.

28. Default not remedied

- 28.1 All unpaid money under the contract becomes immediately payable to the vendor if the default has been made by the purchaser and is not remedied and the costs and interest are not paid.
- 28.2 The contract immediately ends if:
 - (a) the default notice also states that unless the default is remedied and the reasonable costs and interest are paid, the contract will be ended in accordance with this general condition; and
 - (b) the default is not remedied and the reasonable costs and interest are not paid by the end of the period of the default notice.
- 28.3 If the contract ends by a default notice given by the purchaser:

- (a) the purchaser must be repaid any money paid under the contract and be paid any interest and reasonable costs payable under the contract; and
 - (b) all those amounts are a charge on the land until payment; and
 - (c) the purchaser may also recover any loss otherwise recoverable.
- 28.4 If the contract ends by a default notice given by the vendor:
- (a) the deposit up to 10% of the price is forfeited to the vendor as the vendor's absolute property, whether the deposit has been paid or not; and
 - (b) the vendor is entitled to possession of the property; and
 - (c) in addition to any other remedy, the vendor may within one year of the contract ending either:
 - (i) retain the property and sue for damages for breach of contract; or
 - (ii) resell the property in any manner and recover any deficiency in the price on the resale and any resulting expenses by way of liquidated damages; and
 - (d) the vendor may retain any part of the price paid until the vendor's damages have been determined and may apply that money towards those damages; and
 - (e) any determination of the vendor's damages must take into account the amount forfeited to the vendor.
- 28.5 The ending of the contract does not affect the rights of the offended party as a consequence of the default.

Annexure A: Authority to Conduct the Sale of Land by Openn Negotiation and Sellers Contract Execution and Express Exchange Authority (Victoria)

Parties

Seller(s): _____ ACN: _____

Address: _____

Phone: _____ Mobile: _____ Email: _____

and;
The real estate agent duly authorised to act on behalf of the Seller pursuant to the *Sale of Land Act 1962 (Vic)* and *Sale of Land (Public Auctions) Regulations 2014*.

AGENT/LICENSEE: _____

Property for Sale

Property Address: _____

Title details (lot and folio details): _____

1. It is agreed

- | | |
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| <p>1.1 The Parties note and confirm the Seller has engaged the Agent to act on the sale of the Property by means of public auction, conducted through the Openn Negotiation process (as defined herein) in accordance with the Buyer Authority to Bid and Terms of Use (attached schedule 1).</p> | <p>1.2 The Seller agrees to be bound by the Buyer Authority to Bid and Terms of Use during the Openn Negotiation Period.</p> |
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2. Definitions and Interpretation

In this document:

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| <p>2.1 Act means the <i>Sale of Land Act 1962 (Vic)</i> and <i>Sale of Land (Public Auctions) Regulations 2014</i>;</p> <p>2.2 Agency Agreement means the Auction Agency Agreement entered into between the Parties;</p> <p>2.3 App means the specialised software program designed to facilitate the Openn Negotiation and known as "Openn";</p> <p>2.4 Buyer Authority to Bid and Terms of Use means the Terms set out in the attached Schedule 1, which are to be read in conjunction with this Annexure A;</p> <p>2.5 Auctioneer means the auctioneer appointed by the Agent to conduct the Openn Negotiation, who must be an accredited auctioneer pursuant to the Act;</p> <p>2.6 Campaign Bidding Stage means the stage of the Openn Negotiation that commences when the Property is listed on the App and ends at the commencement of the Final Bidding Stage;</p> <p>2.7 Developer means PP Valley Pty Ltd ACN 612 338 477;</p> | <p>2.8 Final Bidding Stage means the stage of the Openn Negotiation at which Qualified Bidders make competing bids to purchase the Property through the App, with a time limit applying to the making of bids and the process concluding when the Property is sold or all bids are exhausted;</p> <p>2.9 Openn Negotiation means the process for selling the Property by auction as set out in the Buyer Authority to Bid and Terms of Use as has the same meaning of auction as provided by the Act;</p> <p>2.10 Openn Negotiation Period means the exclusive authority period set out in the Agency Agreement;</p> <p>2.11 Owner of Openn Negotiation means Cleverbons Pty Ltd ACN 607 908 636;</p> <p>2.12 Property means the property described in the Agency Agreement;</p> <p>2.13 Qualified Bidder has the meaning set out in the Buyer Authority to Bid and Terms of Use ;</p> <p>2.14 Reserve Price means the minimum price nominated by the Seller to the Agent in writing that the Seller will sell the Property;</p> <p>2.15 Vendor Bid means a bid made by or on behalf of the Seller in accordance with the Act and Auction conditions of Sale;</p> |
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3. Agreement to Auction by Openn Negotiation

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| <p>3.1 In addition to the Agency Agreement, the Seller appoints the Agent to offer the Property for Auction by Openn Negotiation during the Openn Negotiation Period in accordance with the Act, with the Openn Negotiation to take place at the date and time specified in clause 8 of this Annexure A.</p> <p>3.2 The Seller acknowledges that Openn Negotiation is an auction within the meaning of that term in the Act.</p> | <p>3.3 The Seller acknowledges that Vendor Bids as defined are not compatible with Openn Negotiation and agrees not to make or seek to make a Vendor Bid or instruct the Agent and/or Auctioneer to make a Vendor Bid during the Openn Negotiation.</p> <p>3.4 The Seller acknowledges that in the event of the Final Bidding Stage taking place the Seller must be available to provide instructions to the Agent and Auctioneer at such time.</p> |
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4. Conditions of Sale

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| <p>4.1 The sale of the Property is to be conducted in accordance with the Buyer Authority to Bid and Terms of Use and the Seller agrees to be bound by the terms of the Openn Negotiation as described in those Buyer Authority to Bid and Terms of Use, including, but not limited to, the Campaign Bidding Stage and the Final Bidding Stage (as those terms are defined in the Buyer Authority to Bid and Terms of Use).</p> <p>4.2 The Seller acknowledges that the Openn Negotiation will be primarily conducted through the App in accordance with the Buyer Authority to Bid and Terms of Use.</p> | <p>4.3 The Openn Negotiation is to be subject to the Reserve Price and the Vendor must provide a Reserve Price to the Agent before the Final Bidding Stage and if, during the Final Bidding Stage, the highest bid is at or above the Reserve Price, the Vendor must sell the Property to that bidder.</p> <p>4.4 The Final Bidding Stage will commence on the auction date and time set out in clause 8 or at such other date and time nominated by the Seller.</p> |
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5. Authority

- 5.1 In the event the Seller is unable to be present at the location from where the Seller's Agent and/or Auctioneer is conducting this sale, the Seller:
- expressly authorises the Auctioneer to sign the Contract for Sale of Real Estate for the Property on the Seller's behalf as set out in the Buyer Authority to Bid and Terms of Use;
 - complete the 'Particulars of Sale' section of the Contract for the Sale of Real Estate;
 - make any amendments to the Contract for the Sale of Real Estate that the Seller has authorised;
- d. execute the Contract for the Sale of Real Estate on the Seller's behalf if I/we have not already provided an executed front page of the Contract for the Sale of Real Estate to the Seller's Agent and/or Auctioneer; and
- e. complete the exchange of Contract for the Sale of Real Estate so that the contracts become binding.
- f. We also confirm our instructions to the Seller's Agent to deliver to our solicitor/conveyancer the unconditionally exchanged and executed contract in this matter.

6. Liability

- 6.1 The Seller releases and holds harmless the Agent, Auctioneer, the Owner of Openn Negotiations and the Developer and their officers, directors and employees from and against all actions, suits, demands, claims, losses, damages and costs whatsoever, whether at law or in equity arising out of any technical failure of the App.
- 6.2 The Seller releases the Agent, Auctioneer, the Owner of Openn Negotiation and the Developer against all actions, claims, demands arising from or in connection with a failure by a purchaser or registered bidder to complete a sale.
- 6.3 Nothing in these Annexure A terms and conditions (including this clause 6) excludes, restricts or modifies any rights or statutory guarantees that the Seller may have under applicable laws that cannot be excluded, restricted or modified, including any such rights or statutory guarantees under the Australian Consumer Law. To the extent that these terms and conditions are found to exclude, restrict or modify any such rights or statutory guarantees, those rights and/or statutory guarantees prevail to the extent of the inconsistency.
- 6.4 The Agent discloses and the Seller acknowledges the Developer will use reasonable efforts to maintain an uninterrupted service for the App but neither the Agent or the Developer guarantee this and, to the extent permitted by law, neither the Agent or the Developer give any promises or warranties (whether express or implied) about the availability of the App that the App will be uninterrupted or error-free. Notification functionality in the App may not occur in real time. That functionality is subject to delays beyond the control of the Agent and the Developer, including without limitation, delays or latency due to the Vendor's physical location or the Vendor's wireless data service provider's network.
- 6.5 To the extent permitted by law, and without limiting any rights that the Vendor may have under the Australian Consumer Law, the Agent's and the Developer's liability to the Vendor for any failure by the Agent or the Developer to comply with any statutory guarantee under the Australian Consumer Law is limited to the Agent and/or the Developer supplying the Services again or paying you the cost of having the Openn Negotiation process supplied again.

7. Warranty

- 7.1 The Developer and the Agent do not warrant, guarantee or make any representation that:
- The Openn website (www.openn.com.au), the App, or the servers that make them available are free of software viruses;
 - The functions effected by the software contained on the Website or the App will operate uninterrupted or are error-free; and
 - Error and defects in the Website or the App or the software contained in them will be corrected in a timely manner or at all.

8. Time and Date of Openn Negotiation

- 8.1 The Final Bidding Stage of the Openn Negotiation will commence at _____ am/pm on _____ or at such other date and time nominated by the Seller initials

Seller's Signature

X

Name of Seller: _____

Date: _____

Agent or Agent's Representative Signature

X

Name of Agent or Agent's Representative: _____

Date: _____

Seller's Signature

X

Name of Seller: _____

Date: _____

Witness Signature

X

Name of Witness: _____

Address of Witness: _____

Date: _____

Schedule 1

Buyer Authority to Bid and Terms of Use (Victoria)



1. Parties

BIDDER Full Name(s): _____
(as joint tenants in common (if so, state the shares))
Address: _____
Suburb: _____ State: _____ Postcode: _____
Phone: _____ Mobile: _____ Email: _____
Phone: _____ Mobile: _____ Email: _____
Solicitor: _____

and;
SELLER Full Name(s): _____
Address: _____
Suburb: _____ State: _____ Postcode: _____
Phone: _____ Mobile: _____ Email: _____
Phone: _____ Mobile: _____ Email: _____

(collectively referred to as the **Parties**)

2. Sellers Agent

The real estate agent duly authorised to act on behalf of the Seller in the sale of the Property.

Sellers Agent _____

3. Buyer Agent (if any)

The real estate agent duly authorised to act on behalf of the Bidder to buy the Property.

Buyer Agent _____

4. The Bidder

4.1 Intends to become a Qualified Bidder and bid on the Property by way of Openn Negotiation:

Number _____ Street _____ Suburb/City _____
Lot _____ DP _____ CT _____
(the **Property**)

4.2 Acknowledges that Openn Negotiation:

- Is a type of auction with a flexible completion date pursuant to clause 6.4 and/or may be sold to a sole bidder pursuant to clause 6.7.
- Will be primarily conducted through the App in accordance with the Terms.

