

Car Park Licence

Relating to

28 Waterloo Quay

Wellington Waterfront Limited

and

Body Corporate 309984

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Working together for Wellington's future



**Absolutely Positively
Wellington City Council**

Me Heke Ki Pōneke

Date: 16 April 2019.

PARTIES

WELLINGTON WATERFRONT LIMITED (the Licensor)

BODY CORPORATE 309984 (the Licensee)

BACKGROUND

- A. The Licensor is the owner of the land comprised in records of title WN33C/716 and WN33C/718, located at 28 Waterloo Quay, Wellington (**Land**).
- B. The Licensee is the body corporate of the owners of in the building known as Waterloo on Quay Apartments, but referred to here as Shed 21 as shown on Deposited Plan 309984 (**Shed 21**).
- C. The Licensee wishes to have a licence to use part of the Land situated immediately adjacent to Shed 21 for the purpose of providing short term carparking for customers of the commercial areas on the ground floor, use by service vehicles working at Shed 21, and providing an accessible mobility park.
- D. The Licensor and the Licensee have agreed to enter into a licence in the form set out below.

DEFINITIONS AND INTERPRETATION

1 In this Licence:

Business Day means any day of the week excluding Saturday, Sunday and any public holiday specified in the Holidays Act 2003 observed in Wellington;

Carparks means both the Customer Carparks and Service Carparks; and

Commencement Date means 1 April 2019; and

Customer Carparks means those carparks identified as 01 - 10 and outlined in yellow on part of the land comprised in records of title WN33C/716 and WN33C/718 as shown on the attached plan; and

Lease means lease B810070.1 of Shed 21;

LHDA means the Lambton Harbour Development Area as defined in section 2 of the Wellington Harbour Board and Wellington City Council Vesting and Empowering Act 1987;

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LHDP means the Lambton Harbour Development Project as defined in section 2 of the Wellington Harbour Board and Wellington City Council Vesting and Empowering Act 1987;

Licensor and Licensee shall be deemed to include their successors, employees, agents and invitees and shall include, except in the case of the Licensee, their assigns; and

Licence means this licence; and

Licence Fee means an annual licence fee of \$1.00 inclusive of GST (if demanded in writing by the Licensor) and otherwise referred to in clause 5; and

Mobility Carpark means that carpark identified as 10 and outlined in yellow on part of the land comprised in records of title WN33C/716 and WN33C/718 as shown on the attached plan; and

Service Carparks means those carparks identified as 01 and 02 and outlined in yellow on part of the land comprised in records of title WN33C/716 and WN33C/718 as shown on the attached plan; and

Term means one (1) month.

2.1 In this Licence, unless a contrary intention is necessary:

- words in the singular shall be deemed to include the plural and vice versa and words importing one gender include the other gender;
- a reference to an enactment or any regulation is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations; and

3. **CAR PARK LICENCE PROVISIONS**

3.1 In consideration of the Licensee paying to the Licensor the Licence Fee and the Licensee agreeing to be bound by the terms of this Licence, the Licensor grants to the Licensee a non-exclusive licence to use the Carparks solely for the purposes stated in clause 7.

3.2 The Licensee shall use the Carparks strictly in accordance with the terms of this Licence.

4. **TERM OF THE LICENCE**



4.1 This Licence is granted for the Term commencing on the Commencement Date and then will automatically renew for further terms of the same length as the Term without notice until the earlier of:

- expiry or earlier termination of the Lease;
- termination of this Licence under clause 24.2; or
- the Licensee or the Licensor gives notice under clause 5.

4.2 The terms and conditions of this Licence shall continue to apply to each automatic renewal. The Licensee accepts and acknowledges that the Licensor shall not be obliged to grant a renewal of this Licence if the renewed term would exceed the expiry or earlier termination of the Lease.

5. **TERMINATION OF LICENCE**

5.1 The Licensor and the Licensee may at any time terminate this Licence by giving not less than four (4) weeks' prior written notice to the other party or as otherwise agreed in writing between the parties.

5.2 Upon the expiry of the notice given under clause 5.1, this Licence shall end, subject to any antecedent breach by either party.

6. **LICENCE FEE**

6.1 The Licensee shall pay the annual Licence Fee on each anniversary of the Commencement Date of this Licence.

7. **HOURS OF USE**

7.1 The Customer Carparks may only be used for a period of 120 minutes at a time between the hours of 7am to 7pm Monday to Friday (excluding public holidays).

