

Management report to Council

Agenda Item 6.11

Proposed Discontinuance and sale of part of Highett Street, West Melbourne

Council

Presenter: Angela Meinke, Manager Planning and Building

28 February 2017

Purpose and background

1. A request for the discontinuance and transfer of a land locked portion of Highett Street, West Melbourne ('the Road') as shown hatched on the attached plan (see Attachment 2) was received from the owner of 167-169 Kensington Road, West Melbourne on 8 December 2015.
2. The Road is not owned or managed by Council and is not available for use by members of the public. The last known owner is from 1854. As there is formally no current landowner, the land can be dealt with by either:
 - 2.1. an adverse possession application at Land Use Victoria (LUV). The application meets all the requirements of LUV to successfully make this application.
 - 2.2. by discontinuing the road under the *Local Government Act 1989* (the Act) and transfer from Council. The discontinuance of the road vests the land with Council, thereby enabling Council to then transfer the land.
3. The former portions of Highett Street to the north and south were discontinued and sold in 1972 and 1995 respectively, leaving the Road land locked. The possessory rights commenced at this time and LUV will register an adverse possession application due to the length of time which has expired. There has already been a successful adverse possession application over part of Highett Street at the rear of 207-213 Kensington Road.
4. Public consultation of the proposed discontinuance and sale was undertaken (see Attachment 2) and two submissions (see Attachment 3) have been lodged, one from the applicant's solicitor supporting the proposal and the other from the tenant of the adjacent property opposing the proposal.

Key issues

5. The status of the Road is 'private' and the aerial photos in the submission from the applicant (see Attachment 3) shows that it is not being used for access by any of the abutting properties. It is being accessed in conjunction with the property at 167-169 Kensington Road, West Melbourne.
6. The recommendation and actions accord with the current Council Policy for Road Discontinuance and Sale (see Attachment 1). This Policy is currently under review with the proposed new Policy programmed for presentation to Council in April 2017. It is unreasonable to delay a decision on the proposed discontinuance and sale when the original enquiry was made in December 2015.
7. Land Survey recommended that the applicant use a discontinuance for the following reasons:
 - 7.1. the Road is not a Council asset and has not been maintained by Council
 - 7.2. the situation accords with the current policy for a nominal value sale of \$1
 - 7.3. Council's costs are reimbursed by the applicant
 - 7.4. it enables a requirement that the Road must be consolidated with the applicant's adjoining land. If the land is obtained by way of adverse possession, the applicant will receive a clear title enabling the land to be sold separately.
8. The recommendation reflects that of Council's Submissions (Section 223) Committee held on 24 November 2016.

Recommendation from management

9. That Council:
 - 9.1. discontinues and sells part of Highett Street, West Melbourne as shown on the public notice dated 12 October 2016, to the abutting landowner at 167-169 Kensington Road, West Melbourne (Adjoining land) for \$1 plus GST, for the reasons that:
 - 9.1.1. the land occupied by the private road is unsightly, has not been actively managed for many years and on balance, transfer to the owner of the adjoining land is considered the most equitable option to address these issues
 - 9.1.2. this is the last remnant of road after previous discontinuances and sales which were to the owners of 133-165 Kensington Road and 171-193 Kensington Road on either side and this transfer to the owner of the Adjoining land would ensure consistency in the boundary lines of the three properties

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- 9.1.3. the contract of sale will include special conditions requiring not only consolidation of the land with the Adjoining land but also the cleaning up of the land
- 9.2. notifies in writing each person who has lodged a separate submission of the decision and reasons for the decision.

Attachments:

1. Supporting Attachment (page 3 of 78)
2. Public Notice (page 4 of 78)
3. Plan (page 5 of 78)
4. Submissions (page 6 of 78)

Supporting Attachment

Legal

1. Pursuant to sections 206(1) and clause 3 of Schedule 10 of the Act, Council has given public notice that it proposes to discontinue and sell the private road.

Finance

2. The Road is a private road and is not managed or maintained by the Council. If the application is approved and the Road is discontinued, the Act vests the subject land in the Council with the power to transfer the land. As the road is not controlled by Council it is proposed to be sold for a nominal \$1 plus GST.
3. The land has an area of 420 square metres and was valued at \$70,000 on 2 December 2016.
4. The Road is encumbered by a water supply easement in favour of Melbourne Water which aligns with adjacent easements to the north and south of the Road.
5. The applicant is meeting all costs associated with the proposal.

Conflict of interest

6. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Stakeholder consultation

7. Public consultation in respect to the proposed discontinuance and sale involved:
 - 7.1. advertising in The Age on 12 October 2016
 - 7.2. a letter being sent to the owners and occupiers of abutting properties
 - 7.3. all of the Service Authorities being notified by e-mail of the proposal.
8. Two submissions were received and reported at the Submissions (Section 223) Committee meeting held on 17 November 2016.

Relation to Council policy

9. The proposed discontinuance has been assessed under the Council's Road Discontinuance and Sale Policy based on the following points:
 - 9.1. Private roads are not a Council asset nor owned by Council. Sometimes the adjoining owners are actually controlling the road, in other cases they are back alleys that no one takes responsibility for.
 - 9.2. The Council denies all responsibility for the care and maintenance of private roads and expressly excludes them from the maintenance standards in its road management plan. Most were left over from land sales in the 1800s and are often in the name of the long dead developer (they are often called NUA land meaning they are not under the *Transfer of Land Act 1958* but are still held under the general law system that operated before the title system was introduced in Victoria in the 1860s).
 - 9.3. Despite these private roads not being under Council ownership or management, the Act allows a local government to propose to discontinue and sell a 'road' irrespective of whether the road is a Council owned/maintained road or a private road. When the notice of the discontinuance is published in the government gazette, the road vests in the Council's name enabling the Council to transfer it. If the road is NUA, discontinuance also brings the land under the *Transfer of Land Act* so a certificate of title for the land is created by Land Victoria.
 - 9.4. The 1999 sale and discontinuance policy adopted by the Council recognised that these roads differ to those that Council maintains and are public highways vested in the Council and provided private roads could be discontinued and sold for a nominal value (\$1) to an adjoining land owner. The purchaser still has to reimburse the Council its costs of the process.
 - 9.5. Engineering Services and Land Survey have records of every road which is maintained by Council, under Council's management, is a Council asset and also those it denies responsibility for.

Environmental sustainability

10. This proposal has no significant impact on environmental sustainability.

Public Notice published in the Age on 12 October 2016

Melbourne City Council

Proposed discontinuance and sale of part of Highett Street, West Melbourne

Notice is given pursuant to sections 206(1) and 223 and clause 3 of schedule 10 of the Local Government Act 1989 ('Act') that the Melbourne City Council ('Council'), proposes to discontinue and sell, part of Highett Street as shown hatched on the plan below ('the Road') to the abutting land owner at 167-169 Kensington Road, West Melbourne for \$1 plus GST ('Proposal'). The Road is a private road which is land locked and has been occupied and used in association with the abutting land for many years.

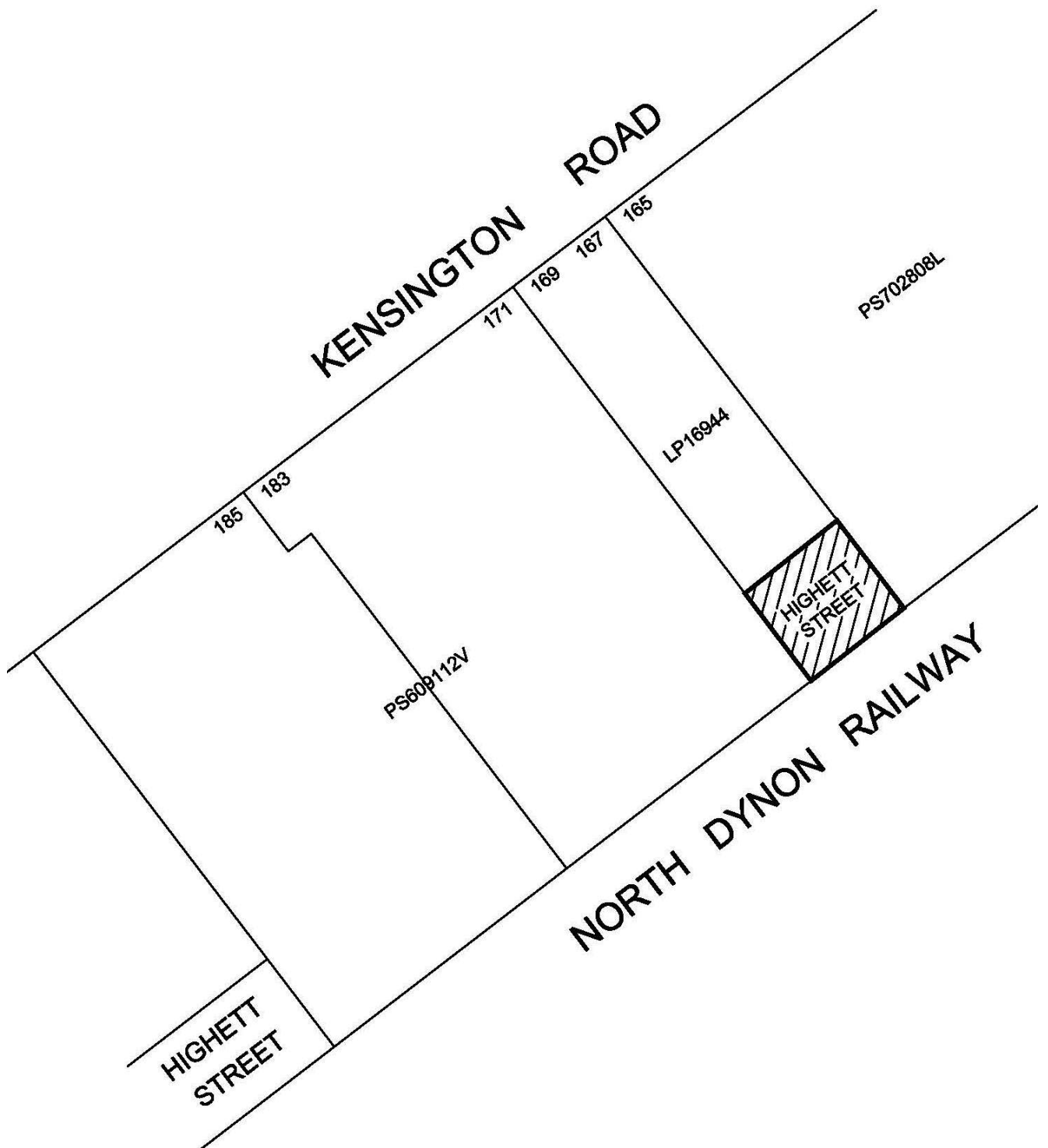
Any person may make a submission on the Proposal to the Council. All submissions received by the Council on or before 10 November 2016 will be considered in accordance with Section 223(1) of the Act, by the Council's Submissions (Section 223) Committee ('Committee').

