

## **ADVERTISEMENT OF ONLINE AUCTION BY THE SHERIFF**

On Tuesday 23 April 2024 at 11:00am, (unless process is stayed or satisfied), all the estate and interest (if any) of the person(s) named below, in the land described below, will be auctioned online by the Sheriff

Cassandra Brixton of Unit 50, 95 Ashleigh Avenue, Frankston, VIC, 3199, (as shown on certificate of title as Cassandra Faith Brixton) sole proprietor of an estate in fee simple in the land described on Certificate of Title Volume 10790 Folio 187 upon which is erected a unit and known as Unit 50, 95 Ashleigh Avenue, Frankston, VIC, 3199

The following recordings in the Register affect or may affect the land as at 14 March 2024:

- Registered Caveat (Dealing Number) AD976042Q
- Owners Corporation 1 Plan No. PS507653C

The Sheriff is unable to provide access to these properties.

Terms: 10% deposit on the fall of the hammer, Balance within 14 days unless as stated in particulars of sale in contract of sale. Payment is by EFT only, using OSKO.

**NOTE: This is an online auction only**, online registration is required, a copy on the registration form can be obtained from the Website listed below. All registration forms must be emailed to [realestatesection@justice.vic.gov.au](mailto:realestatesection@justice.vic.gov.au) prior to the auction to participate.

Please visit the Sheriff's Office Victoria Real Estate Section website at [www.justice.vic.gov.au/sheriffrealestate](http://www.justice.vic.gov.au/sheriffrealestate) for an information sheet on Sheriff's Auctions, a contract of sale and further information. Alternately, you can contact the Sheriff's Office Victoria Real Estate Section at [realestatesection@justice.vic.gov.au](mailto:realestatesection@justice.vic.gov.au)

Sheriff of Victoria

**SALE BY SHERIFF  
CONTRACT OF SALE**

**Supreme Court of Victoria Proceeding Number SECI202304934  
Warrants of Seizure and Sale**

**Property:** The interest (if any) of Cassandra Brixton of Unit 50, 95 Ashleigh Avenue, Frankston, VIC, 3199, (as shown on certificate of title as Cassandra Faith Brixton) sole proprietor of an estate in fee simple in the land described on Certificate of Title Volume 10790 Folio 187 upon which is erected a unit and known as Unit 50, 95 Ashleigh Avenue, Frankston, VIC, 3199

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The vendor, being the Sheriff as defined in the Particulars of Sale, sells and the purchaser (**'Purchaser'**) buys the interest (if any) of the judgment debtor named above in the property described above (**'Property'**) 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
- Conditions of sale.

**Important notice to Purchaser**

**The *Sale of Land Act 1962* (Vic) does not apply to a sale by the Sheriff under a Warrant of Seizure and Sale.**

**The Sheriff does not provide a statement under section 32 of the Sale of Land Act.**

**A cooling-off period does not apply to this contract.**

**GST if applicable**

**Signing of this contract**

Authority of a person signing –

- under power of attorney; or
  - as director of a corporation; or
  - as an agent authorised in writing by one of the parties,
- must be noted beneath the signature.

**SIGNED BY / ON BEHALF OF THE PURCHASER**

on / /20

Print name of person signing

State nature of authority, if applicable (e.g. "director", "attorney under power of attorney")

**SIGNED BY THE VENDOR (SHERIFF)**

on / /20

Print name of Sheriff

The **DAY OF SALE** ('Day of Sale') is the date by which both parties have signed this contract.