7.2 The Service Carparks and Mobility Carpark may be used at any time subject to compliance with clause 8.

7.3 Subject to compliance with this clause, the Licensee may otherwise use the Carparks at any time.

8. **PERMITTED USE**

8.1 The Licensee shall use the Carparks only for the purpose of:



- In relation to the Customer Carparks, providing short term temporary car parking for customers of the commercial units on the ground floor of Shed 21; between the hours of 7.00am and 7.00pm and
- In relation to the Service Carparks, for service vehicles and only while work is being carried out within Shed 21 by the operator of the service vehicles; and
- In relation to the Mobility Carpark, for use by persons requiring access to a mobility carpark and displaying the requisite mobility parking permit issued from time to time by CCS Disability Action.

8.2 The Licensee shall ensure that the vehicles using the Service Carparks are clearly marked as being service vehicles.

8.3 The Licensee acknowledges that the Licensor may ensure that compliance with the permitted use is maintained and has the right but not the obligation to remove any vehicles from the Carparks at the cost of the operator of the vehicles.

8.4 The Licensee shall upon request by the Licensor remove any unauthorised vehicles from the Carparks.

8.5 The Licensee will not carry out or permit to be carried out any repair, maintenance or washing of any vehicles in the Carparks.

9. **TEMPORARY RESTRICTIONS ON USE OF CARPARKS**

9.1 The Licensor may upon giving prior written notice to the Licensee temporarily restrict use of the Carparks if:

- the redevelopment of areas within the immediate vicinity of the Carparks means that it is unsafe to use the Carparks for parking; or
- the Carparks are needed for specific events organised by the Licensor on or about the LHDA occurring in the vicinity of the Carparks.

10. **NO OBSTRUCTION**

10.1 The Licensee will ensure that no motor vehicles obstruct access or use of areas near the Carparks.

10.2 The Licensee acknowledges that the Licensor has the right but not the obligation to remove any vehicles from the Land (at the cost of the Licensee or the operator of the vehicles) if they are obstructing access or use of areas near the Carparks.

11. **SPILLAGE OF OIL**



11.1 The Licensee will not spill any oil or other harmful substances on the Carparks and will upon demand reimburse the Licensor for the reasonable cost of making good *any damage caused by the Licensee or persons under the control of the Licensee* to the surface of the Carparks.

12. **MAINTENANCE**

12.1 The Licensee is solely responsible for the maintenance of the Carparks including resealing if reasonably required by the Licensor as a result of use by the Licensee causing wear and tear (which is beyond fair wear and tear) and/or damage, with the intent being that the integrity and standard of the surface of the Carparks will be delivered up on expiry or earlier termination of this Licence in the same condition of repair as existed at the date of commencement of this Licence.

12.2 The Licensee accepts and acknowledges that the Licensor shall not be required to maintain or improve the Carparks in any way whatsoever.

13. **SIGNAGE AND CARPARK MARKINGS**

13.1 The Licensor is responsible for the provision of standard signage in relation to the Carparks to reflect the parking restrictions in force outside the Licensee's Hours of Use under this Licence (for example service carpark, mobility carpark, and/or P120 signs as applicable).

13.2 The Licensee shall, at its own cost, provide any additional signage and carpark markings necessary for its use of the Carparks with such signage to be approved in writing by the Licensor's Technical Advisory Group (such approval not to be unreasonably withheld).

13.3 On the expiry or earlier termination of this Licence, the Licensee shall remove all its signage provided under clause 13.2 and make good any damage caused.

14. **COMPLIANCE WITH LAWS**

14.1 The Licensee will comply, and will ensure that the persons under the control or invitation of the Licensee comply, with all:

- relevant statutes, regulations and by-laws;
- conditions of any relevant resource consents for Shed 21;
- the terms of any restrictive covenants; and
- any rules and procedures that the Licensor may institute for the control and safe use and enjoyment of the Carparks or access to and from the Carparks.



15. **OTHER RIGHTS**

15.1 The Licensee acknowledges that when the Carparks are not in use as a carpark other persons with or without vehicles may pass and repass over the Carparks.