5. Definitions

5.1 In these terms the following have these meanings:

- Act** means Sale of Land Act 1962 (Vic), Sale of Land (Public Auctions) Regulations 2014 (Vic) as amended from time to time;
- Auction** means an auction pursuant to the Act;
- App** means the specialised software program designed to facilitate the Openn Negotiation and known as "Openn";
- Auctioneer** means the Auctioneer appointed by the Seller or Seller's Agent to conduct the Openn Negotiation who must be licensed to perform an auction pursuant to the laws of the State that govern the sale of property by Public Auction;
- Contract** means the Contract formed between the Highest Bidder, or any Sole Bidder, who has made the Winning Bid, and the Seller incorporating these Offer Terms and the attached Annexure A;
- Campaign Bidding Stage** means the stage of the Openn Negotiation that commences when the Property is listed on the App and ends at the earlier of the Property being sold or the commencement of the Final Bidding Stage;
- Co-owner Bidder** means a bidder whose name is on the certificate of title for the property, where the certificate shows more than one registered proprietor, all the named parties whether as joint owners or tenants in common registered as proprietors;
- Co-owner Bid** a bid made by a co-owner bidder of the property either directly or on their behalf;
- Developer** means PP Valley Pty Ltd ACN 612 338 477;
- Dummy Bidding** means false or fictitious bids made by non-genuine bidders with no intention of buying the Property and also includes any bidding practices prohibited in the State;
- Fall of the Hammer** means the time in the Final Bidding Stage the Auctioneer through the App announces the Final Bidding Stage has ended and no further bids will be accepted from Qualified Bidders;
- Final Bidding Stage** means the stage of the Openn Negotiation at which Qualified Bidders make competing bids to purchase the Property through the App, with a time limit applying to the making of bids and the process concluding when the Property is sold or all bids are exhausted;
- Owner** means Cleverbons Pty Ltd ACN 607 908 636 being the owner of the App;
- Highest Bidder** means the Qualified Bidder who makes the highest bid for the Property in the Final Bidding Stage that is accepted by the Auctioneer;
- Limited Power of Attorney** means the power of attorney granted to the Auctioneer by the Bidder pursuant to clause 8;
- Offer Terms** means the terms the Bidder offers for the purchase of the Property that are set out in clause 7, which if accepted by the Seller and made by the Highest Bidder or Sole Bidder as the Winning Bid, will constitute part of a binding Contract entered by the Highest Bidder or Sole Bidder with the Seller for the purchase of the Property;
- Openn Negotiation** means the process set out in these Terms according to which the sale is to be conducted using the App;
- Owner** means Cleverbons Pty Ltd ACN 607 908 636;
- Pending Bid** means the opening bid made by a Bidder, through the App, that must be accepted by the Sellers Agent in order to become a Qualified Bidder. The Opening Bid may be increased subsequently;
- Price** means the price at which the Property will be sold, being:
 - the Winning Bid on the App; or
 - if the Property does not sell during the Final Bidding Stage, any price agreed by the Bidder and Seller before noon the day following the Final Bidding Stage;
- Qualified Bidder** means a bidder who has fulfilled the requirements set out in clause 6.1.1 and has been approved by the Seller in accordance with clause 6.1.7;

5. Definitions (continued)

- 22. **Regulation** or Regulations means unless the context indicates otherwise the relevant legislation in each jurisdiction;
- 23. **Reserve Price** is the minimum amount that the Seller of the Property will accept as the Winning Bid in the Openn Negotiation;
- 24. **Sole Bidder** means a Qualified Bidder who is the only Qualified Bidder in relation to the Property (i.e. the only bidder who has submitted to the Seller's Agent Offer Terms that have been accepted by the Seller such that the bidder may take part in the Openn Negotiation);
- 25. **State** means the state or territory in which the Property is located
- 26. **Unique Identification Number** means the unique identifying number provided by the App to each Qualified Bidder to allow them to be identified in the App;
- 27. **Winning Bid** means the successful bid made in the App which will be confirmed by the Bidder or the Auctioneer (pursuant to the Limited Power of Attorney) on the Contract as the Price for which the Property will be sold and includes, if applicable, the successful bid made by the Highest Bidder or any bid made by the Sole Bidder that is accepted by the Seller;
- 28. **Property** means the Property described in clause 4 of this document.
- 5.2 If the Bidder or Seller are two or more people or entities, then they are jointly and severally bound by these Terms.
- 5.3
 - a. If any part of these Terms are unenforceable, illegal or void then that part is severed and the remainder of these Terms remain in force.
 - b. The Parties agree that the laws of the State will apply to the sale of the Property on the App (including, but not limited to, the laws that govern the sale of real property by public auction).
 - c. The Parties agree to submit to the courts of the State to determine any dispute in relation to these Terms.

6. Declaration and Terms

6.1 The Openn Negotiation Process

- 6.1.1 A Bidder must become a Qualified Bidder to participate in the Openn Negotiation Process. In order to become a Qualified Bidder, the Bidder must, prior to the final bidding stage and after inspecting the property:
 - a. download the app or visit www.openn.com.au;
 - b. access and register their details in the App;
 - c. select the Property in the App;
 - d. enter their Pending Bid in the App;
 - e. complete the Offer Terms in clause 7;
 - f. provide their contact details to the Agent.
 - g. The Offer Terms must state any and all terms that vary from those set out in the existing Contract for Sale of Land upon which the Bidder is prepared to purchase the Property, other than the proposed price.
 - h. A prospective bidder may waive their right to have the Contract for Sale of Land, Limited Power of Attorney and these Terms of Use reviewed by their solicitor/conveyancer.
 - i. If a prospective bidder waives their right to have the Contract for Sale of Land and Limited Power of Attorney and these Terms of Use reviewed by their solicitor/conveyancer, the prospective bidder becomes a Qualified Bidder upon receipt of the documents required by the Seller's Agent and approval by the Seller in accordance with clause 6.1.7.
- 6.1.2 In the Campaign Bidding Stage, other Qualified Bidders may join the negotiation process.
- 6.1.3 Throughout the Campaign Bidding Stage, any Qualified Bidder may increase their bid by providing further bids through the App.
- 6.1.4 All Qualified Bidders will be able to see all accepted bids made on the Property
- 6.1.5 The Campaign Bidding Stage finishes at the commencement of the Final Bidding Stage
- 6.1.6 The Property can only be sold to a Sole Bidder pursuant to clause 6.7
- 6.1.7 Prior to the Final Bidding Stage, the Seller will determine whether:
 - a. the conditions in each submitted Offer Terms are such that the Seller agrees to that potential Bidder being eligible to participate in the Openn Negotiation; and
 - b. if so, that potential Bidder will become a Qualified Bidder and the Sellers Agent will approve the Qualified Bidder on the App. If the then Qualified Bidder is the eventual Buyer the conditions set out in the Offer Terms as agreed by the Seller, will be incorporated into and be part of the Contract entered into by the Seller and any Qualified Bidder who has become Buyer.
- 6.2 Once the Agent approves the Qualified Bidder on the App, the App will:
 - a. send a confirmation notification to the Qualified Bidder;
 - b. show when the Final Bidding Stage will commence as provided for in clause 6.4; and
 - c. provide them with a Unique Identification Number that will be used to identify them in the App.
- 6.3 Qualified Bidders are entitled to participate in the Openn Negotiation on the basis that:
 - a. other than the Price, the Seller and Qualified Bidders are bound by the Offer Terms;
 - b. any bid made on the App using a Qualified Bidder's Unique Identification Number will be deemed to have been made by that Qualified Bidder;
 - c. during the Campaign Bidding Stage and the Final Bidding Stage the Auctioneer may determine a minimum sum by which any bid must exceed the previous bid and no bid will be accepted that does not meet that requirement;
 - d. during the Final Bidding Stage, the App will set a time limit during which Qualified Bidders may consider whether or not to place a bid;
 - e. each Qualified Bidder will compete with other Qualified Bidders such that the successful Purchaser of the Property will be the Qualified Bidder who offers the highest price at or in excess of the Reserve Price;
 - f. the Auctioneer may withdraw bids, at their complete discretion;
 - g. the Seller may not bid personally, either directly or by an agent or other representative;
 - h. Dummy Bidding and/or encouraging another party to engage in Dummy Bidding constitutes a breach of these Terms and may have serious consequences;
 - i. subject to clause 6.6, once commenced the Openn Negotiation cannot be terminated by the Seller or any other party until:
 - i. all bids are exhausted; and
 - ii. if there is one or more bids at or exceeding the Reserve Price, the bid made by the Highest Bidder will be recorded as the Winning Bid will be written on the Contract as the Price that the Bidder will purchase the Property;
 - j. the Qualified Bidder is solely responsible for the operation of the App, internet access, access to the account, and the making of each bid in the Openn Negotiation;
 - k. a co-owner of the property is also eligible to become a Co-owner Bidder and participate in the Openn Negotiation. Each Qualified bidder will be notified if a co-owner makes a bid by the letter "V" appearing directly before the Unique Identification Number of the bidder.
- 6.4 Commencement of the Final Bidding Stage
The Final Bidding Stage will commence at the date and time nominated by the Seller provided that:
 - a. the Final Bidding Stage must commence between 8.00am and 9.00pm on the standard time; and
 - b. if the date and time for the Final Bidding Stage has changed since the Qualified Bidder entered their Pending Bid, the Seller's Agent and/or the Auctioneer will use reasonable endeavours to contact that Qualified Bidder no less than 12 hours prior to the commencement of the Final Bidding Stage to advise when the Final Bidding Stage will commence.
- 6.5 Conduct of Final Bidding Stage
During the Final Bidding Stage, the Openn Negotiation will be conducted as follows:
 - a. during the Final Bidding Stage, the App will display the current highest bid. Qualified Bidders may choose to make a further bid exceeding what is then the highest bid by increments determined by the Auctioneer;
 - b. the App will display the Unique Identification Number for each Qualified Bidder and show which Qualified Bidder has made the highest bid at any point in the Final Bidding Stage;
 - c. during the Final Bidding Stage, the App will indicate:
 - i. the minimum sum by which any bid must exceed the previous bid is determined by the Auctioneer through the App; and
 - ii. the time period during which further bids may be made before the current bid is successful;
 - d. the Final Bidding Stage will proceed, with the Qualified Bidders increasing their bids, until all bids are exhausted within the time period set by the App;
 - e. the ultimate Buyer of the Property will be the Qualified Bidder who bids the highest sum at or in excess of the Reserve Price that is accepted by the Auctioneer at the Fall of the Hammer.
 - f. once commenced the Final Bidding Stage cannot be terminated by the Seller or any other party until all bids have been exhausted;
 - g. the Auctioneer may remove bids at their complete discretion if they think they are likely to have been made in error or bad faith
 - h. as soon as practicable after the App records that the Highest Bidder has made the Winning Bid, the Highest Bidder or Auctioneer (on behalf of the Highest Bidder pursuant to the Limited Power of Attorney) will complete the Contract to incorporate the Offer Terms and the Price and sign the Contract;
 - i. if any dispute arises in relation to any bid, such dispute will be determined by the Auctioneer.
 - j. the Auctioneer may also pause the time limit for making bids during the Final Bidding Stage for the purpose of taking instructions from the Seller or conferring with Qualified Bidders, and such a pause will be displayed on the App and visible to all Qualified bidders
 - k. No negotiation as to the Terms of the Contract will occur after the Bidder has been accepted as a Qualified Bidder
- 6.6 Reserve Price
The Property is offered for sale subject to a Reserve Price:
 - a. if no bid exceeds the Reserve Price in the Final Bidding Stage, the Seller is not obliged to sell the Property;
 - b. if one or more bids in the Final Bidding Stage equals or exceeds the Reserve Price, then the Seller must sell the Property to the Highest Bidder;
 - c. if none of the bids made by the Qualified Bidders equal or exceed the Reserve Price, the Seller may choose to negotiate with one or more of the Qualified Bidders to sell the Property.

6. Declaration and Terms of Use (continued)

6.7 Purchase of the Property by a Sole Bidder

The Seller may accept Offer Terms and the price made in a bid by a Qualified Bidder during the Campaign Bidding Stage without commencing the Final Bidding Stage where there is only one Qualified Bidder who (will then be the Sole Bidder), and;

- all bids by the Sole Bidder must be made through the App;
- the Seller may accept any bid made by a Sole Bidder through the App without commencing the Final Bidding Stage;
- if the Reserve Price has not yet been met, the Auctioneer must receive in writing from the Seller confirmation they will accept a lower Reserve Price;
- this bid will then become the Winning Bid with acknowledgement to the Sole Bidder of the Seller's intention to accept their bid as the Winning Bid.

The Sole Bidder or Auctioneer (on behalf of the Sole Bidder, pursuant to the Limited Power of Attorney) will complete the Contract to incorporate the Offer Terms and the Price and sign the Contract.

6.8 Purchase of the Property otherwise than during the Campaign Bidding Stage or Final Bidding Stage. If the Property does not sell during the Final Bidding Stage, but an offer is made by a Qualified Bidder that is accepted by the Seller before

by noon the following day:

- the sale must be on the Offer Terms (other than price) set out in clause 7; and
- the sale will be conducted in accordance with these Terms such that the Bidder and the Seller must record in writing the Price agreed by the Parties.

6.9 Restarting the Openn Negotiation due to technical failure:

- the Auctioneer may Suspend or withdraw the Openn Negotiation at any time during the Openn Negotiation, if:
 - they reasonably consider that a technical problem has occurred with the App such that the Openn Negotiation cannot properly proceed; or
 - they reasonably consider that one or more Qualified Bidders are experiencing difficulties with the use of the App so that the Openn Negotiation cannot properly proceed.
- If the Auctioneer cancels the Openn Negotiation in accordance with clause 6.9 above, the Seller's Agent will contact the Qualified Bidders to advise them of a new Openn Negotiation (and a new Final Bidding Stage) provided that upon the Openn Negotiation restarting in these circumstances, no Qualified Bidder will be bound by any prior bid and shall be free to recommence bidding at any amount they wish.

7. Offer Terms

The Bidder's offer to purchase the Property is subject to the following conditions which are incorporated into any Contract should the Bidder make the Winning Bid.