COPY

## PARTICULARS OF SALE

**Vendor** Sheriff of Victoria ('**Sheriff**') pursuant to Warrant(s) of Seizure and Sale issued by the Supreme Court of Victoria

Contact: Kel Griffin, Senior Sheriff's Officer, Real Estate Section, Sheriff's Office Victoria

Telephone: (03) 9137 8900

Email: realestatesection@justice.vic.gov.au

Postal address: GPO Box 14486 Melbourne City Mail Centre Victoria 8001

### Purchaser

**Purchaser's legal  
practitioner or  
conveyancer**

Telephone:  
Email:  
Postal address:

**Property:** The interest (if any) of Cassandra Brixton of Unit 50, 95 Ashleigh Avenue, Frankston, VIC, 3199, (as shown on certificate of title as Cassandra Faith Brixton) sole proprietor of an estate in fee simple in the land described on Certificate of Title Volume 10790 Folio 187 upon which is erected a unit and known as Unit 50, 95 Ashleigh Avenue, Frankston, VIC, 3199

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**NOTE: This is an online auction only,**

**Payment:**

Price: \$

Plus GST: 10% \$

(if any) calculated in accordance with condition 10

**TOTAL SALE PRICE \$**

Less Deposit 10% \$ paid on / /20

**Balance: To be paid \$**

The Purchaser must pay the balance of the purchase price:

- (a) within fourteen (14) days of the day of sale;

COPY

## CONDITIONS OF SALE

### TITLE

1. **Encumbrances and other interests affecting the Property**
- 1.1 The purchaser buys the Property SUBJECT TO:
- (a) any encumbrance, charge or other interest, whether registered or unregistered, affecting the Property as at the Day of Sale; and
  - (b) any reservations in the crown grant; and
  - (c) any lease or tenancy.
- 1.2 The Sheriff does not warrant the accuracy or completeness of any information provided to the Purchaser in relation to any encumbrances, charges or other interests affecting the Property and is not liable for any inaccuracy or omission in any such information.
- 1.3 The Sheriff has no knowledge of any encumbrances, reservations, charges or other interests, whether registered or unregistered, affecting the Property, other than any shown in the Certificate of Title or otherwise disclosed by the Sheriff in writing, and the Sheriff does not warrant or make any representations about the existence or otherwise of any such encumbrances, reservations, charges or other interests affecting the Property.
- 1.4 The Sheriff has no knowledge of and gives no warranty as to any of the following:
- (a) public rights of way over the Property;
  - (b) easements over the Property;
  - (c) any lease or other possessory agreement affecting the Property save as disclosed;
  - (d) any notice or order affecting the Property; or
  - (e) any legal proceedings affecting the sale of the interest save as disclosed.
- 1.5 Sections 137B and 137C of the *Building Act 1993* (Vic) does not apply to this contract.
- 1.6 Where the Property is subject to a lease, tenancy or other possessory agreement affecting the Property ('Lease'), the Purchaser:
- (a) must indemnify the Sheriff against all obligations under the Lease that are
- to be performed after finalisation of the transaction;
- (b) acknowledges that the Purchaser takes title subject to the Lease which it has inspected and about which it has satisfied itself;
  - (c) acknowledges and agrees that the Sheriff does not warrant:
    - i. that the Lease will be in existence or be on the same terms at the finalisation of this transaction;
    - ii. that the tenant will not be in breach of the Lease at the finalisation of this transaction;
    - iii. as to the use of the property or its suitability for the tenant's use; and
    - iv. as to the ability of the tenant to comply with the Lease obligations;
  - (d) acknowledges and agrees that the Sheriff does not warrant that it holds or will provide the Purchaser with the original or copies of the Lease (or any deed of variation, extension or transfer);
  - (e) covenants with the Sheriff that with effect from the finalisation of this transaction:
    - i. the Purchaser takes and is deemed to have taken an assignment of the benefit of all conditions contained in the Lease; and
    - ii. the Purchaser must comply with the terms of the Lease including any options for renewal; and
  - (f) acknowledges that no adjustment will be made in respect of any outgoing paid whether or not payable by the tenant under the Lease.
- 1.7 The Purchaser acknowledges and agrees that:
- (a) the Sheriff is under no duty to exercise good commercial or residential lease management policy and practice in the period between Day of Sale and finalisation of this transaction.