16. **ASSIGNMENT AND ALLOCATED CARPARKS**

16.1 This Licence is personal to the Licensee and the Licensee may not assign or sublicense this Licence.

16.2 Subject to compliance with clause 8, the Carparks are allocated as at the date of the Licence as follows:

- 1. Customer Parking (for use by customers of Unit 1.05)
- 2. Service Parking
- 3. Service Parking
- 4. Customer Parking (for use by customers of Unit 1.01)
- 5. Customer Parking (for use by customers of Unit 1.02)
- ✕ ● 6. Customer Parking (for use by customers of Unit 1.03)
- ✕ ● 7. Customer Parking (for use by customers of Unit 1.03)
- 8. Customer Parking (for use by customers of Unit 1.04)
- ✓ ● 9. Customer Parking (for use by customers of Unit 1.03)
- 10. Mobility Parking

16.3 The allocations may be amended from time to time by agreement between the Licensor and Licensee, subject to the following considerations:

- In relation to the Customer Carparks, providing short term temporary car parking for customers of the commercial units on the ground floor of Shed 21; between the hours of 7.00am and 7.00pm and
- In relation to the Service Carparks, for service vehicles and only while work is being carried out within Shed 21 by the operator of the service vehicles; and
- In relation to the Mobility Carpark, for use by persons requiring access to a mobility carpark and displaying the requisite mobility parking permit issued from time to time by CCS Disability Action.



16.4 In the event of a permitted use breach, particularly in relation to the Customer Carparks, the License may be amended to remove the dedicated parking from the offending unit or units as the likely first course of action.

17. **RISK**

17.1 The Licensee uses the Carparks entirely at the Licensee's own risk. The Licensor has no liability to the Licensee or any other person for:

- any loss or damage sustained by the Licensee or by any person under the control of the Licensee in respect of any motor vehicle parked on the Carparks or entering or leaving the Carparks or the Land;
- any theft or loss of any of the contents of any motor vehicle;
- any damage caused or loss resulting from removal of any motor vehicle from the Carparks or the Land; or
- any failure to remove any vehicle which may be unlawfully parked on the Carparks.

18. **SPECIAL COVENANTS BY THE LICENSEE**

18.1 The Licensee, on execution of this Licence, acknowledges that the Carparks are situated within the LHDA and therefore further agrees throughout the term of this Licence:

- to observe and comply with the aims and objectives of the LHDP, as varied from time to time, but which means at the time of entering into this Licence:

The development of the LHDP will proceed with a focus on the continued establishment of public space, public amenities, ease of access, both to the waterfront and between the waterfront and the city, so as to promote and encourage public use and enjoyment of the waterfront. Sensible commercial development will continue but in sympathy with the predominant public use.

- to abide by the vision of LHDP as agreed between the Licensor and the Wellington City Council, as varied from time to time, but which at the time of entering into this Licence means:



Wellington's Waterfront is a special place that welcomes all people to live, work and play in the beautiful and inspiring spaces of architecture that connect our city to the sea and to protect our heritage for future generations.

- to obtain all permits, consents and licences required in respect of the permitted use specified in clause 7 and to ensure that the permits, consents and licences are kept current, fully complied with and not breached throughout the term of this Licence.

19. **NOT A LEASE**

- 19.1 This Licence is a contractual licence only and nothing in this Licence shall give the Licensee any tenancy, estate, right or interest in the Carparks.

20. **NO CAVEAT**

- 20.1 The Licensee accepts and acknowledges that this Licence does not give the Licensee any estate or interest in the Carparks in respect of which a caveat can be lodged.

21. **INDEMNITY**

- 21.1 The Licensee indemnifies the Licensor against all damage to the Carparks or loss of any kind sustained by the Licensor by the use of the Carparks by the Licensee or persons under the control of the Licensee. The Licensee will pay to the Licensor upon demand the cost of repairing any such damage to the Carparks. For the avoidance of doubt the Licensee is not liable for damage to the Carparks caused by the public generally.

22. **NUISANCE AND DISCHARGES**

- 22.1 The Licensee shall not commit, permit or suffer on the Carparks any act which may be a nuisance or annoyance or cause a breach of quiet enjoyment to any neighbour or lawful occupier of adjoining property.

23. **EXCLUSION OF WARRANTY**

- 23.1 The Licensor does not warrant that the Carparks are or will remain suitable or adequate for the Licensee's use. All warranties as to suitability and to adequacy implied by law are expressly negated. Should the Licensee's use of the Carparks be permissible only with the consent of any authority under or in pursuant of any



statutes, ordinance, regulation bylaw or other enactment or order of court, the Licensee shall obtain such consent at the sole cost and expense of the Licensee.

24. **DEFAULT**

- 24.1 Should the Licensor at any time consider that the Licensee is in default under this Licence and that such default is a material default, the Licensor shall give the Licensee notice in writing specifying the default and requiring the default to be remedied.
- 24.2 If the Licensee fails to remedy the default within 30 days of the Licensor giving notice under clause 24.1, the Licensor has the right terminate this Licence by giving the Licensee written notice that the Licence is terminated. The Licence shall then end without prejudice to any antecedent breach by the Licensee and the Licensee's obligations on termination required by the Licensee under this Licence and otherwise existing at law.