7.1 Deposit: \$ _____ or _____ % of which \$ _____ paid at exchange, with the balance paid within _____ business days of the exchange of contract.

7.2 Possession and/or Settlement Date _____

7.3 Finance Lender: _____

Amount required: _____

Latest Date: _____

7.4 Other special conditions: _____

The contract otherwise incorporates The Contract for Sale of Land and Section 32 set out in Annexure A.

8. Limited Power of Attorney

8.1 The Bidder irrevocably appoints the Auctioneer to be the Bidders Attorney solely to exercise the powers described below.

8.2 In the event that the Bidder makes the Winning Bid, the Auctioneer is authorised to complete and sign the Contract on behalf of the Bidder including the Offer Terms set out in clause 7 and the Winning Bid as the Price.

This general non-enduring power of attorney is made under Part 2 of the **Power of Attorneys Act 2014** and has effect as a deed. and has effect as a deed.

This general non-enduring power of attorney is made on: _____ (insert date of making)

I, _____ (insert name of person making power of attorney)

of _____ (insert address of person making power of attorney)

appoint _____ (insert name of Auctioneer)

of _____ (insert address of attorney) to be my attorney

I authorise the Auctioneer to do the following things on my behalf, in respect of the Property. If the Bidder makes the Winning Bid as the Highest Bidder or Sole Bidder for the purchase of the Property via the App:

- complete the 'particulars' page on the Contract in respect of the Property, to incorporate the Offer Terms and the Price; and
- execute the Contract in respect of the Property and exchange the Contract with the Seller of the Property.

I specify that this power of attorney begins immediately and expires automatically and without further effect after the Final Bidding Stage pursuant to clause 6.8.

8.3 The Bidder agrees to ratify and confirm anything the Auctioneer lawfully does in accordance with this clause.

8.4 The Sellers Agent and the Sellers Agents' Directors or licensed sales representatives have the right, up confirmation of the Winning Bid in the App, to accept the Highest Bidders or Sole Bidders Offer on behalf of the Seller on the Fall of the Hammer and the conclusion of the Openn Negotiation.

Signed as a deed by
(print name) _____

X

Signed as a deed by
(print name) _____

X

9. Disclaimers and limitation of liability and indemnity

9.1 Use of the App

The use of the Openn Negotiation App and all information and data provided on or through the App is entirely at the Bidders risk. The Bidder is responsible for all Bidder activity in connection with accessing and using the App. Neither the Seller, Sellers Agent, Auctioneer, Owner or Developer warrant, guarantee or make any representation that:

- the App, or the server that makes the App available on the World Wide Web are completely secure, free of software viruses, disabling code or other harmful components;
- the functions contained in any software or applications contained on or integrated with the App will operate uninterrupted or are error-free;
- any errors and defects in the App will be corrected; and
- unless expressly stated, the information provided on or through the App is suitable, reliable, accurate, current, complete or fit for any particular purpose. Unless expressly stated, the information on the App is provided for information purposes, general interest and enquiry only. Before relying on the information on the App, the Bidder should verify the accuracy of the information and consult with an appropriate professional for specific advice tailored to the Bidders situation. To the extent permitted by law, the Seller, Sellers Agent, Auctioneer, Owner and Developer exclude all liability for any loss or damage (including direct and consequential loss) arising from or in connection with:
 - the Bidders use of the App;
 - the Bidders reliance on any information provided on or through the App;
 - any delay or inability to use any part of the App; and/or
 - any failure to provide services or any information through the App.

9.2 Owners Service

- 9.2.1 The Owner does not conduct the Openn Negotiation process and the Owner:
- is not an auctioneer or real estate agent and does not claim to be;
 - does not own or offer for sale the real estate listed on the App; and
 - its role is limited to providing the App for the sale of the Property.

9.2.2 The Owner is therefore not responsible or liable:

- in the event that the Seller or Bidder fails to complete a transaction;
- for the completion of the sale;
- for the state and condition of any Property listed on the App; and/or for verifying the Property listed on the App.

9.3 Liability and Indemnity

9.3.1 The Developer, Owner, Seller's Agent, Auctioneer and their officers, directors and employees will not be held liable, in any circumstances, for any loss or damages which arise out of:

- any use, attempted use and/or any technical failure of the App;
- acting, or failing to act, on any information contained on or referred to on the App; and
- any errors or defects in the App.

9.3.2 The Qualified Bidder and the Seller release and hold harmless the Seller's Agent, Auctioneer, Owner and the Developer and their officers, directors and employees from and against all actions, suits, demands, claims, losses, damages and costs whatsoever, whether at law or in equity arising out of:

- any use, attempted use and/or any technical failure of the App;
- acting, or failing to act, on any information contained on or referred to on the App; and
- any errors or defects in the App. Users of the App will indemnify and keep indemnified the Seller's Agent, Auctioneer, the Owner and the Developer and their officers, directors and employees from and against all actions, suits, demands, claims, losses, damages and costs whatsoever, whether at law or in equity arising out of any breach of these App Terms and Conditions by You.

9.4 The Seller, Sellers Agent, Auctioneer, Owner and Developer accept no responsibility for any liability suffered by the Bidder as a result of not electing to have the Contract, Limited Power of Attorney, and these Terms reviewed by their lawyer.

10. Intellectual property

10.1 Unless otherwise indicated, the Parties acknowledge that:

- the Owner owns or is licensed to use all intellectual property (including copyright, trademarks and designs) subsisting in the content (including any graphics, images, logos, text, material, software) on the App; and
- the content on the App must not be modified, copied, reproduced, republished, framed, uploaded to a third party, posted, transmitted or distributed in any way except as expressly provided for on the App, or as expressly authorised in writing by the Owner.

11. Privacy

The Privacy Policy (available at <https://www.openn.com.au/privacy-policy>) forms part of these Terms.

By using the App, the Bidder and Seller consent to the collecting, handling and using personal information in accordance with the Privacy Policy.

12. Termination of access

The Seller, Seller Agent, Auctioneer, Owner, Developer may terminate access to the App at any time without giving any explanation or justification for the termination of access. None of them are liable to the Bidder for any costs, losses or damages of any kind arising as a consequence of terminating access to the App.

Bidders Declaration

The BIDDER:

- confirms that if the Bidder is the purchaser of the Property, they confirm their agreement for the sale and settlement of the Contract for the Property;
- confirms they understand and agree that the Contract will be subject only to the Offer Terms set out in clause 7 and there is no cooling off period;
- the Bidder confirms they have received, prior to signing this document, a copy of the section 32 statement signed by the Seller in respect of the Property; and
- warrants that they have had an opportunity to obtain independent legal advice in relation to this document and the Contract.

Bidder's Signature

X

Dated: _____

Bidder's Signature

X

Dated: _____

Seller/s Declaration

In the event the Seller is unable to be present at the location from where the Seller's Agent and/or Auctioneer is conducting this sale, the Seller:

- confirms that they are the Seller of the Property and confirm their agreement for the sale and settlement of the Contract for the Property;
- confirm their instructions to nominate, authorise and direct the Seller Agent to complete the details of the Contract to incorporate the Offer Terms made by the Highest Bidder or any Sole Bidder who has made the Winning Bid, including the Price;
- confirm their instructions to nominate, authorise and direct the Seller Agent to execute the Contract on the Seller's behalf; and
- warrant they will not engage in Dummy Bidding.

Seller's Signature

X

Dated: _____

Seller's Signature

X

Dated: _____

Jason Adam Midgley and Bridget Ellen Midgley

Vendor's Statement

Property: Unit 1, 4 Belcher Street, Herne Hill VIC 3218



Vendor's Statement to the Purchaser of Real Estate Pursuant to Section 32 of the Sale of Land Act 1962 (act)

Vendor	Jason Adam Midgley and Bridget Ellen Midgley
Property	Unit 1, 4 Belcher Street, Herne Hill VIC 3218

32A FINANCIAL MATTERS

Information concerning any rates, taxes, charges or other similar outgoings AND any interest payable on any part of them is contained in the attached certificate/s and/or as follows-

Provider	Amount (& interest if any)	Period
City of Greater Geelong	Per the attached certificate	Per annum
Barwon Water	Per the attached certificate	Per quarter
Land Tax (if applicable)	TBA	Per annum

Any further amounts (including any proposed Owners Corporation Levy) for which the Purchaser may become liable as a consequence of the purchase of the property are as follows:- None to the Vendors Knowledge

Their total does not exceed \$4,500.00

At settlement the rates will be adjusted between the parties, so that they each bear the proportion of rates applicable to their respective periods of occupancy in the property.

32A(b) The particulars of any Charge (whether registered or not) over the land imposed by or under an Act to secure an amount due under that Act, including the amount owing under the charge are as follows:- None to the Vendors Knowledge

32B INSURANCE

(a) Where the Contract does not provide for the land to remain at the risk of the Vendor, particulars of any policy of insurance maintained by the Vendor in respect of damage to or destruction of the land are as follows: - No such Insurance has been effected to the Vendors Knowledge.

(b) Where there is a residence on the land which was constructed within the preceding six years, and section 137B of the *Building Act 1993* applies, particulars of the required insurance are as follows:-
Not Applicable

32C LAND USE

(a) RESTRICTIONS

Information concerning any easement, covenant or similar restriction affecting the land (whether registered or unregistered) is as follows:-

- Easements affecting the land are as set out in the attached copies of title.
- Covenants affecting the land are as set out in the attached copies of title.
- Other restrictions affecting the land are as attached.
- Particulars of any existing failure to comply with the terms of such easement, covenant and/or restriction are as follows:-

To the best of the Vendor's knowledge there is no existing failure to comply with the terms of any easement, covenant or similar restriction affecting the land. The Purchaser should note that there may be sewers, drains, water pipes, underground and/or overhead electricity cables, underground and/or overhead telephone cables and

underground gas pipes laid outside any registered easements and which are not registered or required to be registered against the Certificate of Title.

(b) BUSH FIRE PRONE AREAS - as shown on the Certificate issued by the Department of Planning and Community Development attached to this Statement.

(c) ROAD ACCESS

There is access to the Property by Road.

(d) PLANNING

Planning Scheme: Planning Scheme

Responsible Authority:

Zoning & Planning Overlay/s: See attached certificate/s

32D NOTICES

(a) Particulars of any Notice, Order, Declaration, Report or recommendation of a Public Authority or Government Department or approved proposal directly and currently affecting the land of which the Vendor might reasonably be expected to have knowledge are:- None to the Vendors knowledge however the Vendor has no means of knowing all decisions of the Government and other authorities unless such decisions have been communicated to the Vendor

(b) Notices, Property Management Plans, Reports or Orders in respect of the land issued by a Government Department or Public Authority in relation to livestock disease or contamination by agricultural chemicals affecting the ongoing use of the land for agricultural purposes. None to the Vendors Knowledge

(c) Particulars of any Notice of intention to acquire served under Section 6 of the *Land Acquisition and Compensation Act, 1986* are: Not Applicable

32E BUILDING PERMITS

Particulars of any Building Permit issued under the *Building Act 1993* during the past seven years (where there is a residence on the land):-

No such Building Permit has been granted to the Vendors knowledge.

32F OWNERS CORPORATION

The Owners Corporation in respect of the land is INACTIVE. It has not, in the past 15 months, had an Annual General Meeting, fixed any fees or held any insurance.

32G GROWTH AREAS INFRASTRUCTURE CONTRIBUTION (GAIC)

(1) The land, in accordance with a work-in-kind agreement (within the meaning of Part 9B of the *Planning and Environment Act 1987*) is NOT -

- land that is to be transferred under the agreement.
- land on which works are to be carried out under the agreement (other than Crown land).
- land in respect of which a GAIC is imposed

32H SERVICES

Service	If ticked – Service not connected
Electricity supply	<input type="checkbox"/>
Gas supply	<input type="checkbox"/>
Water supply	<input type="checkbox"/>
Sewerage	<input type="checkbox"/>
Telephone services	<input checked="" type="checkbox"/>

Connected indicates that the service is provided by an authority and operating on the day of sale. The Purchaser should be aware that the Vendor may terminate their account with the service provider before settlement, and the purchaser will have to have the service reconnected.

32I REPRESENTATIONS AND ACKNOWLEDGEMENTS

The Vendor makes no representations in relation to the condition of the property and the Purchaser relies upon the Purchaser's own enquiries and inspections. Where the property includes a swimming pool or spa the Purchasers acknowledge that the Purchasers have made their own enquiries in relations to the obligations of owners of pools and spas under the *Building Act 1993* and the *Building Regulations* created under the *Building Act 1993* and have not relied on any representations made by the Vendor or the Vendors Agent.

32J TITLE

Attached are the following document/s concerning Title:

- In the case of land under the *Transfer of Land Act 1958* a copy of the Register Search Statement/s and the document/s, or part of the document/s, referred to as the diagram location in the Register Search Statement/s that identifies the land and its location.