## 2. Description of the Property

- 2.1 An omission or mistake in the description of the Property or any deficiency in the area, description or measurements of the Property and improvements to the Property does not invalidate the sale.
- 2.2 The Purchaser acknowledges that the Property is sold subject to all faults and defects existing at the Day of Sale.
- 2.3 The Sheriff does not warrant or represent about:
- (a) the nature, condition, quality or state of repair of the Property;
  - (b) defects (latent or patent), dilapidation or infestation of the Property including its environmental condition;
  - (c) fitness of the Property for any purpose;
  - (d) any financial return or income that can be derived from the Property; or
  - (e) any use or development to which the Property may be put.
- 2.4 The Purchaser may not make any objection or claim for compensation, rescind or terminate this contract:
- (a) for any alleged misdescription of the Property or improvements to the Property or any deficiency in its area or measurements;
  - (b) the state of repair of the Property;
  - (c) defects (latent or patent);
  - (d) the physical condition of the Property;
  - (e) improvements to the Property; or
  - (f) require the Sheriff to amend title or pay any cost of amending title.

## 3. Services

- 3.1 The Purchaser takes the Property subject to:
- (a) existing water, sewerage, gas, electric, telephone and other installations and services (if any) and existing rights (if any) to use them; and
  - (b) any existing contractual arrangements with the providers of water, sewerage, gas, electricity, telephone and other like services and any existing obligations in relation to these arrangements.
- 3.2 The Sheriff does not represent that the services are adequate for the Purchaser's

proposed use of the Property and the Purchaser acknowledges that if there are such services in existence they may be terminated before settlement date, and the services (if any) are not transferred or assigned to the Purchaser by this contract.

- 3.3 The Purchaser cannot make any requisition, objection or claim compensation because of the presence or absence of any such services including any rights or easements required to connect service to the Property.
- 3.4 If any part of the Property is subject to a security interest to which the *Personal Property Securities Act 2009* (Cth) applies, the Sheriff is not required to ensure that the Purchaser receives a release in respect of the Property. The Purchaser must obtain any release at the Purchaser's cost and expense.

## 4. Transfer

- 4.1 The Sheriff must prepare any section 52(3) *Transfer of Land Act 1958* (Vic) ('**Transfer**') paper transfer of land document and deliver it to the Purchaser within four (4) days after the Day of Sale.
- 4.2 The Sheriff will provide the signed transfer of land document to the Purchaser upon payment of the balance of the purchase price.
- 4.3 The Sheriff must promptly initiate the Duties Online form required by the State Revenue Office in respect of this transaction.
- 4.4 The Purchaser will co-operate to complete the Duties Online form as soon as practicable.

## 5. Certificate of Title

- 5.1 The Sheriff does not provide the Certificate of Title to the Property.
- 5.2 If the Certificate of Title is required for registration, the Purchaser is solely responsible for:
- (a) locating the Certificate of Title ('**Title Holder**');
  - (b) inviting the Title Holder to the electronic workspace ('**Workspace**'); and
  - (c) ensuring the Title Holder nominates the title.
- 5.3 Should the Title Holder refuse to enter the Workspace or cannot be contacted, it is the sole responsibility of the Purchaser to seek court orders to compel the Title Holder to perform all necessary tasks to effect registration of the Transfer.

## 6. Registration on Title

The Sheriff is not liable if the Purchaser fails to become registered on title to the Property within the period specified in section 52(3) of the *Transfer of Land Act 1958* or at all.

## 7. Electronic Settlement ('Completion')

7.1 Subject to being indemnified by the Purchaser in respect of any fees and charges under condition 9, the Transfer pursuant to section 52(3) of the *Transfer of Land Act 1958* will be lodged electronically in accordance with the Electronic Conveyancing National Law.

7.2 Either party can give written notice to the other party, if that party reasonably believes that Completion and lodgement can no longer be effected electronically. This condition ceases to apply from when such a notice is given.

7.3 The Purchaser must invite the Sheriff as a party "*To deal with an Interest*" to the Workspace and set the time and date for Completion. The Sheriff will accept the Workspace and Completion, as soon as practical thereafter. The inclusion of a specific date and time for Completion in a Workspace is not of itself a promise to complete on that date or at that time.