If a person wishes to be heard in support of their submission they must include the request to be heard in the written submission and this will entitle them to appear in person, or by a person acting on their behalf, before a meeting of the Committee, scheduled to be held on Thursday 17 November 2016, commencing at 3pm, in the Melbourne Town Hall, Administration Building, Swanston Street, Melbourne.


Written submissions should be marked 'Proposed Discontinuance and sale of part of Highett Street, West Melbourne' and addressed to the Manager Governance and Legal, Melbourne City Council, Town Hall, 120 Swanston Street, Melbourne, 3000 or GPO Box 1603, Melbourne, 3001.

Submissions form part of the public record of the meeting (including any personal information you provide) and will be appended to the Council report which is published on Council's website (accessible worldwide) for an indefinite period. A hard copy will also be made available for inspection by members of the public at Council offices, in accordance with the requirements of the Act.

If you have any concerns about how Council will use and disclose your personal information, please contact the Council Business team via email at privacy@melbourne.vic.gov.au



Land Subject to Discontinuance

 Private Lane - Highett Street (Part)



Not to Scale

8th November 2016

Manager Governance and Legal
Melbourne City Council, Town Hall
120 Swanson Street
Melbourne 3000 VIC

SUBMISSION

Proposed Discontinuance and sale of part of Highett Street, West Melbourne.

Dear Sir/Madam,

I refer to the Letter from the City of Melbourne dated 10 October 2016 and subsequent phone call with your Leon Wilson.

I am authorised to act on behalf of both the Owner and Tenant of the adjoining property at 171-183 Kensington Road West Melbourne. Both Lauraville Pty Ltd as Owner and H Leffler & Son Pty Ltd as Tenant have a commercial use for the "Highett Street" parcel of land.

We operate a business that requires more space for parking and for shipping container storage. This is due to the following reasons:

- a) Parking is limited at the front of our property due to the spaces being restricted to "Loading Zone". Therefore visitors need to park on-site and we are limited to the available spaces on any given day.
- b) Our business model is changing with items that we import that now require longer term storage on-site that our current building/warehouse cannot easily accommodate. The alternative is off- site contract warehousing which is expensive and with extra logistical costs and transportation costs as well as the logistics to manage.

The parcel of land "Highett Street" is not in active use by the current land owner nor has it been used for the last 8 years that we have operated at this location.

Therefore we propose that this parcel of land "Highett Street" not be sold for \$1 to the current property owner of 169-167 Kensington Road West Melbourne.

We submit that that land be subject to a "Process of Sale" to allow ourselves and the other interested parties to make commercial offers to the City of Melbourne for review and acceptance under the appropriate Council Rules.

For and on behalf of H Leffler & Son Pty Ltd and Lauraville Pty Ltd.

Regards,

David Paul Guyett
CEO

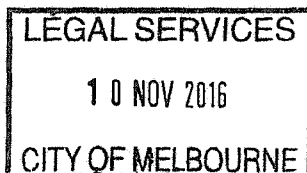


10 November 2016

CONTACT: Ron Cohen
DIRECT EMAIL: rcohen@tffc.com.au
PRINCIPAL: Ron Cohen
OUR REF: RC:LB:160719
YOUR REF:

Manager Governance and Legal
Melbourne City Council
Town Hall, 120 Swanston Street
MELBOURNE VIC 3000

“BY HAND”



Dear Sir,

Re: **Proposed Discontinuance and sale of part of Highett Street, West Melbourne**

A. APPLICATION:

We act on behalf of 167-169 Kensington Road Kensington (“the Applicant”).

The Applicant is the current owner of 167-169 Kensington Road, West Melbourne (“Property”) and hereby applies to Council for the proposed discontinuance and sale of that part of Highett Street, West Melbourne (“the Road”) which abuts the rear of the Property.

B. SUBMISSIONS:

The Applicant submits that the Road should be discontinued and transferred to it on the following bases:

1. The Applicant purchased the Property from the previous owner who had initiated the application for the proposed discontinuance and sale of the Road with City of Melbourne. On 23 December 2015, City of Melbourne wrote to CA Haywood and Associates, the previous owner’s solicitors, conditionally approving the discontinuance process initiated by the previous owner. Please refer to the Statutory Declaration of Quinto Scalzo, Annexure QS3 for a true copy of this correspondence;
2. When completion of the purchase of the Property by the Applicant from the previous owner was effected, the previous owner agreed that the Applicant could continue with the application for the discontinuance and sale of the Road;
3. The Applicant has provided City of Melbourne with a written Undertaking and Bank Guarantee in accordance with City of Melbourne’s letter dated 23 December 2015 (above);
4. The Road abuts the rear of the Property;
5. The only access to the Road is via a gate at the rear of the Property. There is no direct access to the Road from any adjoining land to the Property. The Road is wholly enclosed as part and parcel of the Property by old wire fencing. The adjacent boundaries of the

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Accredited Specialists in Property Law, Commercial Litigation, Business Law, Family Law and Mediation



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Telephone (03) 8600 9333 Email info@tffc.com.au Facsimile (03) 9670 6359 Website www.tffc.com.au
Tisher Liner FC Law Pty Ltd ABN 96 236 404 070

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Property (including the Road) are lined with dense vegetation, which restricts any access to the Road from adjoining properties, save from the Property itself;

6. The previous owner of the Property has confirmed that he, and his immediate family, have had exclusive possession and use of the Road since at least 2001 accessing it from the Property;
7. Erected on the Road is an open shed and three tanks, which have been used as storage by the occupants of the Property for a long period of time (i.e. for 7 years at a minimum); and
8. The owners of the land adjacent to the Property on both sides (i.e. 133 Kensington Road and 171 Kensington Road) have already received a transfer of those parts of discontinued Highett Street, West Melbourne, which abut the rear of their properties.

C. SUPPORTING EVIDENCE:

The Applicant's submission is supported by the following:

1. Statutory Declaration of Quinto Scalzo, director of the Applicant, together with Exhibits thereto;
2. Statutory Declaration of Gabby McCarthy together with Exhibits thereto; and
3. (Unsigned) Statement of Stephen Jonathon Lawther, the former owner of the Property. It is hopeful that this statement may be signed by 17 November, the date of Council's Submissions Committee meeting.

D. CONCLUSION:

Based on the above submissions and supporting evidence, the Road should be discontinued and sold to the Applicant being the most suitably entitled party, having the closest nexus to the Road, to receive the transfer of the Road from the Council.

E. REQUEST TO BE HEARD:

The Applicant further requests to be heard and appear in person, or by a person acting on its behalf, before the meeting of the Council's Submissions Committee, scheduled to be held on Thursday 17 November 2016 commencing at 3.00 p.m.

Please do not hesitate to contact Ron Cohen of Tisher Liner FC Law, solicitors for the Applicant, should you have any queries in relation to this matter.

.....
Signed for and on behalf of
167-169 Kensington Road Pty Ltd
by its solicitors Tisher Liner FC Law
RON COHEN
of Level 2, 333 Queen Street, Melbourne VIC 3000
An Australian Legal Practitioner
within the meaning of the
Legal Profession Uniform Law (Victoria)

STATE OF VICTORIA

STATUTORY DECLARATION

I, **Gabrielle McCarthy** of Taylors of 8/270 Ferntree Gully Road, Notting Hill, Victoria 3168, Licensed Surveyor, do solemnly and sincerely declare that:-

1. I am employed by Taylors as a licensed surveyor. I make this Statutory Declaration from my own personal knowledge.
2. 167-169 Kensington Road Pty Ltd engaged Taylors to carry out a survey of the of the property located at 167-169 Kensington Road, West Melbourne, Victoria 3003, described in Certificate of Title Volume 08050 Folio 001 (the "**Property**").
3. In June 2016, I undertook a survey of the Property (including assessment of the site, aerial imaging and survey drawings).
4. I observed that the Property has direct access from the rear to a portion of council road known as Highett Street (the "**Council Road**").
5. There is a door at the rear of the old brick warehouse building at the south-east of the property providing direct access to the Council Road.
6. An open shed and three tanks have been observed on the Council Road. In my opinion based on the review of Nearmap Digital Aerial imagery dating back to 2009, these structures have existed on the property for at least 7 years.
7. The Council Road is wholly enclosed by old chain wire fencing along the boundary adjacent to the fish markets (133 Kensington Road), the leather factory (171 Kensington Road) and the VicTrak land to the south of the Property.
8. The chain wire fencing along the boundaries adjacent to the fish markets and the leather factory are lined with overgrown vegetation which also blocks any access to the Council Road from these surrounding parcels. Based on the nature and growth of the vegetation, it appears it has existed in this state for many years.
9. There is an old gate existing along the boundary between the fish markets and the Council Road however an additional fence has been added along this boundary which appears to have been erected as part of the upgrade works of the fish markets carried out approximately 5 years ago. This additional fence prevents direct access to the Council Road from the fish markets. Further, and judging by the overgrown nature of the vegetation along this boundary it appears that the old gate has not been actively used for some time; at least 5 years.
10. There is an additional layer of ballast fencing within the adjoining VicTrak site preventing access to the Council Road from that land.

'GM1'

STATUTORY DECLARATION OF GABRIELLE McCARTHY

This is the document referred to as Annexure "GM1" in the Statutory Declaration
of GABRIELLE McCARTHY

Declared at Melbourne, Victoria
on 27th November 2016

.....
Gabrielle McCarthy

Before me:

.....