Certificate of Title Volume 11417 Folio 248

Plan of Subdivision Lot: 1 on PS712549C

32K TENANCY

Not Applicable

32L SUBDIVISION

32L (1) **Unregistered Subdivision**

This Section 32L(1) only applies if the land is subject to a subdivision which is not registered

Not Applicable

32L(2) **Staged Subdivision**

This Section 32L(2) only applies if the Land is part of a staged subdivision within the meaning of Section 37 of the *Subdivision Act 1988*

Not Applicable

32L(3) **Further Plan of Subdivision**

This Section 32L(3) only applies if the land is subject to a subdivision in respect of which a further plan within the meaning of the *Subdivision Act 1988* is proposed.

Not Applicable

32M DISCLOSURE OF ENERGY INFORMATION

(Disclosure of this information is not required in Section 32 of the Sale of Land Act but may be included in this Vendor Statement for Convenience)

Details of any energy efficient information required to be disclosed regarding a disclosure affected building or disclosure affected area of a building as defined by the *Building Energy Efficiency Disclosure Act 2010* (Cth)

(a) To be a building or part of a building used or capable of being used as an office for administrative, clerical, professional or similar based activities including any support facilities; and

(b) Which has a net lettable area of at least 2000m², (but does not include a building under a strata title system or if an occupancy permit was issued less than 2 years before the relevant date):

Not Applicable

32N DUE DILIGENCE CHECKLIST

(the Sale of Land Act 1962 provides that the Vendor or the Vendor's Licenced Estate Agent make a prescribed due diligence checklist available to the purchasers before offering land for sale that is vacant residential land or land on which there is a residence. The due diligence checklist is not required to be provided with, or attached to, this Vendor Statement but the checklist may be attached as a matter of convenience)

Is attached

32O SMOKE ALARMS

The Purchaser is to note that all dwellings and or units are required to be fitted with self-contained smoke alarms in accordance with Regulation 5.14 of the *Building Regulations 1994* within 30 days after:

(a) In the case of a Contract of Sale other than a Terms Contract (as defined in Section 2 of the *Sale of Land Act 1962*) the date of completion of the Contract; and

(b) In the case of a Terms Contract, the Purchaser becomes entitled to possession or to the receipts and profits under the Contract.

32P SWIMMING POOLS AND SPAS

If the property includes a swimming pool and/or a spa (as defined by *Building Regulations 1994*) that requires the provision of suitable barriers pursuant to *Regulation 5.13* of the said Regulations, it is agreed that the Purchaser shall pay the cost of complying with such Regulation and shall indemnify and keep indemnified the Vendor against any such cost.

(a) In the case of a Contract of Sale other than a Terms Contract (as defined in Section 2 of the *Sale of Land Act 1962*) the date of completion of the Contract; and

(b) In the case of a Terms Contract, the Purchaser becomes entitled to possession or to the receipts and profits under the Contract.

Vendors Acknowledgement

Upon signing this Vendor Statement, I agree that this Section 32 statement and the documents contained here (including the Register Search Statement) must be updated at the expiration of six calendar months from the date of the Register Search Statement disclosed in this statement. I will not hold Regional Conveyancing, or any subsidiary of Regional Conveyancing, liable if the Vendors Statement has not been updated or if it is used by any Real Estate Agent other than the one to whom it is first forwarded to by Regional Conveyancing.

I confirm that this Statement has been printed solely in accordance with my instructions and from the information and documents provided or approved by me are true and correct. I undertake that I will exercise all possible diligence and provide full and honest disclosure or all relevant information of which I am aware or might reasonably be expected to be aware of. I am aware that Regional Conveyancing have only been retained to construct this document in accordance with my instructions and the information and documents provided to them or approved by me.

I certify that I am not aware of:-

- a) Any variation between the said land held in my proprietorship and the land described in the Certificate of Title/s;
- b) Any registered or unregistered encumbrances not disclosed in this document;
- c) Any failure to obtain any necessary planning, building or other permits;
- d) The property being affected by any environmental, landslip, mining, flooding, fill, latent defects, bushfire attack or historical significance issues;
- e) Any contingent or proposed liabilities affecting any Owners Corporation including any relating to the undertaking of repairs to the property;
- f) My occupation of any adjacent land which is not contained in the land being sold
- g) Any buildings erected over any easements;
- h) Any rights over any other land (ie: a roadway or walkway) other than those disclosed herein and;
- i) Any proposal in relation to any other land which may directly and currently affect the property being sold.

I acknowledge that I have read this statement, all documents and the representations and warranties given by me in lieu of requisitions and I accept sole responsibility for the accuracy of all the information and documents and for providing or omitting all or any of the information, conditions, Titles, notices or documents including, but without limiting the generality of the foregoing, any information, conditions, Titles or documents required or that later may be deemed to be required by Section 32 of the Sale of Land Act 1996 as amended and/or any other Act or regulation.

Insurance

I, the Vendor, undertake to keep the property and all improvements thereon, and therein, fully insured for their full replacement value (new for old) until the final settlement of any sale of the property.

DATE OF THIS STATEMENT

/ /20

Name of the Vendor

Jason Adam Midgley and Bridget Ellen Midgley

Signature/s of the Vendor

x

The Purchaser acknowledges being given a duplicate of this statement signed by the Vendor before the Purchaser signed any contract.

DATE OF THIS ACKNOWLEDGMENT

	/		/20	
--	---	--	-----	--

Name of the Purchaser

--

Signature/s of the Purchaser

x

IMPORTANT NOTICE - ADDITIONAL DISCLOSURE REQUIREMENTS

Undischarged mortgages - S32A(a)

Where the land is to be sold subject to a mortgage (registered or unregistered) which is not to be discharged before the purchaser becomes entitled to possession or receipt of rents and profits, then the vendor must provide an additional statement including the particulars specified in Schedule 1 of the *Sale of Land Act 1962*.

Terms contracts - S32A(d)

Where the land is to be sold pursuant to a terms contract which obliges the purchaser to make two or more payments to the vendor after execution of the contract and before the vendor is entitled to a conveyance or transfer, then the vendor must provide an additional statement containing the information specified in Schedule 2 of the *Sale of Land Act 1962*.

Due diligence checklist

What you need to know before buying a residential property

Before you buy a home, you should be aware of a range of issues that may affect that property and impose restrictions or obligations on you, if you buy it. This checklist aims to help you identify whether any of these issues will affect you. The questions are a starting point only and you may need to seek professional advice to answer some of them. You can find links to organisations and web pages that can help you learn more, by visiting the [Due diligence checklist page on the Consumer Affairs Victoria website](http://consumer.vic.gov.au/duediligencechecklist) (consumer.vic.gov.au/duediligencechecklist).

Urban living

Moving to the inner city?

High density areas are attractive for their entertainment and service areas, but these activities create increased traffic as well as noise and odours from businesses and people. Familiarising yourself with the character of the area will give you a balanced understanding of what to expect.

Is the property subject to an owners corporation?

If the property is part of a subdivision with common property such as driveways or grounds, it may be subject to an owners corporation. You may be required to pay fees and follow rules that restrict what you can do on your property, such as a ban on pet ownership.

Growth areas

Are you moving to a growth area?

You should investigate whether you will be required to pay a growth areas infrastructure contribution.

Flood and fire risk

Does this property experience flooding or bushfire?

Properties are sometimes subject to the risk of fire and flooding due to their location. You should properly investigate these risks and consider their implications for land management, buildings and insurance premiums.

Rural properties

Moving to the country?

If you are looking at property in a rural zone, consider:

Is the surrounding land use compatible with your lifestyle expectations? Farming can create noise or odour that may be at odds with your expectations of a rural lifestyle.

Are you considering removing native vegetation? There are regulations which affect your ability to remove native vegetation on private property.

Do you understand your obligations to manage weeds and pest animals?

Can you build new dwellings?

Does the property adjoin crown land, have a water frontage, contain a disused government road, or are there any crown licences associated with the land?

Is there any earth resource activity such as mining in the area?

You may wish to find out more about exploration, mining and quarrying activity on or near the property and consider the issue of petroleum, geothermal and greenhouse gas sequestration permits, leases and licences, extractive industry authorisations and mineral licences.

Soil and groundwater contamination

Has previous land use affected the soil or groundwater?

You should consider whether past activities, including the use of adjacent land, may have caused contamination at the site and whether this may prevent you from doing certain things to or on the land in the future.

Land boundaries

Do you know the exact boundary of the property?

You should compare the measurements shown on the title document with actual fences and buildings on the property, to make sure the boundaries match. If you have concerns about this, you can speak to your lawyer or conveyancer, or commission a site survey to establish property boundaries.

Planning controls

Can you change how the property is used, or the buildings on it?

All land is subject to a planning scheme, run by the local council. How the property is zoned and any overlays that may apply, will determine how the land can be used. This may restrict such things as whether you can build on vacant land or how you can alter or develop the land and its buildings over time.

The local council can give you advice about the planning scheme, as well as details of any other restrictions that may apply, such as design guidelines or bushfire safety design. There may also be restrictions - known as encumbrances - on the property's title, which prevent you from developing the property. You can find out about encumbrances by looking at the section 32 statement.

Are there any proposed or granted planning permits?

The local council can advise you if there are any proposed or issued planning permits for any properties close by. Significant developments in your area may change the local 'character' (predominant style of the area) and may increase noise or traffic near the property.

Safety

Is the building safe to live in?

Building laws are in place to ensure building safety. Professional building inspections can help you assess the property for electrical safety, possible illegal building work, adequate pool or spa fencing and the presence of asbestos, termites, or other potential hazards.

Building permits

Have any buildings or retaining walls on the property been altered, or do you plan to alter them?

There are laws and regulations about how buildings and retaining walls are constructed, which you may wish to investigate to ensure any completed or proposed building work is approved. The local council may be able to give you information about any building permits issued for recent building works done to the property, and what you must do to plan new work. You can also commission a private building surveyor's assessment.

Are any recent building or renovation works covered by insurance?

Ask the vendor if there is any owner-builder insurance or builder's warranty to cover defects in the work done to the property.

Utilities and essential services

Does the property have working connections for water, sewerage, electricity, gas, telephone and internet?

Unconnected services may not be available, or may incur a fee to connect. You may also need to choose from a range of suppliers for these services. This may be particularly important in rural areas where some services are not available.

Buyers' rights

Do you know your rights when buying a property?

The contract of sale and section 32 statement contain important information about the property, so you should request to see these and read them thoroughly. Many people engage a lawyer or conveyancer to help them understand the contracts and ensure the sale goes through correctly. If you intend to hire a professional, you should consider speaking to them before you commit to the sale. There are also important rules about the way private sales and auctions are conducted. These may include a cooling-off period and specific rights associated with 'off the plan' sales. The important thing to remember is that, as the buyer, you have rights.

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

Page 1 of 2

VOLUME 11417 FOLIO 248

Security no : 124085378739C
Produced 08/09/2020 04:03 PM

LAND DESCRIPTION

Lot 1 on Plan of Subdivision 712549C.
PARENT TITLE Volume 08126 Folio 641
Created by instrument PS712549C 23/04/2013

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
JASON ADAM MIDGLEY of UNIT 1 4 BELCHER STREET HAMLYN HEIGHTS VIC 3215
AL209802G 07/07/2014

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AL209803E 07/07/2014
COMMONWEALTH BANK OF AUSTRALIA

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

AGREEMENT Section 173 Planning and Environment Act 1987
AK246550G 20/03/2013

DIAGRAM LOCATION

SEE PS712549C FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: UNIT 1 4 BELCHER STREET HAMLYN HEIGHTS VIC 3215

ADMINISTRATIVE NOTICES

NIL

eCT Control 15940N CBA - COMMONWEALTH BANK OF AUSTRALIA
Effective from 23/10/2016

OWNERS CORPORATIONS

The land in this folio is affected by
OWNERS CORPORATION 1 PLAN NO. PS712549C

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

Page 2 of 2

DOCUMENT END

Where a charge is allocated for a Land Index search, there is no delivery of any type of certificate or document.
It is listed as a certificate for charging purposes only.