7.4 Condition 7.5 applies if there is more than one electronic lodgement network operator in respect of the transaction. In condition 7.5 'the transaction' means this sale and purchase and any associated transaction involving any of the same subscribers.

7.5 To the extent that any interoperability rules governing the relationship between electronic lodgement network operators do not provide otherwise:

- (a) the electronic lodgement network operator to conduct all the financial and lodgement aspects of the transaction after the Workspace locks must be one which is willing and able to conduct such aspects of the transaction in accordance with the instructions of all the subscribers in the Workspaces of all the electronic lodgement network operators after the Workspace locks;
- (b) if two or more electronic lodgement network operators meet that description, one may be selected by Purchaser's incoming mortgagee having the highest priority but if there is no mortgagee of the Purchaser, the Sheriff must make the selection.

7.6 Completion occurs when the Workspace records that there has been an exchange of funds or value between the exchange account or accounts in the Reserve Bank of Australia of the relevant financial institutions or their financial settlement agents in accordance with the instructions of the parties.

7.7 The Purchaser acknowledges and agrees that Sheriff is under no duty or obligation to enable the Purchaser to become registered proprietor of the land.

7.8 The parties must do everything reasonably necessary to effect Completion:

- (a) electronically on the next business day if, after the locking of the Workspace at the nominated completion time, Completion in accordance with condition 7.6 has not occurred by 4.00pm, or 5.00pm if the nominated time for settlement is after 4.00pm;
- or
- (b) at the option of either party, otherwise than electronically as soon as possible.

7.9 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.

## 8. Inspection and Possession

8.1 The Sheriff does not provide or authorise inspection of the Property at any time from Day of Sale until finalisation of the transaction.

8.2 The Sheriff does not deliver possession of the Property to the Purchaser consequent upon the sale. If the Purchaser seeks possession of the Property, the Purchaser must take action to obtain possession.

8.3 Without limiting condition 8.2, the Sheriff does not deliver any keys or any other physical documents or items (including goods) upon finalisation of the transaction.

## MONEY

### 9. Payment

9.1 The Purchaser must pay, by electronic funds transfer (EFT) or using OSKO in the form of clear funds, a minimum 10% deposit on the fall of the hammer into the nominated Fines and Enforcement Services revenue account as provided by the Sheriff's officer conducting the sale.



9.2 The Purchaser must pay the balance of the purchase price within fourteen (14) days of the Day of Sale or such other period stated in the Particulars of Sale by:

- (a) bank cheque; or
- (b) if the parties agree, by electronically transferring the payment in the form of cleared funds.

9.3 The Purchaser must pay the balance of the purchase price to the Sheriff or as the Sheriff may direct.

9.4 The Sheriff may end this contract if payment is not made in accordance with conditions 9.1 to 9.4 or if the cheque is not honoured within 5 business days of the cheque being presented for payment. The deposit will not be refunded if the contract is ended in these circumstances.

9.5 The Purchaser must pay by electronic funds transfer (EFT) or using OSKO in the form of clear funds, the fees and registration charges of PEXA or any other commercially provided electronic settlement platform, that are charged to the Sheriff. The Sheriff does not have to proceed with electronic completion under condition 7 if the Purchaser does not pay these fees and charges.

## 10. Goods and Services Tax

10.1 If, on or after the Day of Sale of this Property by the Sheriff, the purchase is a taxable supply and subject to any goods and services tax pursuant to the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (**GST**):

- (a) the GST will be a liability of the Purchaser under this contract;
- (b) the price payable by the Purchaser to the Sheriff under this contract will be increased by the applicable amount of GST (**Increased Price**).

10.2 The Increased Price will be payable by the Purchaser to the Sheriff on the settlement date, irrespective of when the Sheriff is liable to remit any GST collected under this contract (with or wholly or in part) to the Australian Taxation Office

## 11. No Loan approval

The sale of the Property is not subject to a loan being approved.

## 12. Outgoings

12.1 There will be no adjustment of periodic or other outgoings for the Property upon finalisation of the transaction.

12.2 The Purchaser is liable for all unpaid and future rates, taxes, premiums, assessments and other outgoings owing in respect of the Property regardless of when they were incurred and including any arrears and interest accruing on those amounts.