JOHN FRENCH (CPA 1451041)
8/270 FERNTREE GULLY ROAD
NOTTING HILL
VICTORIA 3168

STATEMENT

I Stephen Jonathon Lawther of 29 Fairview Road, Chum Creek, Victoria 3777, hereby state as follows:

1. I am the former registered proprietor of the property located at 167-169 Kensington Road, West Melbourne, Victoria 3003, described in Certificate of Title Volume 08050 Folio 001 (the "Property").
2. I became the registered proprietor of the Property on 22 October 2014 in my capacity as legal personal representative of Lieu-Yen Chau, deceased.
3. Lieu-Yen Chau, and previously Lieu-Yen Chau and Quoc Khoan Chau (the "Proprietors") have owned the property since about November 2001.
4. The Proprietors were the parents of my wife, and accordingly the Property had been within the family for some 15 years.
5. I am personally familiar with the Property and the portion of council road at the rear of the Property known as Highett Street (the "Council Road").
6. Since the Property was in the ownership of the Proprietors, there has always been direct access from the Property to the Council Road. There is a gate at the rear of the Property giving occupants direct access to the Council Road, which is otherwise fenced off and inaccessible from other surrounding properties.
7. To my knowledge, the Council Road has not been accessed or used by any neighbouring property. The Council Road was always fully enclosed as part of the Property itself by wire fencing.
8. To my knowledge, the Property was exclusively accessed and used by the occupants of the Property.
9. Pursuant to a contract of sale, I sold the Property to 167-169 Kensington Road Pty Ltd (in my capacity as legal personal representative of Lieu-Yen Chau). The Property was transferred to 167-169 Kensington Road Pty Ltd, which became the registered proprietor on 27 May 2016.

Dated the day of _____ 2016

Signed by Stephen Jonathon Lawther

SEE SHEET 2



MGRS48 ZONE 55



PHOTOGRAPH (5)

SYMBOL	DESCRIPTION
○	HOUSE DRAIN (1000)
⊞	VERANDAH POST
(H)	HEAD OF WINDOW
(S)	SIL OF WINDOW

Scale: 1:200	SCALE 2 0 2 4 6 8 12 Lengths are in metres	GABRIELLE MCCARTHY Licensed Surveyor																								
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PLAN OF RE-ESTABLISHMENT & DETAIL SURVEY

156-216 Kensington Road
West Melbourne VIC 3003

Principal: Perri Projects MUNICIPALITY: Melbourne City Council

TAYLORS

Urban Development | Built Environments | Infrastructure
8 / 270 Ferntree Gully Road, Notting Hill, Victoria, 3168
Tel: 61 3 9501 2800 | Web: taylorstds.com.au

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MG484 ZONE 55



PHOTOGRAPH (5)

SYMBOL	DESCRIPTION
(S)	WALLS (1000)
(R)	RETAINING WALL
(F)	FENCE
(D)	DOOR

Scale: 1:200	<p>Lengths are in metres</p>	GABRIELLE MCCARTHY Licensed Surveyor																							
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PLAN OF RE-ESTABLISHMENT & DETAIL SURVEY

156-216 Kensington Road
West Melbourne VIC 3003

Principal: Perri Projects MUNICIPALITY: Melbourne City Council

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STATE OF VICTORIA

STATUTORY DECLARATION

I, **Quinto Scalzo** of 14 Central Park Road, Malvern East, Victoria, do solemnly and sincerely declare that:-

1. I am a Director of 167-169 Kensington Road Pty Ltd (ACN 611 711 847) of Level 10, 60 Albert Road, South Melbourne (the "**Applicant**"). I make this Statutory Declaration on behalf of the Applicant. Now produced and shown to me and marked with the letters "**QS1**" is a company search of the Applicant.
2. Pursuant to a Contract of Sale entered on 15 March 2016, the Applicant acquired the property at 167-169 Kensington Road, being the land contained in Lot 9 on Plan of Subdivision No. 016944 and described in Certificate of Title Volume 8050 Folio 001 (the "**Property**") from Stephen Jonathon Lawther. The Applicant subsequently became registered as proprietor of the Property on 27 May 2016. Now produced and shown to me and marked with the letters "**QS2**" is a true copy of the Certificate of Title and search statement to the Property which shows the Applicant as sole registered proprietor of the Property.
3. By letter dated 23 December 2015, City of Melbourne wrote to CA Haywood & Associates, the solicitors acting for the former owner, Mr Lawther, confirming that application may be made for the proposed discontinuance and sale of the part of Highett Street, West Melbourne which abuts the rear of the property (the "**Road**"). Now produced and shown to me and marked with the letters "**QS3**" is a true copy of the letter from City of Melbourne to CA Haywood & Associates.
4. Following settlement of the purchase of the Property by the Applicant, CA Haywood & Associates on behalf of Mr Lawther countersigned a letter dated 11 April 2016 from the Applicant's solicitors, Tisher Liner FC Law, to City of Melbourne consenting to the Applicant taking over the application for the discontinuance and sale of the Road. Now produced and shown to me and marked with the letters "**QS4**" is a true copy of this letter.
5. The Applicant has since provided to the City of Melbourne, a written undertaking signed by the Applicant and an original Bank Guarantee in the sum of \$30,000.00 as required in the letter dated 23 December 2015 from City of Melbourne. Now produced and shown to me and marked with the letters "**QS5**" is a true copy of these documents.
6. I confirm that the Property has direct access to the Road through a large door in the southernmost building of the Property. In October 2016, representatives of the Applicant attended the Property for the purpose of documenting the Property's current condition. Now produced and shown to me and marked

with the letters "QS6" is a true copy of the photographs taken by the Applicant's representatives documenting the door. As can be observed from these photographs, the door provides direct access from the Property to the Road.

7. I confirm that there is no direct access to the Road from any other surrounding and adjoining properties. The Property has exclusive access to the Road. As stated above, representatives of the Applicant attended the Property to document the Property's condition. Now produced and shown to me and marked with the letters "QS7" are true copies of photographs taken by the Applicant's representatives documenting the fencing which runs along all boundaries adjacent and to the south of the Property being as follows:
 - a) Photo taken from neighbouring property east of the Property;
 - b) Photo taken from rear the Property, looking towards the land west of the Property;
 - c) Photo taken from neighbouring land west of the Property; and
 - d) Photo taken from rear of neighbouring land to the west of subject site, looking toward the Property.
8. As can be observed from the photographs, the Road is wholly enclosed by old wire fencing along all boundaries adjacent to the properties located at 133 Kensington Road and 171 Kensington Road, as well as the land to the south of the Property. The boundaries adjacent to the properties located at 133 Kensington Road and 171 Kensington Road are also lined with thick, overgrown vegetation, which prevents any access to the Road.
9. Representatives of the Applicant have contacted Mr Stephen Jonathon Lawther, the previous owner of the Property. Mr Lawther has provided the owner's representatives with instructions for the preparation of a draft Statement for him to sign. Now produced and shown to me and marked with the letters "QS8" is Mr Lawther's draft Statement which has been prepared on the basis of instructions and information which he has provided to the Applicant's representatives. Mr Lawther is currently travelling through Queensland and does not have access to emails. The Applicant will endeavour to have Mr Lawther sign the Statement but otherwise refers generally to the matters contained therein.
10. I refer to the statement made by Mr Lawther confirming that to his knowledge, the Road has only been accessed and used by occupiers of the Property, and fully enclosed as part of the Property by wire fencing since Lieu-Yen Chau and Quoc Khoan Chau became the owners of the Property in about November 2001. Now produced and shown to me and marked with the letters "QS9" is a Historic Title Search of the Property showing all previous ownership of the land.

11. The Applicant has also engaged Taylors to undertake a survey of the Property and the Road, and I refer to the Statutory Declaration made by Gabby McCarthy in this regard.
12. I confirm that an open shed and three tanks have been erected on the land which comprises the Road. I believe that these structures have been used by the occupiers of the Property for at least seven (7) years. The Road has not only been exclusively accessed, but also used by occupiers of the Property for many years. Now produced and shown to me and marked with the letters "QS10" is a true copy of a photograph taken by representatives of the Applicant documenting these structures.
13. The Applicant obtained near map images of the Property, the Road and surrounding parcels of land dating back to 2009. Now produced and shown to me and marked with the letters "QS11" are true copies of these map images. As can be observed, the boundary adjacent to 171 Kensington Road appears to have been lined with thick, overgrown vegetation preventing access to the Road since 2009. The structures erected on the Road as listed above are visible in the map images and date back to 2009. These structures significantly block access to the Road from 133 Kensington Road. The map images also demonstrate that for at least seven (7) years, the neighbouring properties have not encroached on the Road (i.e. have not accessed or used the Road). Rather, there are clear, delineated boundaries that have been respected by the neighbouring properties that include the Road as part and parcel of the Property.
14. There are two parcels of land fronting onto Kensington Road, West Melbourne which abut the Property – 171 Kensington Road and 133 Kensington Road (referred to above). Now produced and shown to me and marked with the letters "QS12" is a true copy of the street plan which accompanied the City of Melbourne's online notice of proposed discontinuance and sale of the Road. 171 Kensington Road and 133 Kensington Road have been coloured red, while the Property has been coloured green. As can be observed, the two parcels of adjoining land coloured red appear to have acquired those parts of Highett Street that abut the south of the respective properties. In contrast, the Property has not yet acquired the Road that abuts its rear.
15. Now produced and shown to me and marked with the letters "QS13" is a true copy of Plan of Subdivision 16944, which appears to have been created in or about October 1954. The Property is Lot 9 on the Plan. As can be observed, the Property and surrounding parcels of land contained in Lots 1 to 12 of the Plan shared a southern boundary that stopped short of Highett Street. That is, none of the properties' boundaries extended to include any part of Highett Street at that time.

16. This can also be highlighted by an imaged copy of the original Certificate of Title to the Property now produced and shown to me and marked "QS14" which clearly identifies Highett Street abutting the rear of the relevant parcels of land and the discontinued portions on the parcels of land adjoining the Property.
17. 171 Kensington Road, West Melbourne is the land contained in Lot 1 on Plan of Subdivision 609112V being the land described in Certificate of Title Volume 11049 Folio 894. Now produced and shown to me and marked with the letters "QS15" is a copy of the title search for 171 Kensington Road.
18. Annexed to the title search of 171 Kensington Road is Plan of Subdivision 609112V, which appears to have been created in or about December 2007. It appears that to the western boundary of Lot 2 on the Plan, there is an extension of Highett Street. It appears that Lots 1 (being 171 Kensington Road) and Lot 2 (being 193 Kensington Road, West Melbourne) have already acquired parts of Highett Street as highlighted in yellow on the Plan.
19. The property at 133 Kensington Road, East Melbourne, is the former Lot S2 on Plan of Subdivision 702808L being the land described in Certificate of Title Volume 11414 Folio 202. Now produced and shown to me and marked with the letters "QS16" is a true copy of the title search for this land. Based upon the dimensions of the title plan of this land, it appears that a section of Highett Street abutting the rear of the land has now been incorporated to form part of the title to the property at 133 Kensington Road.
20. I submit that by virtue of the history of the Property and surrounding land, the Property is:
 - a) the only parcel of land in the area which has direct and unrestricted access to the Road;
 - b) the only parcel of land in the area to have used the Road since as early as November 2001;
 - c) the only parcel of land to not have acquired that part of Highett Street that abuts its rear in the same way that 133 Kensington Road and 171 Kensington Road have; and
 - d) the initiating applicant for the discontinuance and sale of the Road.
21. Accordingly, Highett Street ought to be discontinued and the Road transferred to the Applicant and no other party.