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Document Type	Plan
Document Identification	PS712549C
Number of Pages (excluding this cover sheet)	2
Document Assembled	08/09/2020 20:17

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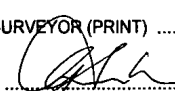
PLAN OF SUBDIVISION		Stage No. /	LRS use only EDITION 1	PS712549C
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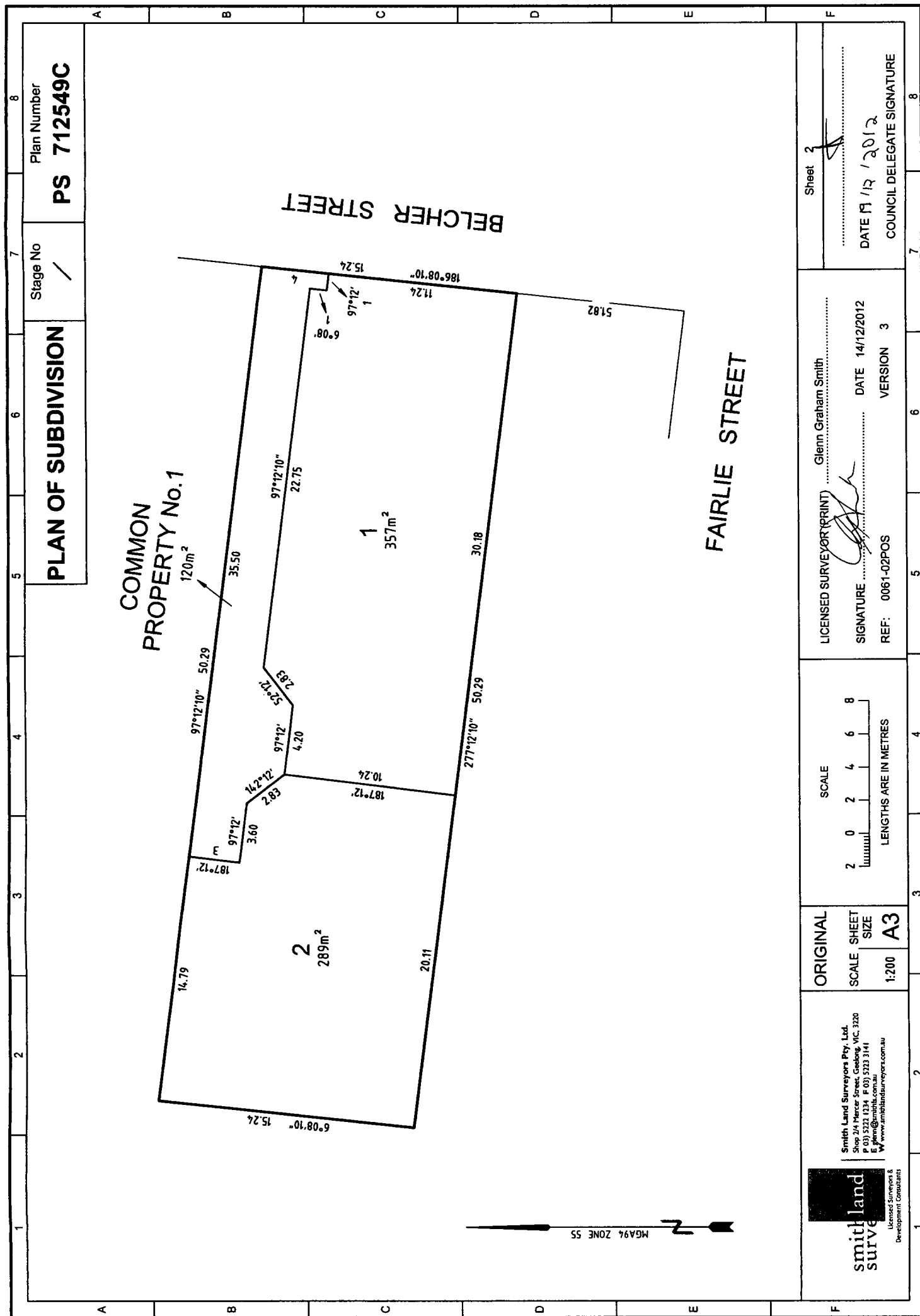
Location of Land Parish: MOORPANYAL Township: - Section: A Crown Allotment: - Crown Portion: 2 (PART) Title References C/T VOL 8126 FOL 641 Last Plan Reference: LOT 113 ON LP29199 Postal Address: 4 BELCHER STREET (At time of subdivision) HAMLYN HEIGHTS MGA Co-ordinates: E 265 480 (Of approx. centre of plan) N 5 777 020 Zone 55	<div style="text-align: center;">Council Certification and Endorsement</div> Council Name: CITY OF GREATER GEELONG Ref: 1. This Plan is certified under Section 6 of the Subdivision Act 1988. 2. This plan is certified under section 11(7) of the Subdivision Act 1988 Date of original certification under section 6/...../..... 3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988. PUBLIC OPEN SPACE (i) A requirement for public open space under Section 18 Subdivision Act 1988 has / has not been made. (ii) The requirement has / has not been satisfied. (iii) The requirement is to be satisfied in Stage- (iv) The requirement has been satisfied for Council delegate Council seal Date 19/12/2012  Re-certified under section 11(7) of the Subdivision Act 1988. Council delegate Council seal Date / /
---	--

Vesting of Roads or Reserves	
Identifier	Council/Body/Person

Notations	
Depth Limitations: DOES NOT APPLY	Staging: This is not a staged subdivision Planning permit No. 738/2012
LOTS ON THIS PLAN MAY BE AFFECTED BY ONE OR MORE OWNERS CORPORATIONS. For Details of Owners Corporation(s) including: purpose, responsibility and entitlement and liability, see Owners Corporation search report, Owners Corporation rules and Owners Corporation additional information.	Survey: This plan is based on survey This survey has been connected to permanent mark no(s). 406 in Proclaimed Survey Area no. -

Easement Information					LRS use only Statement of compliance/ Exemption Statement Received <input checked="" type="checkbox"/> Date: 15/04/2013 LRS use only PLAN REGISTERED TIME 4:45 PM Date: 23/04/2013 D. Popec Assistant Registrar of Titles. Sheet 1 of 2 Sheets
Legend: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)					
Section 12(2) of the Subdivision Act 1988 applies to all the land in this plan					
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of	

 Smith Land Surveyors Pty. Ltd. Shop 2/4 Mercer Street, Geelong, VIC. 3220 P 03) 5222 1234 F 03) 5223 3141 E glenn@smiths.com.au W www.smithlandsurveyors.com.au	LICENSED SURVEYOR (PRINT) Glenn Graham Smith SIGNATURE  DATE 14/12/2012 REF: 0061-02POS VERSION 3	DATE 19/12/2012 COUNCIL DELEGATE SIGNATURE  Original sheet size A3
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Imaged Document Cover Sheet

The document following this cover sheet is an imaged document supplied by LANDATA®, Victorian Land Registry Services.

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Document Identification	AK246550G
Number of Pages (excluding this cover sheet)	9
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Form 18

Section 181

**APPLICATION BY A RESPONSIBLE AUTHORITY FOR THE
MAKING OF A RECORDING OF AN AGREEMENT**

Planning and Environment Act 1987

Lodged at the Land Titles Office by:

Name: Harwood Andrews Lawyers
Phone: 5225 5225
Address: 70 Gheringhap Street, Geelong, 3220
DX 22019 Geelong
Ref: 7CMM:21206599
Customer Code: 2235J

The Authority having made an agreement referred to in section 181(1) of the **Planning and Environment Act 1987** requires a recording to be made in the Register for the land.

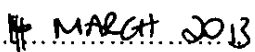
Land: Certificate of title volume 8126 folio 641
Authority: Greater Geelong City Council of 30 Gheringhap Street, Geelong 3220.

Section and Act under which agreement made: Section 173 of the Planning and Environment Act 1987.

A copy of the agreement is attached to this application.


.....
Signature for the Authority:


.....
Name of Officer and position held:


.....
Date:

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PLANNING AND ENVIRONMENT ACT 1987

SECTION 173 AGREEMENT

BETWEEN

GREATER GEELONG CITY COUNCIL

- and -

CHRISTOPHER JAMES CARSON

in relation to

land at:

4 Belcher Street, Hamlyn Heights

Harwood Andrews Pty Ltd
ABN 98 076 868 034
70 Gheringhap Street, Geelong 3220, Victoria, Australia
DX 22019 Geelong
PO Box 101 Geelong Vic 3220

Telephone: 03 5225 5225 Facsimile: 03 5225 5222

AK246550G



THIS AGREEMENT is made the 12 day of February 2013

BETWEEN

1. **GREATER GEELONG CITY COUNCIL** of 30 Gheringhap Street, Geelong in the State of Victoria (the "Responsible Authority") and
2. **CHRISTOPHER JAMES CARSON** of 90 Fraser Avenue, Anglesea in the said State (the "Owner"):

RECITALS:

- R.1. The Owner is the registered proprietor of the land known as 4 Belcher Street, Hamlyn Heights in the said State, being the land contained in Certificate of Title Volume 8126 folio 641 and being more particularly described as Lot 113 on Plan of Subdivision 29199 (the "Land").
- R.2. The Council is Responsible Authority for the administration and enforcement of the Planning Scheme pursuant to the provisions of the Act.
- R.3. The Council issued planning permit number 738/2012 on 11 October 2012 allowing construction of a second dwelling and a two lot subdivision generally in accordance with the endorsed plans (the "Permit").
- R.4. The relevant conditions of the Permit provides as follows:

"10. *Unless otherwise approved in writing by the Responsible Authority, prior to the issue of Statement of Compliance:*

a) -

or

b) *The owner of the land must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 which provides for all development to be in accordance with the endorsed plans forming part of Planning Permit 738/2012 (or any amendment to that permit) or any subsequent Planning Permit.*

The owner must pay the costs of preparation, review, execution and registration of the agreement and the agreement must be registered on the newly created title/s. The Section 173 Agreement may be ended by the Responsible Authority at the written request of the owner and at no cost to Council."

12. *Prior to the occupation of the dwellings/statement of compliance, the developer must construct:*

a) *The site stormwater system including connections for each unit/lot into the kerb and channel in Belcher Street other nominated point/s as approved by the Responsible Authority and no storm water shall drain or discharge from the land to adjoining properties. The stormwater connection must be in accordance with City of Greater Geelong Standard Drawings.*

b) *concrete vehicular crossings in accordance with the requirements and standards of the City of Greater Geelong. A Vehicle Crossing Permit must be obtained prior to commencement of works. Any redundant vehicular crossings must be removed, kerb and channel reinstated and the footpath/nature strip area reinstated to match existing construction in the street.*

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13. *Prior to the occupation of the dwellings/statement of compliance, the common property access road within the subdivision shall be constructed to an approved pavement design, layout and width and then maintained to the satisfaction of the Responsible Authority.*
14. *Prior to the issuing of Statement of Compliance for the development hereby approved, unless otherwise as approved by the Responsible Authority, evidence shall be provided to Council that shows the design for the drainage system complies with the relevant City of Greater Geelong Standards, Australian Rainfall and Runoff, Australian Standards (in particular AS 3500), WSUD Engineering Procedures: Stormwater-CSIRO, and any other approved technical publications relevant to the development, demonstrating that the system caters for the development in accordance with the following design criteria:*
- a) *Site run-off shall be limited to equivalent pre-developed levels for rainfall events up to and including the critical 10 year ARI event;*
 - b) *An appropriate on site detention system shall be designed and installed to limit site run-off to designated levels;*
 - c) *Runoff from this development shall be treated to achieve current best practice pollutant removal targets by connection to an appropriate Water Treatment Facility, with capacity to treat at least a 3 month ARI storm event, unless approved otherwise by the Responsible Authority. The Water Treatment Facility must be maintained to the satisfaction of the Responsible Authority.*
- R.5. The Council has agreed to issue Statement of Compliance for the subdivision approved under the Permit prior to the construction of such engineering works on the basis that the Owner enter into this agreement to secure a timeframe for delivery of those works.
- R.6. This Agreement is entered into between the Council as Responsible Authority and the Owner pursuant to section 173 of the Act in order to meet the requirements of condition 10 of the Permit, and the requirements with respect to the construction of engineering works in accordance with the Permit, and to achieve the objectives of planning in Victoria.

IT IS AGREED AS FOLLOWS:

Definitions

1. In this Agreement unless inconsistent with the context or subject matter:
- 1.1. "Act" means the *Planning and Environment Act 1987*;
 - 1.2. "Agreement" means this Agreement and any agreement executed by the parties varying or expressed to be supplemental to this Agreement;
 - 1.3. "Council" means the municipal council of Greater Geelong within the meaning of the *Local Government Act 1989*;
 - 1.4. "Infrastructure Design Manual" means the manual prepared by the Council entitled *Infrastructure Design Manual*, Version 3, dated September 2010.
 - 1.5. "Land" means the land described in Recital R.1;
 - 1.6. "Mortgagee" means the person or persons registered or entitled from time to time to be registered by the Register of Titles as Mortgagee of the Land or any part of it;

- 1.7. "Owner" means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as the proprietor or proprietors of an estate in fee simple of the Land or any part thereof, and includes a Mortgagee in possession;
- 1.8. "party or parties" means the Owner and the Responsible Authority under this Agreement as appropriate;
- 1.9. "Permit" means the planning permit issued by the Responsible Authority described in Recital R.3;
- 1.10. "Planning Scheme" means the Greater Geelong Planning Scheme and any successor instrument or other planning scheme which applies to the Land;
- 1.11. "Responsible Authority" means Greater Geelong City Council as the authority responsible for administering and enforcing the Planning Scheme and includes its agents, officers, employees, servants, workers and contractors and any subsequent person or body which is the responsible authority for the Planning Scheme; and
- 1.12. "Tribunal" means the Victorian Civil and Administrative Tribunal or any successor tribunal, court, institution or body.