## TRANSACTIONAL

### 13. Time

13.1 Time is of the essence of this contract.

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

13.3 Any unfulfilled obligation will not merge on settlement.

### 14. Nominee

The Purchaser may nominate a substitute or additional Purchaser no later than 7 days prior to settlement, but the named Purchaser remains personally liable for the due performance of all the Purchaser's obligations under this contract.

### 15. 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.

### 16. Guarantee

The Sheriff 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.

### 17. 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.

### 18. Loss or damage

The Purchaser carries the risk of loss or damage to the property from the Day of Sale.

### 19. Breach

19.1 If the Purchaser breaches this contract, the Purchaser must pay to the Sheriff on demand:

- (a) compensation for any reasonably foreseeable loss as a result of the breach; and
- (b) any interest under this contract as a result of the breach.

## **20. Default**

- 20.1 The Sheriff is not required to give a default notice before exercising any rights arising from the Purchaser's default.
- 20.2 All unpaid money under the contract becomes immediately payable to the Sheriff if the default has been made by the Purchaser and compensation and interest accrues from the date of default.

## **21. 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 (Vic)* is payable on any money owing under the contract during the period of default, without affecting any other rights of the offended party.

<b>Property Address:</b>	Unit 50, 95 Ashleigh Avenue Frankston Victoria 3199
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**ENCUMBRANCE AMOUNTS AS ADVISED TO THE SHERIFF'S OFFICE**

<b>Mortgage:</b>	\$	Nil
<b>Caveat:</b>	\$	Nil
<b>Owners Corporation:</b>	\$	8,143.57
<b>Rates Outstanding: Frankston City Council</b>	\$	4,457.93

**Encumbrances and other registered interests affecting the property**

1. The purchaser buys the property **subject to**:
  - 1.1. any encumbrance or other interest shown in the Certificate of Title to the property as at the day of sale;
  - 1.2. any reservations in the crown grant; and
  - 1.3. any lease.
2. It should be **understood** that whilst the Sheriff endeavours to ascertain all information as to any encumbrances which affect or may affect the interest to be sold, the information supplied is not in anyway guaranteed to be accurate.
3. The Sheriff is **not liable** for any omission in relation to information about encumbrances or other interests shown in the Certificate of Title to the property.
4. The Sheriff does **not know** of any unregistered interests in relation to the property and does not make any representations about the existence or otherwise of such interests.

Please Note	The Sheriff's auctions of real estate differ from the usual auction conducted by real estate agents/licensed auctioneers. Please read the information sheet and seek independent advice if you intend to bid at a Sheriff's auction.
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**Sheriff's Real Estate Section**

<mailto:realestatesection@justice.vic.gov.au>

Complete this form and email it to [realestatesection@justice.vic.gov.au](mailto:realestatesection@justice.vic.gov.au) at least 1 business day before the date of the auction to register your interest to attend and bid at the Sheriff's Real Estate Online Auction.

## Auction details

Date of auction	
Property of interest	

## Your details

Full name	
Company name	
Address	
Phone number	
Email address	
Signature	

\* Electronic signatures are permitted.

## Important information

By completing and emailing this form to the real estate section, you confirm that you have read the "Information Sheet" and sought independent legal advice (if required). Please click on the following link [Sheriff's auctions of real estate general information | Department of Justice and Community Safety Victoria](#) to access the information sheet.

Before the auction:

- Ensure you have completed and emailed this form to the Real Estate Section. The subject heading should be "Real Estate Online Auction Registration Form - [date of auction]".
- Ensure you have received and accepted the email invitation from the Real Estate Section to attend the online auction. If you have not received the email invitation, please email [realestatesection@justice.vic.gov.au](mailto:realestatesection@justice.vic.gov.au)
- Ensure you can access Microsoft Teams from your device. For more information on accessing Microsoft Teams, please refer to the Microsoft Teams [website](#).