25. **DISPUTE RESOLUTION**

- 25.1 In the event of any dispute arising between the parties in respect of any matter arising out of or from this Licence the parties shall in good faith in the first instance use their best endeavours to resolve the dispute themselves.
- 25.2 If the dispute cannot be resolved by the parties themselves then they shall explore whether the dispute can be resolved by use of an alternative dispute resolution technique.
- 25.3 If the dispute is not settled within a reasonable time then either party may refer the dispute to arbitration to a sole arbitrator under the provisions of the Arbitration Act 1996 and the substantive law of New Zealand.
- 25.4 The arbitrator shall be agreed between the parties within ten (10) Business Days of written notice of referral by the referring party to the other or, failing agreement, by the President of the New Zealand Law Society or its successor body or any nominee of the President. In either case the arbitrator shall not be a person who has participated in any informal dispute resolution procedure in respect of the dispute.
- 25.5 Subject to clause 24, no dispute arising shall give cause to either party to suspend their obligations under the terms of this Licence.

Signed for and on behalf of
WELLINGTON WATERFRONT LIMITED
as Licensor by:

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Working together for Wellington's future



**Absolutely Positively
Wellington City Council**

Me Heke Ki Pōneke

Andy Matthews

Director's Signature

Director's Full Name

[Signature]

Director's Signature

Director's Full Name

Signed for and on behalf of
BODY CORPORATE 309984
as Licensee by:

[Signature]