Interpretation

2. In the interpretation of this Agreement unless inconsistent with the context or subject matter:

- 2.1. The singular includes the plural and the plural includes the singular;
- 2.2. A reference to a gender includes a reference to all other genders;
- 2.3. Words (including defined expressions) denoting persons will be deemed to include all trusts, bodies and associations, corporate or unincorporated, and vice versa;
- 2.4. A reference to a person includes a reference to a firm, corporation, association or other entity and their successors in law;
- 2.5. If a party consists of more than one person this Agreement binds them jointly and each of them severally;
- 2.6. A reference to a statute includes any statute amending, consolidating or replacing that statute and includes any subordinate instruments made under that statute;
- 2.7. The Recitals to this Agreement are and will be deemed to form part of this Agreement including any terms defined within the Recitals;
- 2.8. References to the parties will include their transferees, heirs, assigns, and liquidators, executors and legal personal representatives as the case may be;
- 2.9. Reference to a document or agreement includes reference to that document or agreement as changed, novated or replaced from time to time; and
- 2.10. Where a word or phrase is given a definite meaning in this Agreement, a part of speech or other grammatical form for that word or phrase has a corresponding meaning.

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Specific Obligations of the Owner

3. The Owner covenants, acknowledges and agrees with Council that:

- 3.1 All development on the Land shall be in accordance with the endorsed plans forming part of the Permit (or any amendment to the Permit) or any subsequent planning permit issued by the Council.
- 3.2 Prior to the construction of the development under the Permit being at a stage which is at 90% completion to Council's satisfaction, the Owner must ensure that the following engineering infrastructure works are completed in accordance with the Permit and to the satisfaction of the Council:
 - i) the site stormwater system, including connections for each lot on the Land into either the kerb and channel in Belcher Street, or some other nominated point/s as approved by the Council;
 - ii) vehicular crossings in accordance with the requirements and standards of the Council;
 - ii) removal of any redundant vehicular crossings;
 - iv) reinstating of kerb and channel and the footpath/nature strip area to replicate existing conditions in Belcher Street; and
 - v) the common property access road.
- 3.3 The site stormwater connection to be constructed in accordance with clause 3.2(i) of this Agreement must:
 - i) be designed in accordance with the standard drawings contained within the Infrastructure Design Manual; and
 - ii) be designed and installed such that the site stormwater discharge is not increased by the development approved under the Permit.
- 3.4 Prior to the construction of the development under the Permit being at a stage which is at 90% completion to Council's satisfaction, it will submit to Council plans which demonstrate that the stormwater drainage system to be installed upon the Land pursuant to the Permit accords with the following design criteria:
 - i) Site stormwater run-off for rainfall events up to and including the critical 10 year ARI event is limited to levels equivalent to those prior to construction of development under the Permit;
 - ii) An appropriate on site stormwater detention system must be designed and installed which limits site run-off to levels designated by the Council; and
 - iii) Stormwater runoff from the Land is treated to achieve current best practice pollutant removal targets by connection to an appropriate water treatment facility which has a capacity to treat at least a three month ARI storm event, unless otherwise approved by the Council.
- 3.5 The water treatment facility to be installed upon the Land in accordance with the Permit and clause 3.4(iii) of this Agreement must be maintained to the satisfaction of the Council.

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Further Covenants of the Owner

4. The Owner warrants and covenants with the Responsible Authority that:

- 4.1. He is the registered proprietor (or entitled to be so) of the Land;
- 4.2. Save as shown in the certificate of title to the Land, there are no mortgages, liens, charges, easements or other encumbrances or any rights inherent in any person affecting the Land or any part thereof and not disclosed by the usual searches;
- 4.3. Neither the Land nor any part of it is subject to any right obtained by adverse possession or subject to any easements, rights or encumbrances mentioned in section 42 of the *Transfer of Land Act 1958* (Vic);
- 4.4. He has not entered into any contract of sale or lease in respect of the Land or any part thereof which option, contract or lease is still subsisting;
- 4.5. He will not sell, transfer, dispose of, assign, mortgage or otherwise part with possession of the Land or any part thereof without first providing to its successors a copy of this Agreement;
- 4.6. He will within 28 days of written demand pay to the Responsible Authority the Responsible Authority's reasonable costs (including legal costs) and expenses of and incidental to the preparation, execution and registration of this Agreement. To the extent that such costs and expenses constitute legal professional costs, the Responsible Authority may at its absolute discretion have these costs assessed by the Law Institute of Victoria and in that event the parties shall be bound the amount of that assessment, with any fee for obtaining such an assessment being borne equally by the Responsible Authority and the Owner. Such costs payable by the Owner shall include the costs and disbursements associated with the registration of this Agreement on the titles and the removal therefrom;
- 4.7. He will do all that is necessary to enable the Responsible Authority to make an application to the Registrar of Titles to make a recording of this Agreement on the Certificate of Title to the Land in accordance with Section 181 of the Act, including the signing of any further agreement, acknowledgment or other document; and
- 4.8. Until such time as this Agreement is registered on the certificate of title to the Land, he will ensure that successors in title will give effect to this Agreement, and do all acts and sign all documents which will require those successors to give effect to this Agreement, including executing a deed agreeing to be bound by the terms of this Agreement.

Further assurance

5. The parties to this Agreement shall do all things necessary (including signing any further agreement, acknowledgement or document) to give full effect to the terms of this Agreement and to enable the Responsible Authority to register this Agreement on the titles to the Land in accordance with the Act.

Amendment

6. This Agreement may be amended only in accordance with the requirements of the Act.

No waiver

7. No waiver by any party of any default in the strict and literal performance of or compliance with any provision, condition or requirement in this Agreement will be deemed to be a waiver of strict and literal performance of and compliance with any other provision, condition or

requirement of this Agreement nor to be a waiver of or in any way release any party from compliance with any provision, condition or requirement in the future nor will any delay or omission of any party to exercise any right under this Agreement in any manner impair the exercise of such right accruing to it thereafter.

No Fettering of Powers of Responsible Authority

8. The parties acknowledge and agree that this Agreement does not fetter or restrict the power or discretion of the Responsible Authority to make any decision or impose any requirements or conditions in connection with the granting of any planning approval or certification of any plans of subdivision applicable to the Land or relating to any use or development of the Land.

Notices

9. All notices and other communications under this Agreement will be sent by prepaid mail, by hand delivery, email or by facsimile to the addresses of the parties as specified in this Agreement or to such other address or person as any party may specify by notice in writing to the other party or parties, and may be sent by an agent of the party sending the notice. Each notice or communication will be deemed to have been duly received:
- 9.1. not later than two business days after being deposited in the mail with postage prepaid;
 - 9.2. when delivered by hand;
 - 9.3. if sent by email upon production of a delivery confirmation report received by the sender which records the time the email was delivered unless the sender received a delivery failure notification; or
 - 9.4. if sent by facsimile transmission upon completion of that transmission and production of a transmission report stating that the facsimile was sent to the addressee's facsimile number.

Costs on Default

10. If the Owner defaults in the performance of any obligations under this Agreement it will pay to the Responsible Authority its reasonable costs of action taken to achieve compliance with this Agreement.

Jurisdiction

11. This Agreement will be governed by and construed in accordance with the law of the State of Victoria and each of the parties hereby submits to the jurisdiction of the Courts of the State of Victoria and the Victorian Civil and Administrative Tribunal.

Invalidity of any Clause

12. Notwithstanding anything to the contrary in this Agreement, if any provision of this Agreement will be invalid and not enforceable in accordance with its terms, all other provisions which are self-sustaining and capable of separate enforcement without regard to the invalid provisions and will be and continue to be valid and enforceable in accordance with those terms.

Agreement Binding on Successors of Owners

13. This Agreement will extend to and bind the Owner's successors, assigns, administrators, transferees and legal personal representatives and the obligations imposed upon them shall also be binding on their successors, transferees, purchasers, mortgagees and assigns as if each of them had separately executed this Agreement.

Joint Obligations

14. In the case of each party that consists of more than one person (including in that expression any corporation) each of those persons covenants, agrees and declares that all of the

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covenants, agreements, declarations and consents contained in this Agreement and made and given by that party have been entered into, made and given and are binding upon that person both severally and also jointly with the other person or persons constituting that party.

Entire Agreement

15. This Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous Agreements or understandings between the parties in connection with its subject matter.

Commencement and Ending of Agreement

16. This Agreement shall commence on date that it bears.
17. This agreement shall end by agreement between the parties or otherwise in accordance with the Act.

EXECUTED AS A DEED

THE COMMON SEAL of GREATER GEELONG CITY COUNCIL was affixed hereto in the presence of:

Mayor

Chief Executive Officer



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SIGNED SEALED AND DELIVERED by the said CHRISTOPHER JAMES CARSON in the presence of:

Clare McKenna
Witness

Signature of Christopher James Carson

Address CLARE MCKENNA
70 GHERINGHAP STREET
GEELONG 3220

Imaged Document Cover Sheet

The document following this cover sheet is an imaged document supplied by LANDATA®, Victorian Land Registry Services.

Document Type	Instrument
Document Identification	AL209802G
Number of Pages (excluding this cover sheet)	2
Document Assembled	08/09/2020 20:17

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AL209802G

Transfer of Land

Section 45 Transfer of Land Act 1958

Privacy Collection Statement

The information from this form is collected by the Registrar of Titles under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes.

1. Land/s

Land Title

Volume 11417 Folio 248

2. Estate and Interest

FEE SIMPLE

3. Transferor/s

Transferor

Given Name/s CHRISTOPHER JAMES

Family Name CARSON

4. Transferee/s

Transferee

Given Name/s JASON ADAM

Family Name MIDGLEY

5. Manner of Holding

SOLE PROPRIETOR

6. Address/es of Transferee/s

Address of Transferee

Unit 1 Street No 4

Street Name BELCHER

Street Type STREET

Locality HAMLYN HEIGHTS

State VIC Postcode 3215

7. Directing Party

None

8. Consideration

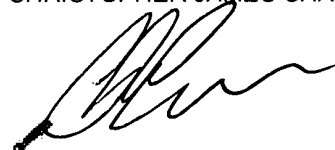
\$ 297,000

9. Signing

The transferor at the direction of the directing party (if any) transfers to the transferee the estate and interest specified in the land described for the consideration expressed and subject to the encumbrances affecting the land including any created by dealings lodged for registration before the lodging of this transfer.

Transferor

CHRISTOPHER JAMES CARSON



Signature of Transferor

Transferor Witness

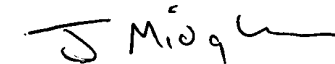
HEATH DEMISTER



Signature of witness

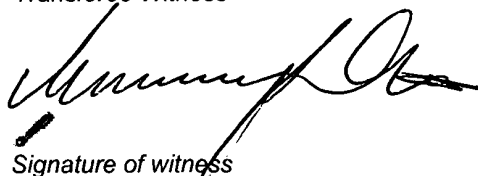
Transferee

JASON ADAM MIDGLEY



Signature of Transferee

Transferee Witness



Signature of witness

10. Date

27/6/2014

Date: (DD/MM/YYYY)

AL209802G

Transfer of Land

Section 45 Transfer of Land Act 1958

Privacy Collection Statement

The information from this form is collected by the Registrar of Titles under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes.

11. Lodging Party

Customer Code

Reference

**CBA - MS
15771K**

You may lodge this form in two ways:

1. In person

Land Registration Services
Land Victoria
Level 9, 570 Bourke Street
Melbourne Vic 3000

2. By mail (*extra fee applies*)

Land Registration Services
Land Victoria
PO Box 500
East Melbourne Vic 8002
Or DX 250639 Melbourne

Duty Use Only



Department of Environment, Land, Water & Planning

Owners Corporation Search Report

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Produced: 08/09/2020 08:17:22 PM

OWNERS CORPORATION 1
PLAN NO. PS712549C

The land in PS712549C is affected by 1 Owners Corporation(s)

Land Affected by Owners Corporation:

Common Property 1, Lots 1, 2.

Limitations on Owners Corporation:

Unlimited

Postal Address for Services of Notices:

4 BELCHER STREET HAMLYN HEIGHTS VIC 3215

OC017896E 23/04/2013

Owners Corporation Manager:

NIL

Rules:

Model Rules apply unless a matter is provided for in Owners Corporation Rules. See Section 139(3) Owners Corporation Act 2006

Owners Corporation Rules:

NIL

Additional Owners Corporation Information:

OC017896E 23/04/2013

Notations:

NIL

Entitlement and Liability:

NOTE – Folio References are only provided in a Premium Report.