On the day of the auction:

- At least five minutes before the advertised start date, join the online auction. For more information on joining the online auction, please refer to the "Join a Teams Meeting" section on the Microsoft Teams [website](#).
- You must have cleared funds to pay the minimum 10% deposit.
- If you are the successful purchaser, you must immediately transfer the deposit to the nominated Fines and Enforcement Services' Revenue Account using OSKO. OSKO is a payment platform by BPAY that allows you to make near instant payments from one bank account to another using a BSB and account number or a PayID.

## Privacy statement

Sheriff's Office Victoria values and is committed to protecting your privacy. We handle your personal information in accordance with applicable legislation including the *Privacy and Data Protection Act 2014*, the *Public Records Act 1973* and the *Health Records Act 2001*. For more information on how we collect, use and disclose your personal information, please refer to the [information privacy policy](#).



# Sheriff's Auctions of Real Estate

## Information Sheet

**Sheriff's auctions of real estate differ from auctions conducted by real estate agents/licensed auctioneers.**

**If you intend to bid at a Sheriff's real estate auction, you are advised to read this information sheet and seek independent legal advice.**

### **Who is the Sheriff?**

The Sheriff is an officer of the Supreme Court of Victoria.

### **Why does the Sheriff sell property?**

The Court directs the Sheriff to sell a person's interest in property when that person fails to pay a debt that the Court has ordered the person to pay.

### **What is the Sheriff selling at an auction of property?**

The Sheriff auctions a person's interest in property under a Warrant of Seizure and Sale.

A person's interest may be subject to any other interests in the property registered on the title to the property at the time of the auction, including mortgages and caveats. These other interests are noted on the advertisement of the Sheriff's auction. There may also be unregistered interests that are not recorded on the title. Where known, the Sheriff will advise prospective purchasers of unregistered interests. The Sheriff cannot guarantee that there may be other unregistered interests in the property.

The extent of the interest being sold by the Sheriff will differ at each auction. Prospective purchasers should ensure they understand what is being sold.

### **Example**

*A person is the sole proprietor of a property valued at \$400,000. A registered mortgage of \$300,000 affects the property. No other registered interests affect the property. For the purpose of setting a reserve for the auction of the property, the person's interest in the property would be valued at \$100,000.*

At the auction or, upon request, before the auction, the Sheriff provides the pay-out amount for any registered mortgages affecting the person's interest being sold if that information is known.

Also see section below, [Following sale what happens to the other interests registered on title?](#)

### **Method of sale**

The Sheriff is only permitted to sell interests in real estate by public auction. This can be online, or at a location as advertised by the Sheriff.

The Sheriff cannot enter into negotiations to sell an interest in real estate by private sale prior to a scheduled auction or after the auction at which an interest has passed in.

### **Inspection of property**

The Sheriff does not obtain possession of a property as part of the sale process. The Sheriff may allow the property to be open for inspection prior to an auction if the property is vacant, or the occupier consents, and the

Sheriff is given access to the property and determines that there are no significant risks to the safety of the public or its officers. In most matters, a property is not able to be inspected prior to auction.

### Vendor's statement or "section 32"

A Sheriff's auction does not operate under the *Sale of Land Act 1962*. The Sheriff does not provide a vendor's statement under section 32 of the *Sale of Land Act 1962*.

A person wishing to bid at a Sheriff's auction should make their own enquiries in relation to the property. A lawyer can assist in making property information searches.

### Who conducts the auction?

A Sheriff's auction is conducted by a Sheriff's officer, not a real estate agent or auctioneer. To bid at a Sheriff's online auction you must have access to a laptop or phone with the Microsoft Teams App. All bidders or interested parties must complete the Sheriff's auction registration form (including your email address) to be invited to the auction.

The registration form can be found in this website:

<http://www.justice.vic.gov.au/sheriffrealestate>

### Is there a reserve price?

Unless the Court orders otherwise, the Sheriff has a duty to obtain a fair and reasonable price. The Sheriff sets a reserve price; however, the reserve price is not disclosed.

### Does GST apply to the Sale?

GST is payable on some types of real property, such as commercial properties and new residential properties. The applicability of GST to the sale will vary in each circumstance. If GST is payable it will be set out in the contract of sale.