I acknowledge that this declaration is true and correct and I make it with the understanding and belief that a person who makes a false declaration is liable to the penalties of perjury.

Declared at Melbourne, Victoria)

on 8th November 2016)

.....

Quinto Scalzo

Before me:

) RICHARD MICHAEL MARSHALL
CHARTERED ACCOUNTANT 87191

ANNEXURE QS1



Order number: 35851580
Your Reference: 160719
Data extracted from ASIC: 11/04/16 10:38

167 - 169 KENSINGTON ROAD PTY LTD 611 711 847
ASIC - Current Extract - 167 - 169 KENSINGTON ROAD PTY LTD ACN: 611 711 847

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 1274A of the Corporations Act 2001.
Please advise ASIC of any error or omission which you may identify.

IDENTIFICATION

ACN: 611 711 847
ABN:
Current Company Name: 167 - 169 KENSINGTON ROAD PTY LTD
Registered in: Victoria
Place of Registration:
Registration Date: 06/04/2016
Previous State Number:
Governance Type:
Review Date: 06/04/2017

CURRENT COMPANY DETAILS

Name: 167 - 169 KENSINGTON ROAD PTY LTD Doc# 2E3454092
Period from: 06/04/2016
Name Start: 06/04/2016
Status: REGISTERED
Type: AUSTRALIAN PROPRIETARY COMPANY
Class: LIMITED BY SHARES
Subclass: PROPRIETARY COMPANY
Disclosing Entity: N

CURRENT COMPANY ADDRESS

Address Type: Registered Office Doc# 2E3454092
Address: C/- SCALZO FAMILY OFFICE
LEVEL 10
60 ALBERT ROAD
SOUTH MELBOURNE VIC 3205
Period from: 06/04/2016
Address Type: Principal Place of Business Doc# 2E3454092
Address: LEVEL 10
60 ALBERT ROAD
SOUTH MELBOURNE VIC 3205
Period from: 06/04/2016

CURRENT COMPANY OFFICERS

Role: Director Doc# 2E3454092
Name: SCALZO, QUINTO
Address: 14 CENTRAL PARK ROAD
MALVERN EAST VIC 3145
Date of Birth: 24/05/1947
Place of Birth: DECOLLATURA, CATANZARO ITALY
Appointment Date: 06/04/2016
Cease Date:
Role: Secretary Doc# 2E3454092
Name: SCALZO, QUINTO
Address: 14 CENTRAL PARK ROAD
MALVERN EAST VIC 3145
Date of Birth: 24/05/1947
Place of Birth: DECOLLATURA, CATANZARO ITALY

Appointment Date: 06/04/2016

Cease Date:

CURRENT SHARE CAPITAL

Class: ORD ORDINARY

Doc# 2E3454092

Number of Issued "Shares" : 640

Amount Paid: \$640.00

Amount Due: \$0.00

Note: For each class of shares issued by a proprietary company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of the company.

CURRENT(SHAREHOLDERS/MEMBER)

Class: ORD

Doc# 2E3454092

Number of Shares Held: 640

Beneficially Owned: N

Fully Paid: Y

Name: FALVO HOLDINGS (VIC) PTY LTD

ACN: 109 184 670

Address: LEVEL 10
60 ALBERT ROAD
SOUTH MELBOURNE VIC 3205

Joint Holding: N

DOCUMENTS RELATING TO EXTERNAL ADMINISTRATION AND/OR APPOINTMENT OF CONTROLLER

Note: This extract may not list all documents relating to this status. State and Territory records should be searched.

No record

SATISFIED CHARGES

Note: On January 30, 2012 the Personal Property Securities Register (PPS Register) has commenced. The details of current charges will only be available from the PPS Register and the details of satisfied charges (as at 30th January 2012) can be obtained from ASIC. Further information can be obtained from www.ppsr.gov.au.

No record

ASIC DOCUMENTS (except charges)

Notes:

- A date or address shown as UNKNOWN has not been updated since the ASIC to over the records in 1991.
- Data from Documents with no Date Processed are not included in the Extract.
- Documents with "****" pages have not yet been imaged and are not available via DOCIMAGE. Imaging takes approximately 2 weeks from date of lodgement.
- Documents already listed under charges are not repeated here.

Form Type	Date Received	Date Processed	Effective Date	Pages	Doc No
201 Application For Registration as a Proprietary Company	06/04/2016	06/04/2016	06/04/2016	3	2E3454092

PRE-ASIC DOCUMENTS

No record

ANNUAL RETURNS

No record

FINANCIAL REPORTS

No record

ANNEXURE QS2



Volume 08050 Folio 001

124060592620K

Page 1 / 1

Produced 27/05/2016

12:31 hr

CERTIFICATE OF TITLE - VICTORIA

Under the Transfer of Land Act 1958

I certify that the registered proprietor is the proprietor of the estate and interest in the land subject to the encumbrances, caveats and notices described



REGISTRAR OF TITLES

LAND DESCRIPTION

Lot 9 on Plan of Subdivision 016944.
PARENT TITLE Volume 07028 Folio 552
Created by instrument 2676762 14/10/1954

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
167-169 KENSINGTON ROAD PTY LTD of LEVEL 10 60 ALBERT ROAD SOUTH MELBOURNE
VIC 3205
AM812302F 27/05/2016

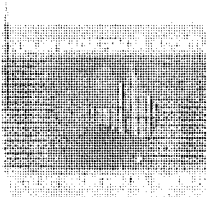
ENCUMBRANCES, CAVEATS AND NOTICES

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 or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE LP016944 FOR FURTHER DETAILS AND BOUNDARIES

END OF CERTIFICATE



THIS CERTIFICATE CONTAINS INFORMATION CORRECT AT THE TIME OF PRINTING.
CURRENT INFORMATION SHOULD BE OBTAINED BY A SEARCH OF THE REGISTER.

Register Search Statement - Volume 8050 Folio 001

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

VOLUME 08050 FOLIO 001

Security no : 124063170192C
Produced 07/11/2016 03:13 pm

LAND DESCRIPTION

Lot 9 on Plan of Subdivision 016944.
PARENT TITLE Volume 07028 Folio 552
Created by instrument 2676762 14/10/1954

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
167-169 KENSINGTON ROAD PTY LTD of LEVEL 10 60 ALBERT ROAD SOUTH MELBOURNE
VIC 3205
AM812302F 27/05/2016

ENCUMBRANCES, CAVEATS AND NOTICES

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 or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE LP016944 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: 167-169 KENSINGTON ROAD WEST MELBOURNE VIC 3003

DOCUMENT END

ANNEXURE QS3

23 December 2015

C.A. Haywood & Associates
21 Mary Street
PRAHRAN VIC 3181



CITY OF MELBOURNE

GPO Box 1603
Melbourne VIC 3001

Phone 61 3 9658 9658
Fax 61 3 9654 4854
www.melbourne.vic.gov.au

Dear Craig,

DX210487
ABN 55 370 219 287

**PROPOSED DISCONTINUANCE AND SALE OF PART OF HIGGETT STREET,
WEST MELBOURNE**

REFERENCE: DISC-2015-8

I write to advise that Manager Planning and Building on 22 December 2015 acting under Council delegated powers duties and functions, conditionally approved the discontinuance process pursuant to Clause 3 of Schedule 10 of the *Local Government Act 1989* ('the Act') of the road identified on the attached plan ('the Road'). The approval is subject to:

1. The purchaser first giving to the Council:
 - 1.1. a written undertaking to indemnify Council against all claims in respect of the discontinuance and sale of the Road, including all legal and other costs
 - 1.2. an unconditional bank guarantee to its satisfaction to the value of \$30,000 made out to 'Melbourne City Council (City of Melbourne) ABN 55 370 219 287' to ensure:
 - 1.2.1. reimbursement to the Council of all advertising, valuation, gazetting and legal expenses incurred by the application, whether the application is successful or not, or is withdrawn
 - 1.2.2. the subject land is consolidated with the abutting property
2. Prior to gazetting of the discontinuance:
 - 2.1. arrangements being made to the satisfaction of Council's Manager Property Services concerning the sale terms of the Road for nominal consideration
 - 2.2. compliance with the requirements of the service authorities
 - 2.3. the contract of sale containing such other terms as Council's Chief Legal Counsel considers appropriate
 - 2.4. a plan for road discontinuance purposes prepared by a licensed surveyor, accurately defining the extents of the Road to be discontinued. The plan must be based on investigation/survey to the satisfaction of Council's Team Leader Land Survey


3. The Manager – Governance Services carrying out administrative procedures necessary to enable the Council to perform its functions under Section 223 of the Act
4. A public notice of the proposal to discontinue and sell the Road, based on the attached plan, being published in the "Age" newspaper in accordance with Section 223(1) (a) of the Act
5. Copies of the public notice being sent to the owners and occupiers of abutting lands
6. The Submissions (Section 223) Committee considering any written submission received within 28 days after the publication of the public notice and hearing any person who has made a written submission and has requested to be heard in support of the written submission
7. The Submissions (Section 223) Committee taking into consideration all submissions made in writing and in person and reporting, with recommendations, to Council
8. If no written submissions are received and following compliance with other arrangements and conditions above including related sale issues, the Road is discontinued as shown on a plan prepared by the licensed surveyor, by notice published in the Government Gazette
9. The Manager Property Services, acting under delegated powers, sells the land following the gazetting of the discontinuance of the Road on the above terms and any other conditions considered necessary by the Manager Property Services

Your attention is drawn to the above requirement to provide a guarantee/security to ensure Council's costs associated with managing this application are met, this being regardless of whether the application is finally approved, refused or withdrawn. This must be provided before the application can progress.