Land Parcel	Entitlement	Liability
Common Property 1	0	0
Lot 1	50	50
Lot 2	50	50
Total	100.00	100.00

From 31 December 2007 every Body Corporate is deemed to be an Owners Corporation. Any reference to a Body Corporate in any Plan, Instrument or Folio is to be read as a reference to an Owners Corporation.



Department of Environment, Land, Water & Planning

Owners Corporation Search Report

Produced: 08/09/2020 08:17:22 PM

OWNERS CORPORATION 1
PLAN NO. PS712549C

Statement End.

PLANNING PROPERTY REPORT



Environment,
Land, Water
and Planning

From www.planning.vic.gov.au at 08 September 2020 03:57 PM

PROPERTY DETAILS

Address: **1/4 BELCHER STREET HAMLYN HEIGHTS 3215**
Lot and Plan Number: **Lot 1 PS712549**
Standard Parcel Identifier (SPI): **1\PS712549**
Local Government Area (Council): **GREATER GEELONG**
Council Property Number: **352001**
Planning Scheme: **Greater Geelong**
Directory Reference: **Melway 441 D9**

www.geelongaustralia.com.au

[Planning Scheme - Greater Geelong](#)

UTILITIES

Rural Water Corporation: **Southern Rural Water**
Urban Water Corporation: **Barwon Water**
Melbourne Water: **Outside drainage boundary**
Power Distributor: **POWERCOR**

[View location in VicPlan](#)

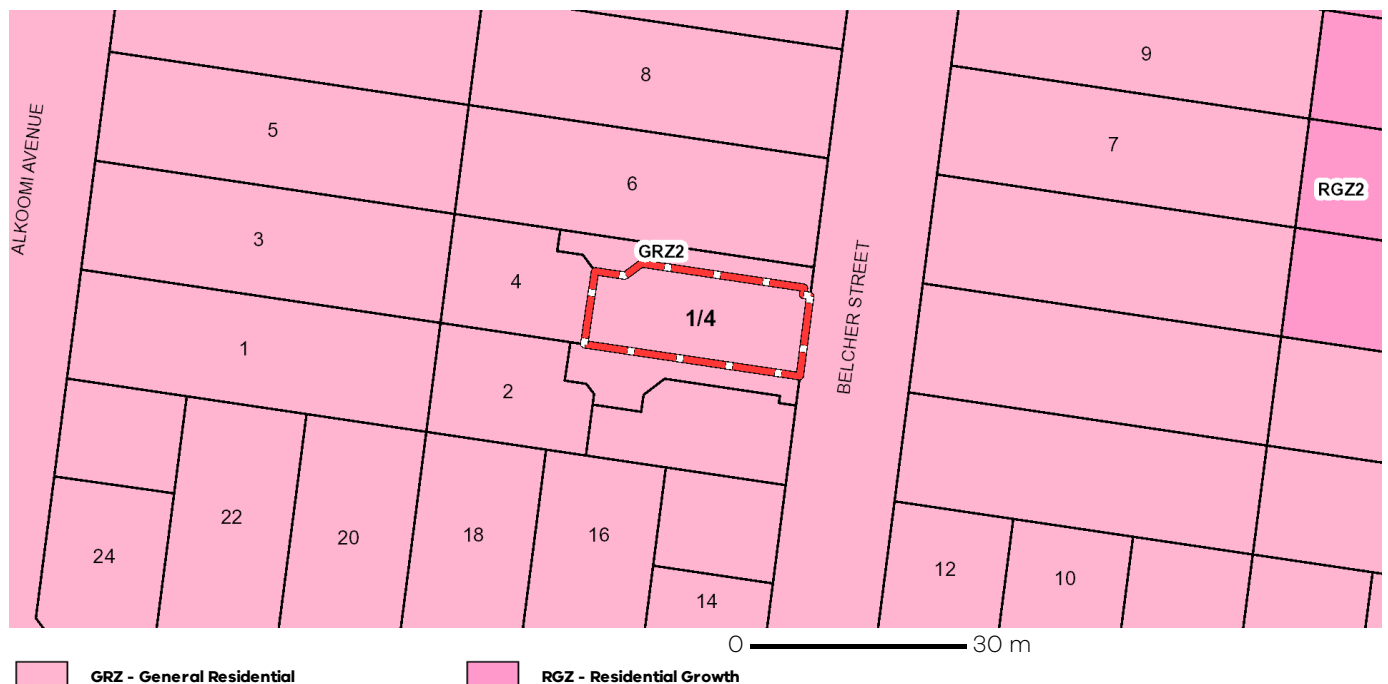
STATE ELECTORATES

Legislative Council: **WESTERN VICTORIA**
Legislative Assembly: **LARA**

Planning Zones

[GENERAL RESIDENTIAL ZONE \(GRZ\)](#)

[GENERAL RESIDENTIAL ZONE - SCHEDULE 2 \(GRZ2\)](#)



GRZ - General Residential

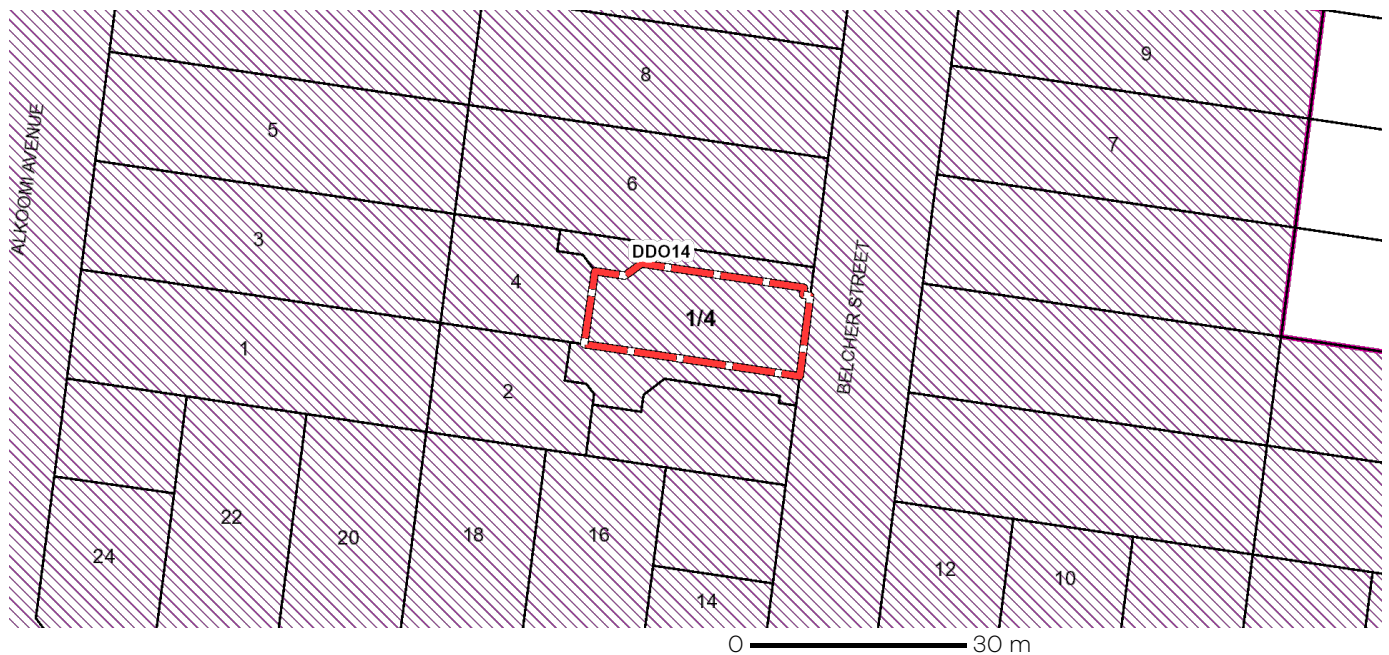
RGZ - Residential Growth

Note: labels for zones may appear outside the actual zone - please compare the labels with the legend.

Planning Overlay

[DESIGN AND DEVELOPMENT OVERLAY \(DDO\)](#)

[DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 14 \(DDO14\)](#)



 **DDO - Design and Development**

Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

Further Planning Information

Planning scheme data last updated on 2 September 2020.

A **planning scheme** sets out policies and requirements for the use, development and protection of land. This report provides information about the zone and overlay provisions that apply to the selected land. Information about the State and local policy, particular, general and operational provisions of the local planning scheme that may affect the use of this land can be obtained by contacting the local council or by visiting <https://www.planning.vic.gov.au>

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the **Planning and Environment Act 1987**. It does not include information about exhibited planning scheme amendments, or zonings that may affect the land. To obtain a Planning Certificate go to Titles and Property Certificates at Landata - <https://www.landata.vic.gov.au>

For details of surrounding properties, use this service to get the Reports for properties of interest.

To view planning zones, overlay and heritage information in an interactive format visit <https://mapshare.maps.vic.gov.au/vicplan>

For other information about planning in Victoria visit <https://www.planning.vic.gov.au>

Designated Bushfire Prone Areas

This property is not in a designated bushfire prone area.

No special bushfire construction requirements apply. Planning provisions may apply.



Designated bushfire prone areas as determined by the Minister for Planning are in effect from 8 September 2011 and amended from time to time.

The Building Regulations 2018 through application of the Building Code of Australia, apply bushfire protection standards for building works in designated bushfire prone areas.

Designated bushfire prone areas maps can be viewed on VicPlan at <https://mapshare.maps.vic.gov.au/vicplan> or at the relevant local council.

Note: prior to 8 September 2011, the whole of Victoria was designated as bushfire prone area for the purposes of the building control system.

Further information about the building control system and building in bushfire prone areas can be found on the Victorian Building Authority website <https://www.vba.vic.gov.au>

Copies of the Building Act and Building Regulations are available from <http://www.legislation.vic.gov.au>

For Planning Scheme Provisions in bushfire areas visit <https://www.planning.vic.gov.au>

2020-21 RATES, VALUATION AND CHARGES NOTICE



ABN 18 374 210 672

All items are GST free.

023-3215 (14571)



J A Midgley
1/4 Belcher Street
HAMLYN HEIGHTS VIC 3215

RATE NO.

912549

PROPERTY

Unit 1/4 Belcher Street,
357m2 Lot 1 PS 712549
HAMLYN HEIGHTS VIC 3215

AVPC

110 - Detached Dwelling

VALUATIONS

Site: land only
Capital improved: land + building + improvements
Net annual:
Residential Rates 0.00238194 x \$350,000
Waste Management
Sub Total

RATES AND CHARGES

\$175,000
\$350,000
\$17,500
\$833.65
\$360.95
\$1,194.60

FIRE SERVICES
PROPERTY LEVY

Classification: Residential
Residential Variable 0.000054 x \$350,000
Residential Fixed
Sub Total

Total Due

Less payments

\$1,326.50
\$770.65cr
\$555.85

ONE PAYMENT IN FULL

Due by 15 February 2021

\$555.85

or pay by instalment

To become an instalment payer you must pay your first instalment in full by 30 September 2020, otherwise your balance will be due on 15 February 2021.

FIRST INSTALMENT

\$0.00

SECOND INSTALMENT

\$0.00

THIRD INSTALMENT

Due by 28 February 2021

\$224.25

FOURTH INSTALMENT

Due by 31 May 2021

\$331.60

Rating Period 1 July 2020 to 30 June 2021

Declared 1 July 2020

Valuation Level 1 January 2020

Operative 1 July 2020

Issue Date 27 August 2020

PAYMENT OPTIONS

ONLINE OR BY PHONE

Online: www.geelongaustralia.com.au/rates
Phone: 1300 858 058 Ref: 912549

A payment processing fee of 0.59 per cent applies for payments by Visa and Mastercard.

BPAY

Bill Code: 17475

Ref: 1000 0912 5493

Payment via internet or phone banking, from your cheque or savings account, Visa and Mastercard.