### What happens following a sale?

The purchaser must pay, by electronic funds

transfer (EFT) using OSKO in the form of clear funds, a minimum of 10% deposit on the fall of the hammer into the nominated Fines and Enforcement Services revenue account as provided by the Sheriff's officer conducting the sale.

Osko is a payment platform BPAY that allows near instant payments to be made from one bank to another, a BSB and an account number, or a PayID.

A contract of sale is entered into between the Sheriff and purchaser. This is not a standard form contract.

Payment terms vary from auction to auction. The advertisement for the Sheriff's sale will set out the payment terms.

On payment of the purchase price, the purchaser must invite the Sheriff as a party "to deal with the interest" to the PEXA workspace and set a time and date for completion. The Sheriff will accept the workspace and completion as soon as practical thereafter.

### Insurance

The Sheriff does not insure the property or provide insurance advice. Purchasers should seek independent advice from a lawyer, their insurer or an insurance broker about insuring the property.

### Timing

If the purchaser wants the Registrar of Titles to register the interest they have acquired in the property on the relevant Certificate of Title, section 52 of the *Transfer of Land Act 1958* requires the purchaser to lodge the relevant transfer for registration within six months of the date that the Registrar recorded the warrant on the title. Prospective purchasers should check the date the warrant was registered on title carefully.

### Certificate of Title

The paper or electronic Certificate of Title for the property (the title) is required for

registration. The Sheriff does not have, nor can the Sheriff provide the title.

At their own expense, the purchaser is responsible for:

- locating the title holder (often the mortgagee who holds the electronic title)
- for inviting the title holder into the PEXA workspace. If the title holder (often the mortgagee) cannot operate in the same workspace as the Sheriff, the purchaser may need to arrange a paper settlement
- seeking orders from the court to proceed to have the transfer registered if the title holder refuses to enter the workspace, cannot be contacted, or if required does not nominate the title, and
- taking legal action to obtain vacant possession of the property (if necessary).

### Outgoings on the property

The purchaser is liable for all unpaid and future outgoings incurred in respect of the property, in addition to any interest accruing on those amounts. There will be no adjustments made on the purchaser's payment of the balance of the price.

### Stamp duty

Stamp duty is payable on a transfer of land from the Sheriff. The State Revenue Office of Victoria will provide relevant advice in relation to stamp duty.

### Possession of the property

Purchasers are entitled at law to possession of the property in which the Sheriff has sold

an interest. However, the Sheriff does not deliver possession of the property upon a sale. At its own expense, the purchaser may have to take legal action to obtain possession of the property.

### Following sale what happens to the other interests registered on title?

A prospective purchaser at a Sheriff's auction should obtain legal advice in relation to the effect of other interests registered on title. The most common interest registered on title is a mortgage. The purchaser does not become responsible for payments under the mortgage; the mortgagor would continue to be responsible.

The purchaser may choose to pay out the mortgage. If the purchaser pays out the mortgage, the interest purchased at auction will no longer be subject to the mortgage. If the purchaser does not pay out the mortgage, the property remains subject to the mortgage, and if the mortgagor defaults on payments, the mortgagee may sell the property at a mortgagee's sale.

### Further information

Please contact Sheriff's Asset and Administration Services by email at [realestatesection@justice.vic.gov.au](mailto:realestatesection@justice.vic.gov.au) if you have any questions.



# Normal sales versus Sheriff's sales

## Sheriff's real estate auctions



### Normal sale



### Sheriff's sale

The property is being sold.



The person's interest in the property is being sold.

Real estate agents are engaged to sell the property, or the registered proprietor can sell the property themselves.



Real estate agents are **not** engaged to sell the property.

Sales can be by auction, tender or private treaty.



Sales can **only** be by auction.

The seller generally holds open for inspections before selling the property.



The Sheriff does **not** generally hold open for inspections but may allow one in limited circumstances.

An auctioneer or a real estate agent will conduct the auction.



A sheriff's officer will conduct the auction.