This approval will lapse if all of the required information/guarantees are not provided to Council's satisfaction within 12 months of the date of the delegate's approval

Council's Land Survey Team can be contacted as shown below if further information is required.

Yours sincerely



Leon Wilson
Team Leader Land Survey

Telephone 9658 8655

Email

ANNEXURE QS4

11 April 2016

CONTACT: Ron Cohen
DIRECT EMAIL: rcohen@tlfc.com.au
PRINCIPAL: Ron Cohen
OUR REF: RC;LB:160719
YOUR REF: DISC-2015-8

Attention: Leon Wilson
Team Leader Land Survey
City of Melbourne
GPO Box 1603
MELBOURNE VIC 3000

BY EMAIL AND POST: survey@melbourne.vic.gov.au

Dear Sir,

Re: 167-169 Kensington Road, Kensington

We act on behalf of 167-169 Kensington Road Pty Ltd (ACN 611 711 847) as trustee for the 167-167 Kensington Road Trust, the nominated purchaser of the property at 167-169 Kensington Road, Kensington, which is presently owned Stephen Jonathan Lawther.

We refer to your letter dated 23rd December 2015 to Mr Lawther's solicitors C A Haywood & Associates regarding the proposed discontinuance and sale of Highett Street, West Melbourne ("the Road") which adjoins the property being sold to our client.

Accordingly, our client applies, with Mr Lawther's consent (refer below) to continue the proposed discontinuance and sale process of the road and assume the obligations of "the purchaser" referred to in your letter including providing a written undertaking to indemnify council and an unconditional bank guarantee in the sum of \$30,000, as required in your letter.

Upon your confirmation that our client can assume the application for the purchase of the Road, we will arrange for our client to provide you with the written undertaking and bank guarantee to initiate the process.

We look forward to hearing from you further.

Please do not hesitate to contact me should you have any queries in relation to this matter.

Yours faithfully
TISHER LINER FC LAW PTY LTD
per:


Ron Cohen
Principal

cc. C A Haywood & Associates

s:\affdocs\perr003\160927\perr003_160927_003.docx

Accredited Specialists in Property Law, Commercial Litigation, Business Law, Family Law and Mediation



Level 2, 333 Queen Street Melbourne Victoria 3000
DX 181 Melbourne
Telephone (03) 8600 9333 Email info@tlfc.com.au Facsimile (03) 9670 6359 Website www.tlfc.com.au
Tisher Liner FC Law Pty Ltd ABN 96 236 404 070

Liability limited by a scheme approved under Professional Standards Legislation

I, Stephen Jonathan Lawther, hereby consent to the above.

.....
Signed by C A Haywood & Associates for
and on behalf of Stephen Jonathan Lawther

ANNEXURE QS5

167-169 Kensington Road Pty Ltd

ABN: 58 579 204 043

ATF 167-169 Kensington Road Trust

PO Box 7411 St Kilda Road Victoria Australia 8004

Telephone: (03) 8609 9050

Email: admin@scalzofo.com

8 August 2016

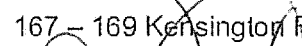
Att: Team Leader Land Survey
City of Melbourne
GPO Box 1603
MELBOURNE VIC 3001

Dear Sir

RE: DISC – 2015-8 UNDERTAKING TO PROVIDE INDEMNITY

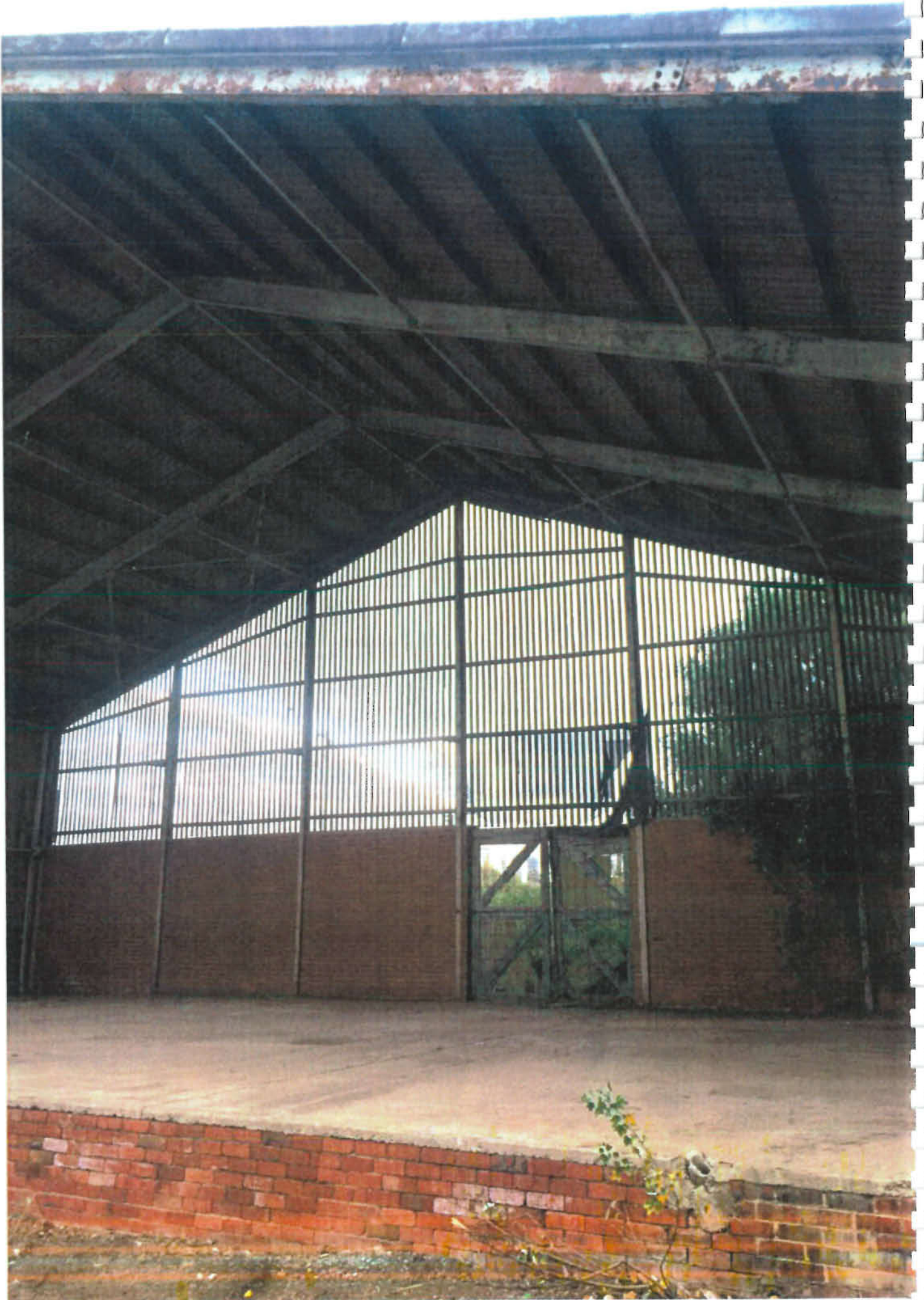
167 – 169 Kensington Road Pty Ltd hereby undertakes to indemnify Melbourne City Council (City of Melbourne) against all claims in respect of the discontinuance and sale of the road being part of Highett Street, West Melbourne, including all legal and other costs.

Yours faithfully


167 – 169 Kensington Road Pty Ltd

Quinto Scalzo
Director

ANNEXURE QS6



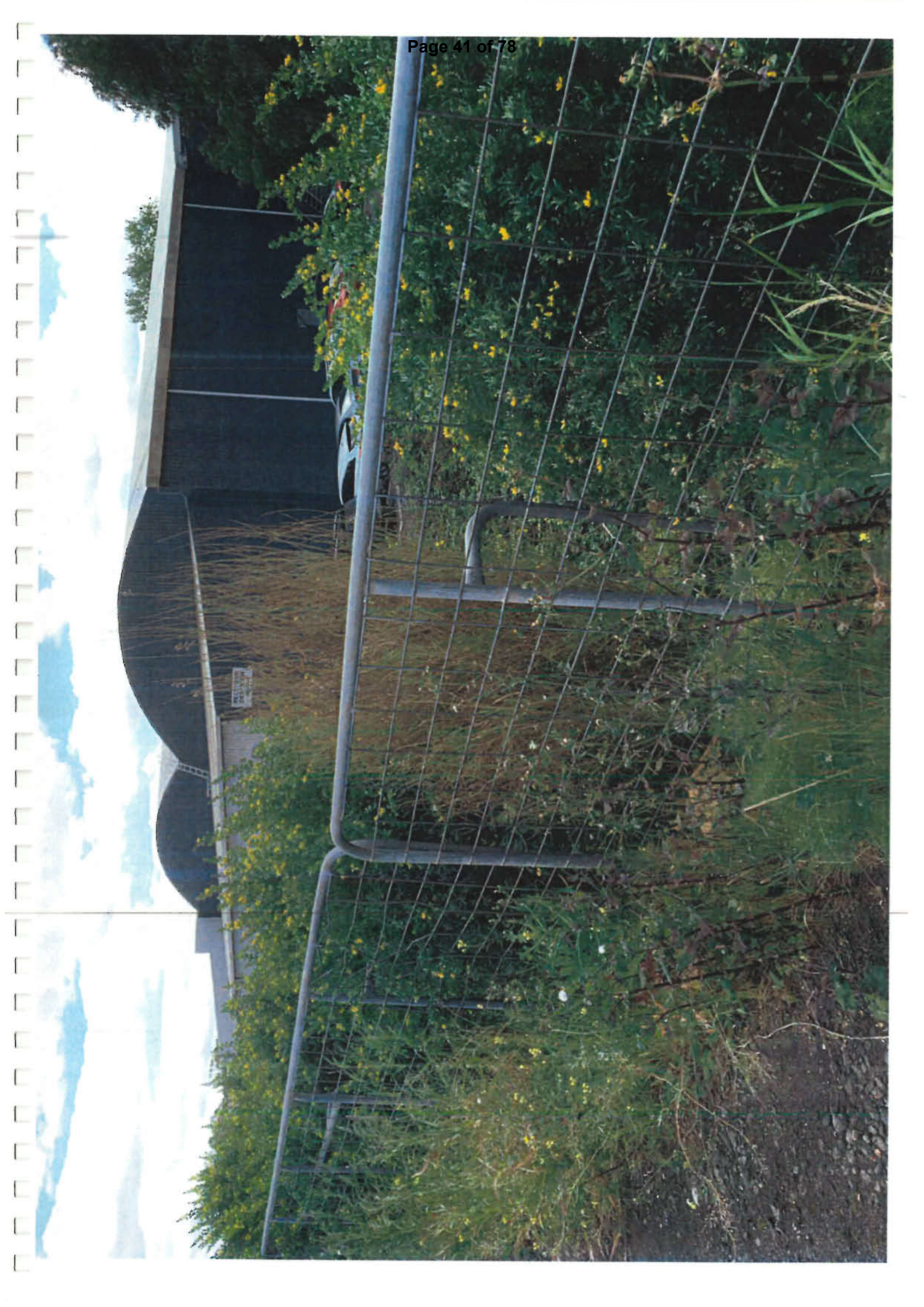




ANNEXURE QS7

9





C





ANNEXURE QS8

STATEMENT

I Stephen Jonathon Lawther of 29 Fairview Road, Chum Creek, Victoria 3777, hereby state as follows:

1. I am the former registered proprietor of the property located at 167-169 Kensington Road, West Melbourne, Victoria 3003, described in Certificate of Title Volume 08050 Folio 001 (the "Property").
2. I became the registered proprietor of the Property on 22 October 2014 in my capacity as legal personal representative of Lieu-Yen Chau, deceased.
3. Lieu-Yen Chau, and previously Lieu-Yen Chau and Quoc Khoan Chau (the "Proprietors") have owned the property since about November 2001.
4. The Proprietors were the parents of my wife, and accordingly the Property had been within the family for some 15 years.
5. I am personally familiar with the Property and the portion of council road at the rear of the Property known as Highett Street (the "Council Road").
6. Since the Property was in the ownership of the Proprietors, there has always been direct access from the Property to the Council Road. There is a gate at the rear of the Property giving occupants direct access to the Council Road, which is otherwise fenced off and inaccessible from other surrounding properties.
7. To my knowledge, the Council Road has not been accessed or used by any neighbouring property. The Council Road was always fully enclosed as part of the Property itself by wire fencing.
8. To my knowledge, the Property was exclusively accessed and used by the occupants of the Property.
9. Pursuant to a contract of sale, I sold the Property to 167-169 Kensington Road Pty Ltd (in my capacity as legal personal representative of Lieu-Yen Chau). The Property was transferred to 167-169 Kensington Road Pty Ltd, which became the registered proprietor on 27 May 2016.

Dated the day of _____ 2016

Signed by Stephen Jonathon Lawther

ANNEXURE QS9

VIC LANDATA - Title History Historical Search

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HISTORICAL SEARCH STATEMENT Land Victoria

Produced 20/10/2016 12:31 PM

Volume 08050 Folio 001
Folio Creation: Created as paper folio continued as computer folio
Parent title Volume 07028 Folio 552

THE IMAGE OF THE FOLIO CEASED TO BE THE DIAGRAM LOCATION ON 05/08/2005 09:26 AM

RECORD OF HISTORICAL DEALINGS

Date Lodged for Registration	Date Recorded on Register	Dealing	Imaged	Dealing Type and Details
26/10/2001	14/11/2001	X840311Q	Y	MORTGAGE AND LAPSING OF CAVEAT X342649Q
26/10/2001	14/11/2001	X840311Q	Y	MORTGAGE AND LAPSING OF CAVEAT
26/10/2001	14/11/2001	X840310T	Y	TRANSFER QUOC KHOAN CHAU LIEU-YEN CHAU
26/10/2001	14/11/2001	X840309T	Y	DISCHARGE OF MORTGAGE U488603D

RECORD OF VOTS DEALINGS

Date Lodged for Registration	Date Recorded on Register	Dealing	Imaged
10/07/2002	10/07/2002	AB402444R	Y

DISCHARGE OF MORTGAGE
MORTGAGE(S) REMOVED
X840311Q

10/07/2002	10/07/2002	AB402445P	Y
------------	------------	-----------	---

MORTGAGE OF LAND
MORTGAGE AB402445P 10/07/2002
ST. GEORGE BANK LTD

05/10/2004	05/10/2004	AD157473E	Y
------------	------------	-----------	---

DISCHARGE OF MORTGAGE

MORTGAGE(S) REMOVED
AB402445P

05/10/2004 05/10/2004 AD157474C Y

TRANSFER OF LAND BY ENDORSEMENT

FROM:
QUOC KHOAN CHAU
LIEU-YEN CHAU
TO:
LIEU-YEN CHAU

RESULTING PROPRIETORSHIP:

Estate Fee Simple
Sole Proprietor
LIEU-YEN CHAU of 12 VESPER STREET RICHMOND VIC 3121
AD157474C 05/10/2004

05/10/2004 05/10/2004 AD157475A Y

MORTGAGE OF LAND

MORTGAGE AD157475A 05/10/2004
ST. GEORGE BANK LTD

19/12/2011 20/12/2011 AJ382445A (O) Y

CAVEAT

CAVEAT AJ382445A 19/12/2011
Caveator
CITY WEST WATER LTD
Capacity SEE CAVEAT
Lodged by
HERCULES CONSTAN LAWYERS
Notices to
HERCULES CONSTAN LAWYERS of SUITE 202 434 ST KILDA ROAD MELBOURNE VIC 3004

02/07/2012 02/07/2012 AJ770333Y Y

WITHDRAWAL OF CAVEAT

CAVEAT AJ382445A REMOVED

31/08/2012 31/08/2012 AJ885944B (O) Y

DISCHARGE OF MORTGAGE

AFFECTED ENCUMBRANCE(S) AND REMOVED MORTGAGE(S)
MORTGAGE AD157475A

31/08/2012 31/08/2012 AJ885945Y (O) Y

MORTGAGE OF LAND

MORTGAGE AJ885945Y 31/08/2012
AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD

31/07/2014 31/07/2014 AL264231N Y

CAVEAT

CAVEAT AL264231N 31/07/2014
Caveator
MELBOURNE GOURMET FOODS PTY LTD
Grounds of Claim
LEASE WITH THE FOLLOWING PARTIES AND DATE.
Parties
THE REGISTERED PROPRIETOR(S)
Date
10/08/2012
Estate or Interest

LEASEHOLD ESTATE

Prohibition

UNLESS AN INSTRUMENT IS EXPRESSED TO BE SUBJECT TO MY/OUR CLAIM

Lodged by

LEWIS ALLEN JANOVER - SOLICITOR

Notices to

LEWIS ALLEN JANOVER - SOLICITOR of SUITE 4 LEVEL 7 20 QUEEN STREET MELBOURNE
VIC 3000

22/10/2014 22/10/2014 AL437810J Y

TRANSMISSION APPLICATION

FROM:

LIEU-YEN CHAU

TO:

STEPHEN JONATHON LAWTHOR

RESULTING PROPRIETORSHIP:

Estate Fee Simple

Sole Proprietor

STEPHEN JONATHON LAWTHOR of 29 FAIRVIEW ROAD CHUM CREEK VIC 3777 Legal

Personal Representative(s) of LIEU-YEN CHAU deceased

AL437810J 22/10/2014

14/04/2016 15/04/2016 AM703229W Y

WITHDRAWAL OF CAVEAT

CAVEAT AL264231N REMOVED

24/03/2016 18/04/2016 AM656254G Y

CAVEAT

CAVEAT AM656254G 24/03/2016

Caveator

DAVID JAMES SCALZO

Grounds of Claim

AGREEMENT WITH THE FOLLOWING PARTIES AND DATE.

Parties

THE REGISTERED PROPRIETOR(S)

Date

15/03/2016

Estate or Interest

FREEHOLD ESTATE

Prohibition

ABSOLUTELY

Lodged by

TISHER LINER FC LAW

Notices to

TISHER LINER FC LAW of LEVEL 2 333 QUEEN STREET MELBOURNE VIC 3000

04/05/2016 04/05/2016 AM745348B Y

DISCHARGE OF MORTGAGE

AFFECTED ENCUMBRANCE(S) AND REMOVED MORTGAGE(S)

MORTGAGE AJ885945Y

27/05/2016 27/05/2016 AM812301H Y

WITHDRAWAL OF CAVEAT

CAVEAT AM656254G REMOVED

27/05/2016 27/05/2016 AM812302F Y

TRANSFER OF LAND BY ENDORSEMENT

FROM:

STEPHEN JONATHON LAWTHOR

TO:
167-169 KENSINGTON ROAD PTY LTD

RESULTING PROPRIETORSHIP:
Estate Fee Simple
Sole Proprietor

167-169 KENSINGTON ROAD PTY LTD of LEVEL 10 60 ALBERT ROAD SOUTH
MELBOURNE VIC 3205
AM812302F 27/05/2016

STATEMENT END

Volume 08050 Folio 001

124002280314C
Produced 10/07/2002 08:20 am

LAND DESCRIPTION

Lot 9 on Plan of Subdivision 016944.
PARENT TITLE Volume 07028 Folio 552
Created by instrument 2676762 14/10/1954

REGISTERED PROPRIETOR

Estate Fee Simple
TENANTS IN COMMON
As to 1 of a total of 2 equal undivided shares
Sole Proprietor
QUOC KHOAN CHAU of 1/1053 DONCASTER ROAD DONCASTER EAST 3109
As to 1 of a total of 2 equal undivided shares
Sole Proprietor
LIEU-YEN CHAU of 12 VESPER STREET RICHMOND 3121
X840310T 26/10/2001

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE X840311Q 26/10/2001
NATIONAL AUSTRALIA BANK LIMITED

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 or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE DIAGRAM ON IMAGED FOLIO VOLUME 8050 FOLIO 001 FOR FURTHER DETAILS AND BOUNDARIES

Delivered from the Landata @ System by SAI Global Property Division Pty Ltd
Delivered at 20/10/2016, for Order Number 39937036. Your reference: 160927.