DIRECT DEBIT

Call 5272 5272 for an application form, or go to www.geelongaustralia.com.au

CENTREPAY

Call 5272 5272 to request a Centrepay deduction from your Centrelink payment



Council Use

*877 9125493



Or First instalment \$0.00

*877 9125493



Full payment \$555.85

Please be aware transactions after 20 August 2020 may not be included in this notice.
*The Waste Collection Charge includes an Environmental Protection Agency (EPA) levy estimated at \$38.95

PROPERTY INFORMATION CERTIFICATE

Building Regulations 2018
Pursuant to Regulation 51(1)



Landata
PO BOX 500
EAST MELBOURNE VIC 8002

14 September 2020

PI: 352001

PIR-2020-5998

Telephone: 5272 4450

Your Ref 40561964-016-4

PROPERTY FOR WHICH INFORMATION WAS REQUESTED			
Property Address	Unit 1/4 Belcher Street, HAMLYN HEIGHTS VIC 3215		
Title Information	357m2 Lot 1 PS 712549	Volume / Folio	CT-11417/248

Regulation 51(1) *Building Regulation 2018*, any person may request the relevant Council to provide in relation to any building or land:

1. Details of any Permit or Certificate of Final Inspection issued in the preceding 10 years:

NIL

2. Details of any current statement issued under Regulation 64 (Combined Allotments) or Regulation 231 (Subdivision of existing buildings)

NIL

3. Details of any current Notice or Order issued by the Relevant Building Surveyor under the *Act*.

NIL

Please Note:

- While every effort is made to provide full and accurate information, the Council's records may be deficient because of limitations in the period the records have been kept and/or because of their accuracy in recording or failure to record other permits, orders, variations or revocations.
- In addition, the existence of permits or certificates does not indicate whether all construction on a property complies with approvals. Independent inquiries should be made if in any doubt or if any problem is anticipated or encountered.

Yours sincerely

A handwritten signature in dark ink, appearing to read "P. Larkins".

Peter Larkins
Technical Officer

BUILDING SERVICES
100 BROUGHAM STREET, GEELONG

TAX INVOICE



ABN 18 374 210 672

Victorian Land Registry Services Pty Ltd
2 Lonsdale Street
MELBOURNE VIC 3000

Debtor No.	888480
Invoice Date	11-Sep-2020
Enquiries	03 5272 5272
Application No.	PIR-2020-5998
Location	Unit 1/4 Belcher Street, HAMLYN HEIGHTS VIC 3215
Your Ref	40561964-016-4

Invoice	Description	GST \$	Fee Amount \$
5445527	Building Info - Regulation 51 (1)	0.00	47.00

Payment terms 30 days from date of invoice please

PAYMENT OPTIONS



Bill Code: 17475
Ref: 500008884801

*From your cheque, savings,
MasterCard or Visa accounts.
Please contact your financial
institution*

ONLINE OR BY PHONE

Online: www.geelongaustralia.com.au

Phone: 1300 858 058

Ref: 888480

A payment processing fee of 0.59 per cent applies for MasterCard and Visa. Please Note If you pay via BPay you can avoid this fee.

IN PERSON

Pay at any Post Office



*880 500008884801

or visit us at 100 Brougham Street, Geelong.

Amount Due \$47.00

Debtor No. : 888480

Account Name : Victorian Land Registry Services Pty Ltd

Invoice Date : 11-Sep-2020



Council use barcode

CERTIFICATE OF COMPLIANCE

1 Responsible Person (eg. electrical contractor, supervising electrician, electrician)
 REC reg/licence no. 18206
 Name QUICK CONNECT PTY LTD.
 Business Address 740 GILKINS ROAD FIRST WATER CREEK.
 2 Licensed Electrical Installation Worker (eg. electrician)
 Licence no. 037188
 Name SIMON WHITTEN
 3 Details of Electrical Installation
 Name of customer Jason Midgeley
 Address of installation 1/4 Belcher Street.
 Suburb or town Hamlyn Heights.
 Telephone 0408218997.
 NMI (if available)
 4 Electrical Work Undertaken
 No. light points No. single No. doubles
 Socket outlets No. doubles
 Have you installed contestable metering equipment or metering equipment associated with an embedded network? Yes ☐ No ☒
 Maximum demand in amps per phase on completion 5
 Consumers mains capacity in amps 8
 Description of work undertaken (if insufficient space, please attach list)
 INSTALL + WIRE 5 SINGLE & 8 DOUBLE SWITCHED SOCKET OUTLETS WITH ACO MIB PROTECTION.
 5 Has this electrical installation work failed a previous audit? Yes ☐ No ☒
 If yes, quote previous certificate number
 6 Type of property where the electrical installation work is carried out (refer back of certificate for types)
 1 Domestic ☒ 2 Non Domestic ☐ 3 Construction ☐
 I, the licensed electrical installation worker named above, who carried out the electrical installation work described above, certify that the electrical work has passed all the required tests and complies with the Electricity Safety Act 1998 and the Electricity Safety (Installations) Regulations 2009.
 Signature (Licensed Electrical Installation Worker)
 Date Certified 16/03/20
 7 Date of completion of work 16/03/20
 NON-PRESCRIBED Customer copy

Please note: The electrical installation work described above may be subject to a random audit by representatives of Energy Safe Victoria.

energy safe
 VICTORIA
 Creating a safer state with electricity and gas

Certificate of Electrical Safety



6326 6702 2

Certificate no.

Electricity supplier code (refer back of certificate for codes) 3

Land Tax Clearance Certificate

Land Tax Act 2005



INFOTRACK / REGIONAL CONVEYANCING

Your Reference: 20-3674 MIDGLEY SALE

Certificate No: 39914157

Issue Date: 09 SEP 2020

Enquiries: ESYSPROD

Land Address: UNIT 1, 4 BELCHER STREET HAMLYN HEIGHTS VIC 3215

Land Id	Lot	Plan	Volume	Folio	Tax Payable
40484636	1	712549	11417	248	\$0.00

Vendor: JASON MIDGELY

Purchaser: FOR INFORMATION PURPOSES

Current Land Tax	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
MR JASON ADAM MIDGLEY	2020	\$175,000	\$0.00	\$0.00	\$0.00

Comments: Property is exempt: LTX Principal Place of Residence.

Current Vacant Residential Land Tax	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
-------------------------------------	------	---------------	------------------	------------------	-------

Comments:

Arrears of Land Tax	Year	Proportional Tax	Penalty/Interest	Total
---------------------	------	------------------	------------------	-------

This certificate is subject to the notes that appear on the reverse. The applicant should read these notes carefully.

Paul Broderick
Commissioner of State Revenue

CAPITAL IMP VALUE: \$340,000

SITE VALUE: \$175,000

AMOUNT PAYABLE: \$0.00

Notes to Certificates Under Section 105 of the *Land Tax Act 2005*

Certificate No: 39914157

1. Under Section 96 of the *Land Tax Act 2005* (the Act), unpaid land tax (including special land tax and vacant residential land tax) is a first charge on the land to which it relates and should the vendor default, payment will be obtained from the purchaser. The purchaser should take into account the possibility that the vendor may default where land tax has been assessed but not paid.
2. A purchaser who has obtained a Certificate is only liable to a charge on the land to the amount of unpaid land tax as certified by a Certificate. A purchaser must obtain the Certificate from the Commissioner. They cannot rely on the Certificate obtained by the vendor.
3. If land tax (including special land tax and vacant residential land tax) is due but not paid on a property, the Land Tax Clearance Certificate will certify the amount of land tax due and payable on that land. This amount will be binding on the Commissioner of State Revenue (the Commissioner) for purposes of section 96 of the Act whether or not it is paid to the State Revenue Office (SRO) on, or shortly after, settlement.
4. The amount of land tax on this certificate relates to the amount of land tax (including special land tax and vacant residential land tax) due and payable as at the date of the application only and not to any future liability or the tax status of the land.
5. A 'Nil' Land Tax Clearance certificate does not mean that the land on the certificate is exempt from land tax or vacant residential land tax.
6. If land tax (including special land tax or vacant residential land tax) will be payable on a property but payment is not due at the time the application is processed, the certificate will certify the amount that should be retained by the purchaser at settlement and remitted to the SRO. The Commissioner will consider himself bound by this amount against the purchaser, only if the amount is remitted to the SRO.
7. If the amount in 4. (above) is understated, the Commissioner has the right to seek recovery of the correct amount, or the balance, as the case may be, from the:
 - a. vendor, or
 - b. purchaser, if the vendor defaults and the certified amount has not been remitted to the SRO.
8. If an amount is certified in respect of a proposed sale which is not completed, the Commissioner will not be bound by the same amount in respect of a later sale of the subject land - another certificate must be applied for in respect of that transaction.
9. If an amount certified is excessively high (for example, because an exemption or concession has not been deducted in calculating the amount) the Commissioner will issue an amended certificate, without an additional fee being charged on receipt of sufficient evidence to that effect from the vendor.
10. If no land tax (including special land tax or vacant residential land tax) is stated as being payable in respect of the property, the Commissioner will consider himself bound by that certification, in respect of the purchaser, if the land is subsequently found to be taxable and the vendor defaults.
11. If the vendor refuses to be bound by an amount stated by the Commissioner and does not agree to the amount being withheld and remitted at settlement, the purchaser cannot rely on such refusal as a defence to an action by the Commissioner to recover the outstanding amount from the purchaser under Sections 96 or 98 of the Act.
12. The information on a certificate cannot preclude the Commissioner from taking action against a vendor to recover outstanding land tax (including special land tax and vacant residential land tax).
13. You can request a free update of a Land Tax Clearance Certificate via our website if:
 - there is no change to the parties involved in the transaction, and
 - the request is within 90 days of the original certificate being issued.

For Information Only

LAND TAX CALCULATION BASED ON SINGLE OWNERSHIP

Land Tax = \$0.00

Taxable Value = \$175,000

Calculated as \$0 plus (\$175,000 - \$0) multiplied by 0.000 cents.

Land Tax Clearance Certificate - Payment Options

BPAY



Billers Code: 5249
Ref: 39914157

Telephone & Internet Banking - BPAY®

Contact your bank or financial institution to make this payment from your cheque, savings, debit or transaction account.

www.bpay.com.au

CARD



Ref: 39914157

Visa or Mastercard.

Pay via our website or phone 13 21 61.
A card payment fee applies.

sro.vic.gov.au/paylandtax



**** Delivered by the LANDATA® System, Department of Environment, Land, Water & Planning ****

ROADS PROPERTY CERTIFICATE

The search results are as follows:

Regional Conveyancing C/- triSearch (Website)
135 KING STREET
SYDNEY 2000
AUSTRALIA

Client Reference: 563441

NO PROPOSALS. As at the 8th September 2020, VicRoads has no approved proposals requiring any part of the property described in your application. You are advised to check your local Council planning scheme regarding land use zoning of the property and surrounding area.

This certificate was prepared solely on the basis of the Applicant-supplied address described below, and electronically delivered by LANDATA®.

UNIT 1, 4 BELCHER STREET, HAMLYN HEIGHTS 3215
CITY OF GREATER GEELONG

This certificate is issued in respect of a property identified above. VicRoads expressly disclaim liability for any loss or damage incurred by any person as a result of the Applicant incorrectly identifying the property concerned.

Date of issue: 8th September 2020

Telephone enquiries regarding content of certificate: 13 11 71

[Vicroads Certificate] # 40561964 - 40561964205320 '563441'



J A Midgley
UNIT 1/4 BELCHER ST
HAMLIN HEIGHTS, VIC 3215
252786-001 001436(2899) 0023

Date of Issue
09 July 2019

1300 656 007
www.barwonwater.vic.gov.au

Account number
69000001 00032185

Payment due
08 August 2019
Total amount due
\$ 248.07

Your account summary

Service Address: UNIT 1/4 BELCHER ST HAMLIN HEIGHTS 3215

Previous balance	\$260.16 DR
Payments/adjustments	\$260.16 CR
Your balance	\$0.00
New charges	\$248.07 DR
Total	\$248.07 DR

Your average daily use in litres per day

Jul 19	379
Apr 19	483
Jan 19	344
Oct 18	352
Jul 18	378

Moving house and hold a concession card?
You'll need to update your details with Centrelink before asking us to apply the concession to your bill.
Already notified Centrelink?
Register online at: barwonwater.vic.gov.au or call 1300 656 007.

Fees and charges 2019-2020

The prices you pay for your water and sewerage services have changed, effective from 1 July 2019.

You may notice that the variable usage charge has increased slightly, while the fixed water service charge is lower than last financial year. This is in response to calls from our customers for more control over their bills. It means, more than ever, you can save more money by using less water.

For a typical residential owner-occupier, bills will rise by about \$1.79 per quarter. For a typical tenant, bills will rise by about \$1.30 per quarter. Tenants pay the water volume charge only.

We are proud to have one of the lowest average customer bills in Australia.

Prices are inclusive of inflation.
Assumes an average annual consumption of 160 kilolitres.
Applies to tenants with a separate water meter. Tenants receive an annual rebate of \$25.00 (pro-rated) as we move towards a more equitable pricing structure by reducing the fixed, and increasing the variable water charges.

Water volume (per kilolitre)	\$1.9198	\$1.9835
Water service (per quarter)	\$38.64	\$37.44
Sewerage service (per quarter)	\$140.89	\$141.33
2018-2019		2019-2020 ¹

¹ Compared to other water utilities with 100,000+ customers. Source: Bureau of Meteorology national performance report 2017-18: urban water utilities.

www.barwonwater.vic.gov.au

