CI-15-00123

# IN THE COUNTY COURT OF VICTORIA AT MELBOURNE

**IN THE MATTER** of the *Confiscation Act 1997*

and

**IN THE MATTER** of property in which a member of the police force suspects on reasonable grounds to be tainted in relation to a Schedule 2 offence

BETWEEN:

PETER ADAMS

and

Applicant

THE DIRECTOR OF PUBLIC PROSECUTIONS FOR VICTORIA

Respondent

# NOTICE OF GROUNDS OF OPPOSITION TO APPLICATION UNDER SECTION 36U OF THE CONFISCATION ACT FOR AN EXCLUSION ORDER

Date of Document: 7 March 2017 Filed on behalf of: The Respondent

Prepared on behalf of the Respondent by: JOHN CAIN

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**TO:** PETER ADAMS **("the Applicant")**

*cl-* ZWB Lawyers, Unit16, 499 Station Street, South Melbourne VIC

**TAKE NOTICE THAT** the Director of Public Prosecutions **("the Respondent") INTENDS TO OPPOSE** the application made by the Applicant under section 36U of the *Confiscation Act 1997* **(the Act)** for an exclusion order in these proceedings.

**THE GROUNDS** on which the Applicant's application will be opposed are as follows-

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# CONVICTION AND OFFENCES

1. On 21 October 2014, Victoria Police executed a search warrant upon the Applicant's premises at 16 Valley Street Black Rock **("the Restrained Property")** and seized 81 plants that weighed a total of 37 kg. This weight is above the automatic forfeiture quantity threshold within the meaning of the *Drugs, Poisons and Controlled Substances Act 1981.*
2. The Applicant was charged, amongst other things, with Cultivate Commercial Quantity of Narcotic Plant (Cannabis) contrary to section 72A of the *Drugs, Poisons and Controlled Substances Act 1981.* Since this charge involved an automatic forfeiture quantity, it is a Schedule 2 offence within the meaning of the *Confiscation Act 1997.*
3. On 20 January 2016, his Honour Judge Murphy of the County Court of Victoria made a civil forfeiture restraining order in relation to the Restrained Property.
4. On 10 August 2015, the Applicant pleaded guilty to, amongst other things, the offence of Cultivate Narcotic Plant (Cannabis) *simpliciter,* before his Honour Chief Magistrate Lauritsen in the Magistrates' Court of Victoria.

# TEST FOR EXCLUSION

1. By his application for an exclusion order, dated 3 March 2015 **("the Application"),** the Applicant seeks exclusion of the Restrained Property.
2. Since the Application was made on 3 March 2015, the version of the Act governing the Application is Version 70.
3. The Application is to be determined on the balance of probabilities pursuant to section 132 of the Act.
4. The Applicant has failed to adduce evidence in support of his application which is capable of satisfying this Honourable Court that:

# SECTION 36V OF THE CONFISCATION ACT 1997

* 1. the Restrained Property is *not* tainted property within the meaning of the Act, pursuant to section 36V(l)(a)(ii) of the Act; and
	2. the Applicant was not, in any way, involved in the commission of any relevant Schedule 2 offence.

**THE ADDRESS FOR SERVICE** of the person intending to oppose the application is 565 Lonsdale Street, Melbourne, Victoria.

The name or firm and the business address within Victoria of the solicitor for the Director of Public Prosecutions is: John Cain, Solicitor for Public Prosecutions of 565 Lonsdale Street, Melbourne, Victoria.

Date: 7 March 2017

Signed on behalf of the Director of Public Prosecutions for Victoria