Authorised Person's Signature

Angus Hodgson

Authorised Person's Full Name

Authorised Person's Signature

Authorised Person's Full Name

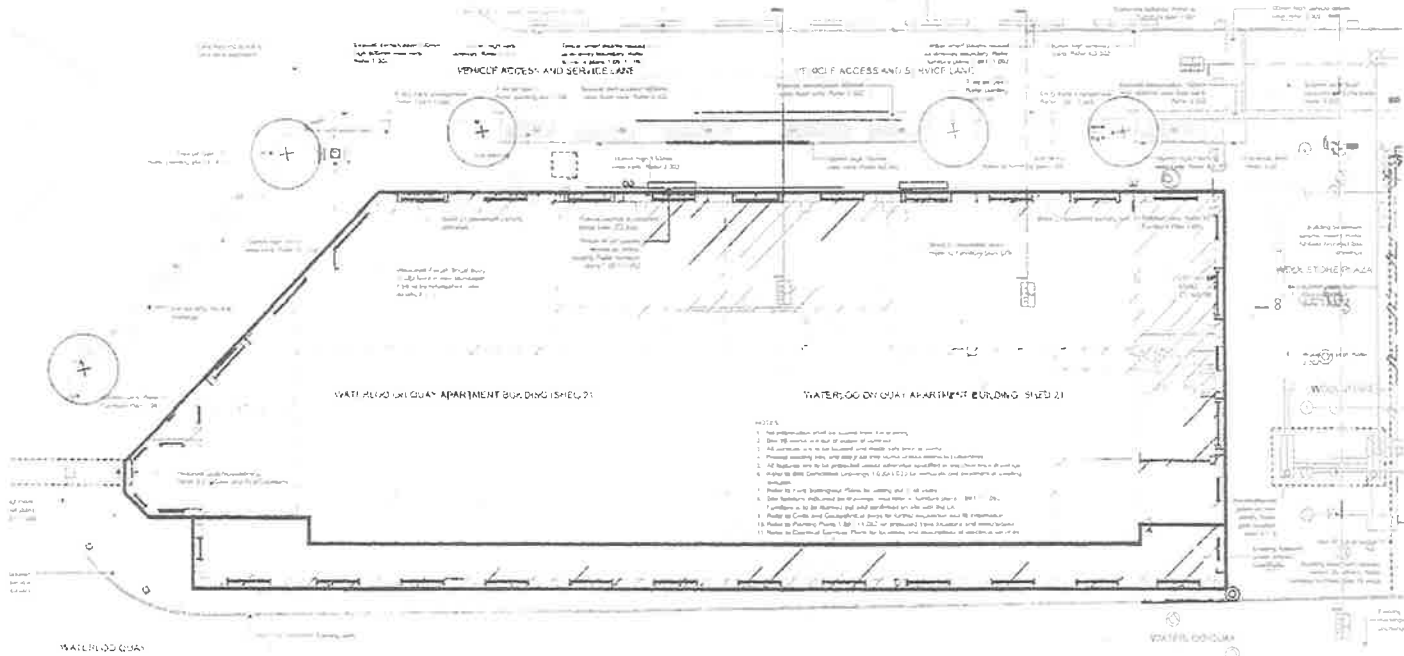
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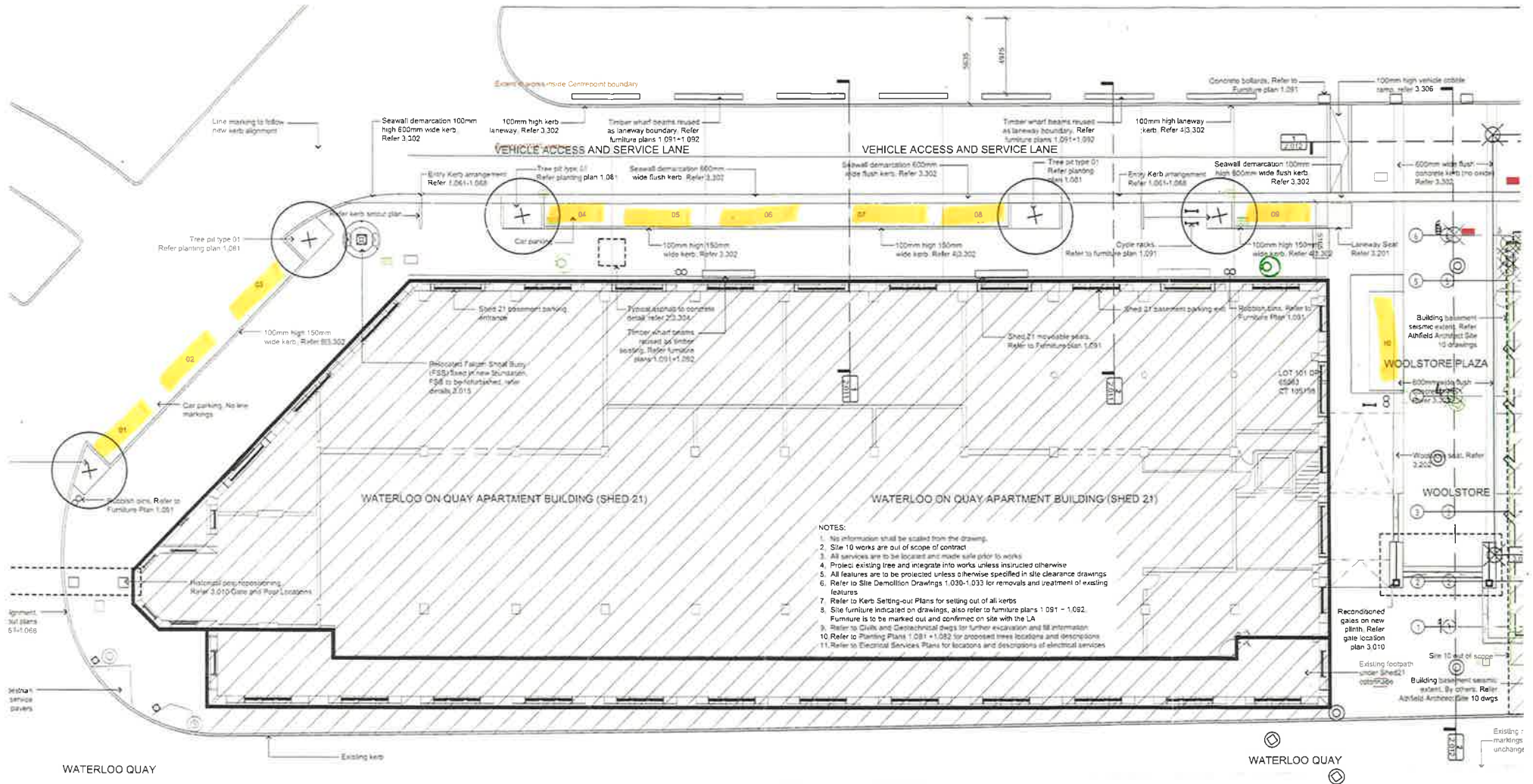
Schedule 1:



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The logo for Bayleys, featuring the word "BAYLEYS" in a bold, white, sans-serif font, centered within a dark blue rectangular box with a thin white border.

DISCLOSURE STATEMENT

1. The following information has been supplied to Capital Commercial (2013) Limited ("Bayleys") to be made available for distribution on the vendor's behalf to potential purchasers to assist purchasers with their due diligence and to use at the purchaser's discretion.
2. Bayleys and the Vendor do not warrant the accuracy or completeness of the information and recommends that all recipients undertake their own due diligence, obtain their own reports to their satisfaction and seek independent advice prior to committing to purchaser.