Auctions can be conducted online, at the property or at a disclosed location.



Auctions are normally conducted online but can also be conducted at a disclosed location.

If the property is passed in, the highest bidder can negotiate with the seller to buy the property.



If the property is passed in, the Sheriff **cannot** enter into negotiations with bidders.

The contract of sale can be conditional on finance or property reports for example.



The contract of sale must **not** have any conditions.

There is a reserve price but it is not disclosed.



There is a reserve price but it is not disclosed.

The seller can accept any price.



The Sheriff must obtain a fair and reasonable price for the property.





### Normal sale



### Sheriff's sale

The sale price includes the payment of any other interest, such as mortgages, caveats and rates.



The sale price does **not** include the payment of any other interest, such as mortgages, caveats and rates.

The purchaser usually needs to pay a deposit



The purchaser must pay a 10% deposit on the fall of the hammer.

The deposit may be refundable depending on the contract.



The deposit is **not** refundable.

In some circumstances there is a cooling off period.



There is **no** cooling off period.

The purchaser pays stamp duty on the property (where applicable)



The purchaser pays stamp duty on the property.

The purchaser gets possession of the property on settlement.



The purchaser does **not** get possession of the property on settlement.

GST applies to sales of commercial and new residential properties



GST applies to sales of commercial and new residential properties

A vendor's statement or section 32 is required.



A vendor's statement or section 32 is **not** required.

The certificate of title is provided.



The certificate of title is **not** provided.

PEXA is used for normal sales.



If there is no outgoing or incoming mortgage, you can invite the Sheriff into the PEXA workspace to complete the transfer. If there is an outgoing or incoming mortgage, the transfer will need to be completed as a paper settlement until further notice.

### **What is the Sheriff selling at a real estate auction?**

A person's equitable interest in a property only.

### **Can I view the property before the auction?**

Generally, a property cannot be inspected before a Sheriff's real estate auction.

### **How can I attend a Sheriff real estate auction?**

The Sheriff holds auctions online or at an advertised location. For online auctions, you need to register using this [online form](#).

### **What is the reserve price for the property?**

The Sheriff sets a reserve price, however it is not disclosed to the public.

### **What happens if the property does not sell at auction?**

The Sheriff may host another auction and sell it without a reserve. The highest bid will usually be subject to court approval.

### **Does the Sheriff provide the certificate of title to the property?**

No, the Sheriff does not have access to the certificate of title. The purchaser may need to take legal action to obtain the title.

### **Does the Sheriff provide a vendor's statement?**

No, the Sheriff does not provide a vendor's statement.

### **Does the Sheriff insure the property?**

No, the Sheriff does not insure the property.

### **How does the purchaser pay?**

The purchaser must pay by Osko or Eftpos. Visit [osko.com.au](https://osko.com.au) to check if your bank participates.

### **Are adjustments made for outgoing (such as rates) on the property?**

No, the purchaser is liable for all unpaid and future outgoing for the property, including interest for those amounts.

### **Is there a cooling off period?**

No, there is no cooling off period.

### **Does a Sheriff sale discharge other interests on the title - such as caveats?**

No, the Sheriff sells the debtor's interest in the property subject to all other interests and recordings on the title. The purchaser must pay any other encumbrances (such as mortgages or caveats) in addition to the final auction bid amount.

### **What happens if the judgment debtor is living at the property?**

The Sheriff does not provide vacant possession. The purchaser may need to take legal action to obtain possession of the property.

### **Can this contract be subject to a loan being approved?**

No, on the day of the auction you must have the ten percent deposit at the fall of the hammer and the remaining clear funds within 14 days of signing the contract.

### **Where can I get more information?**

Visit [justice.vic.gov.au/sheriffrealestate](https://justice.vic.gov.au/sheriffrealestate) or email [realestatesection@justice.vic.gov.au](mailto:realestatesection@justice.vic.gov.au)

<sup>1</sup> This information sheet is general in nature and provided for information purposes only. It is not

intended to be a substitute for legal advice. You should seek your own legal advice as required.