ANNEXURE QS10

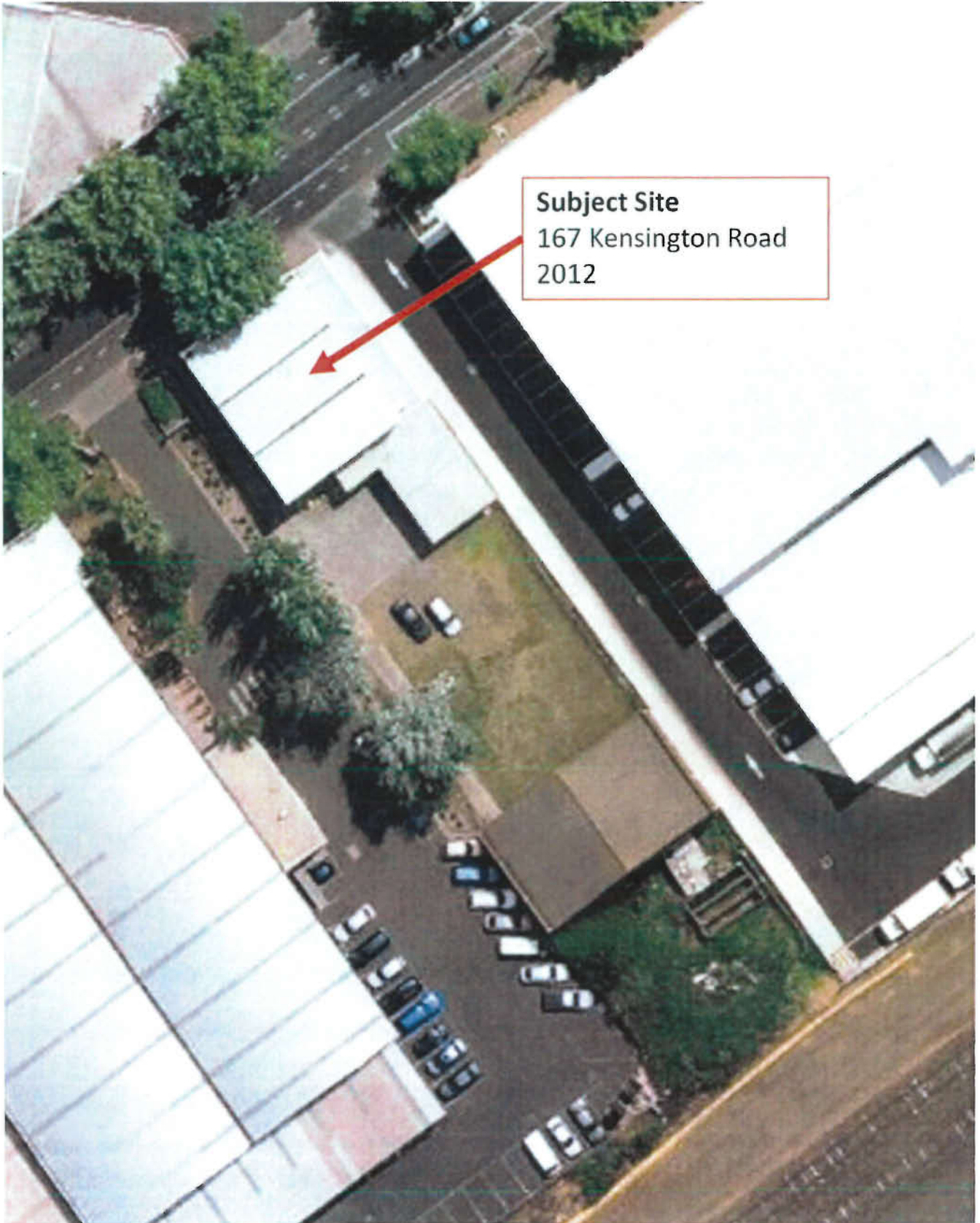


ANNEXURE QS11

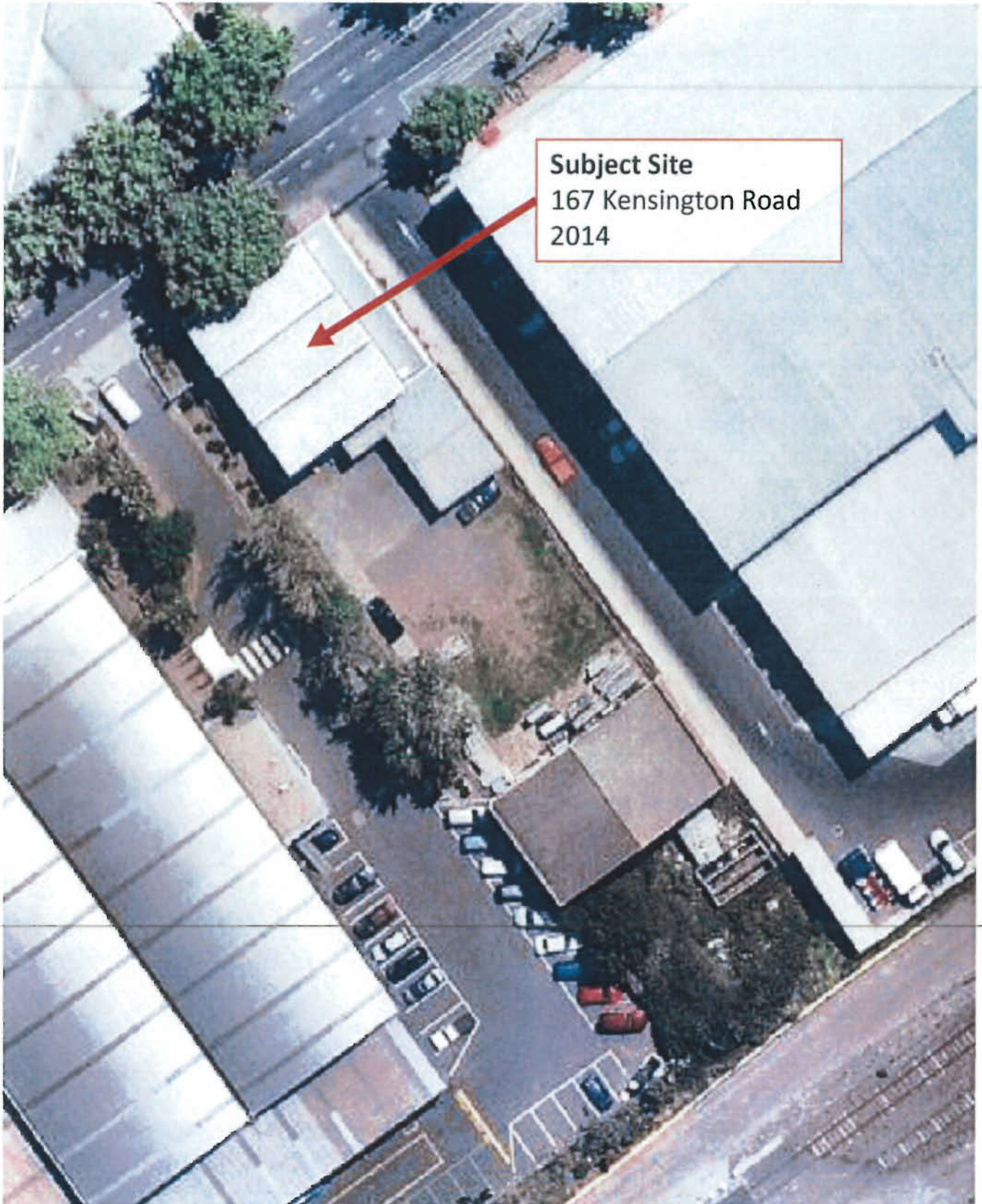




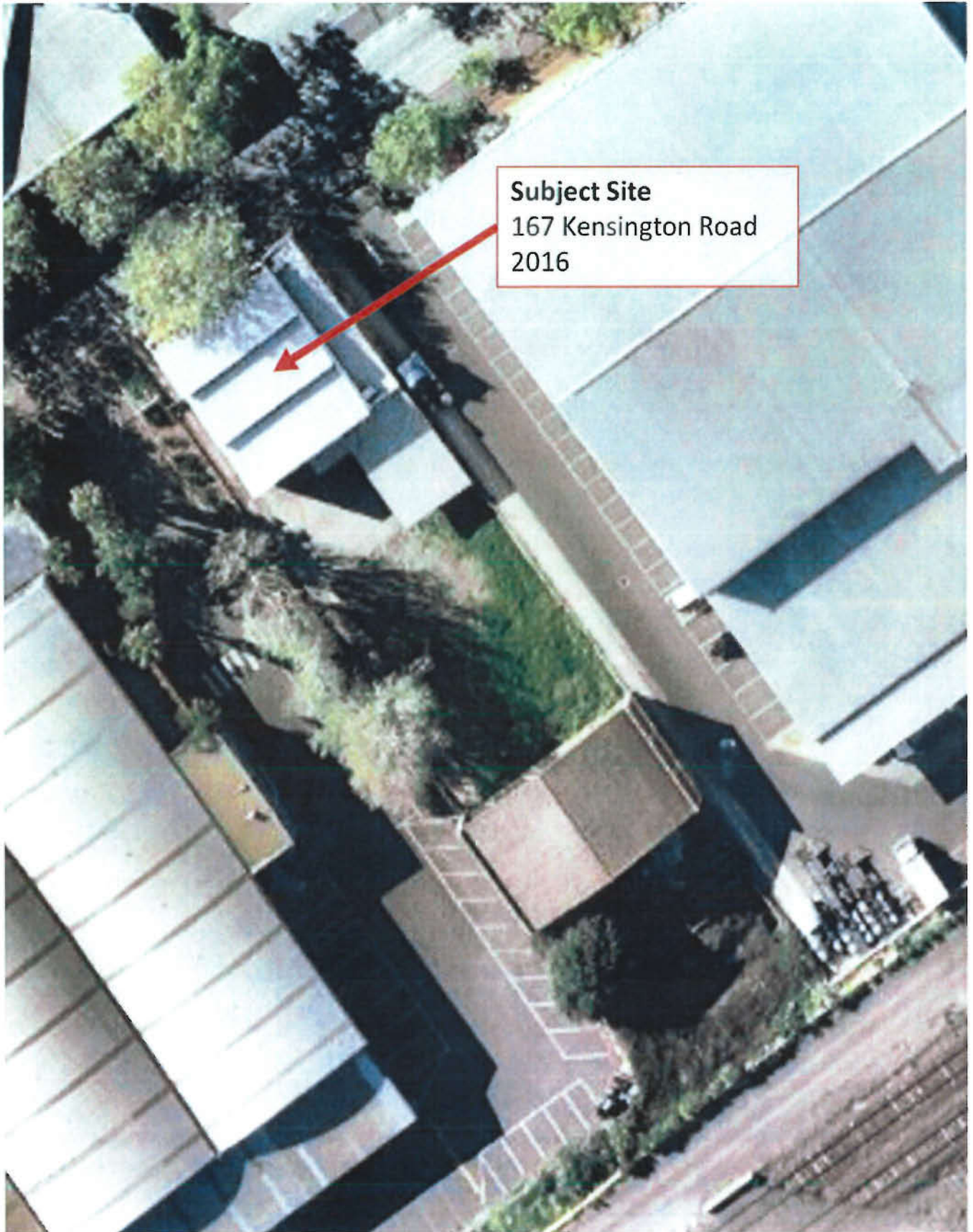
Subject Site
167 Kensington Road
2010



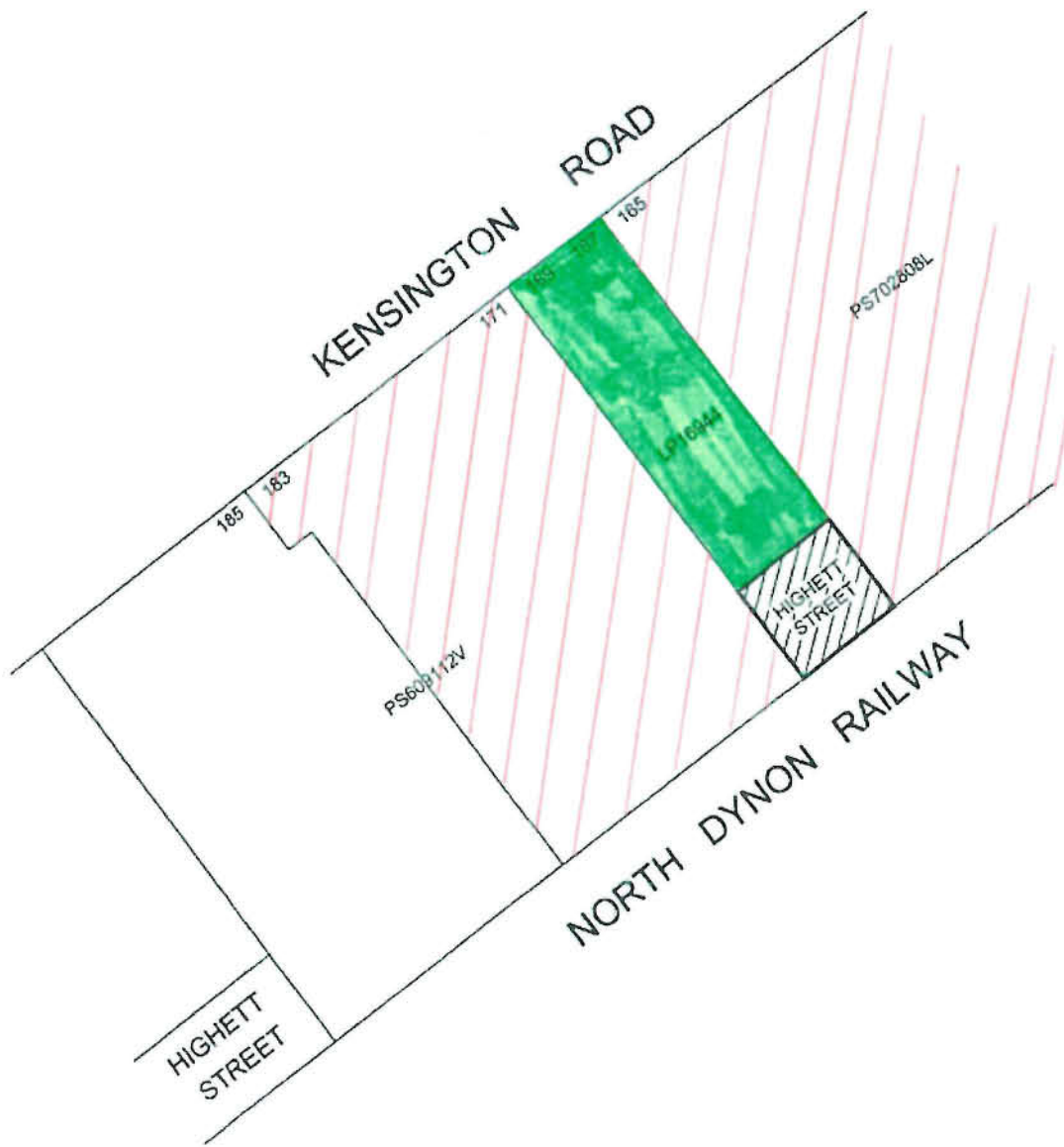
Subject Site
167 Kensington Road
2012



Subject Site
167 Kensington Road
2014



ANNEXURE QS12



Land Subject to Discontinuance
 Private Lane - Highett Street (Part)



Not to Scale

ANNEXURE QS13

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LP 16944
EDITION 1
 PLAN MAY BE LODGED 9.10.14

PLAN OF SUBDIVISION OF
 PART OF CROWN ALLOTMENTS 20 SECTION 2

PARISH OF DOUTTA GALLA

COUNTY OF BOURKE

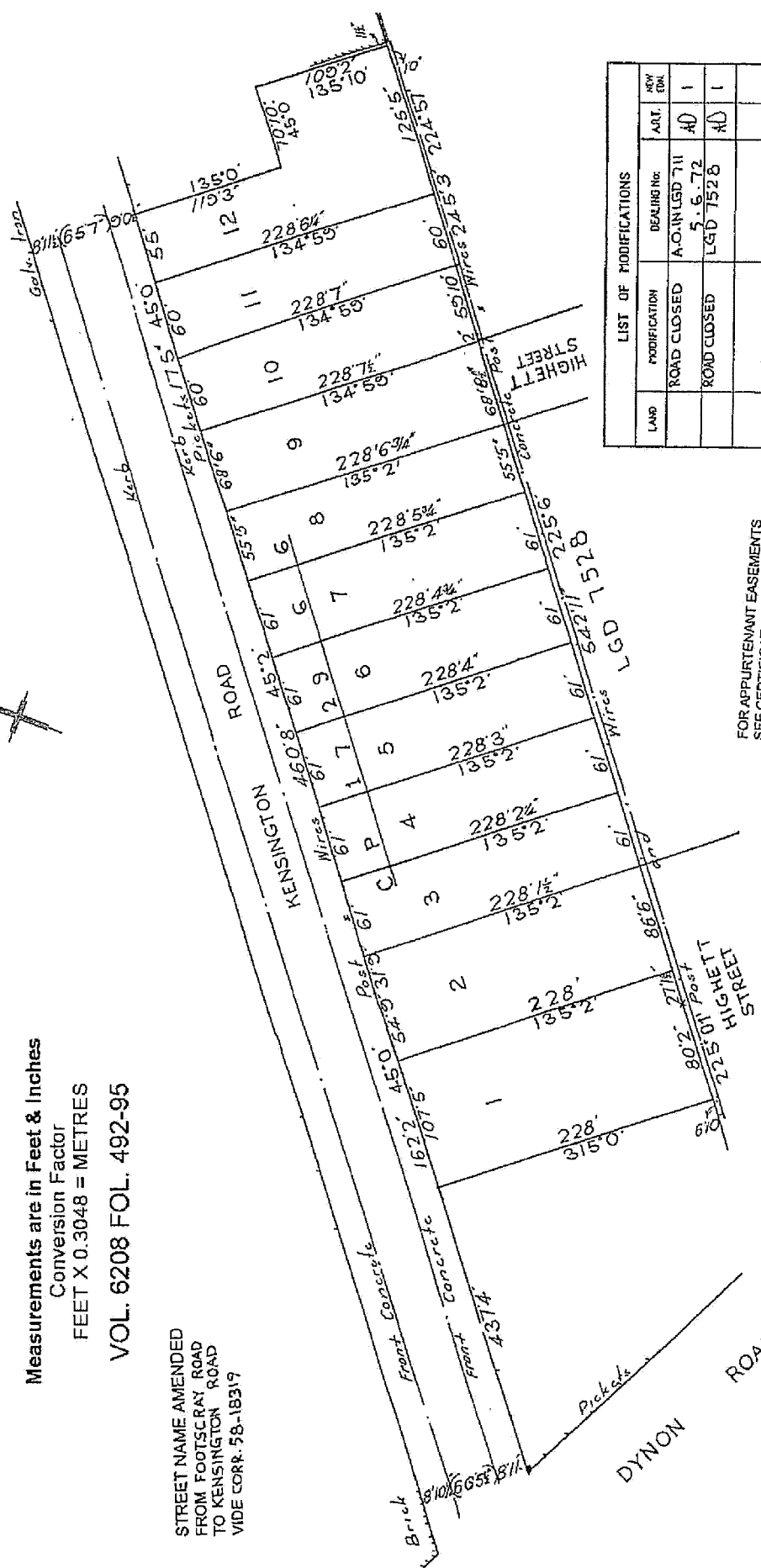
Measurements are in Feet & Inches

Conversion Factor

FEET X 0.3048 = METRES

VOL. 6208 FOL. 492-95

STREET NAME AMENDED
 FROM FOOTSCRAY ROAD
 TO KENSINGTON ROAD
 VIDE CORR. 58-18319



LIST OF MODIFICATIONS			
LAND	MODIFICATION	DEALING No.	NEW EDN.
	ROAD CLOSED	A.O. IN LGD 711	AD 1
	ROAD CLOSED	5-6-72	AD 1
		LGD 752B	AD 1

ANNEXURE QS14

ORIGINAL
NOT TO BE TAKEN FROM
THE OFFICE OF TITLES



VICTORIA

Entered in the Register Book

Vol. 8050 Fol. 001

Certificate of Title

UNDER THE "TRANSFER OF LAND ACT 1928"

John Andrew McCraith and Gerald McCraith both of Fish Markets Spencer Street-Melbourne Rabbit Exporters are -----

now the proprietor & tenants in common in equal shares -----
of an Estate in Fee-simple subject to the Encumbrances notified hereunder in

All this piece of Land, delineated and coloured red on the map in the ----
margin being Lot 9 on Plan of Subdivision No.16344 lodged in the Office of Titles--
and being part of Crown Allotment 20 Section 2 Parish of South Galla County of-
Bourke - Together with a right of carriage way over the road coloured brown on---
the said map -----

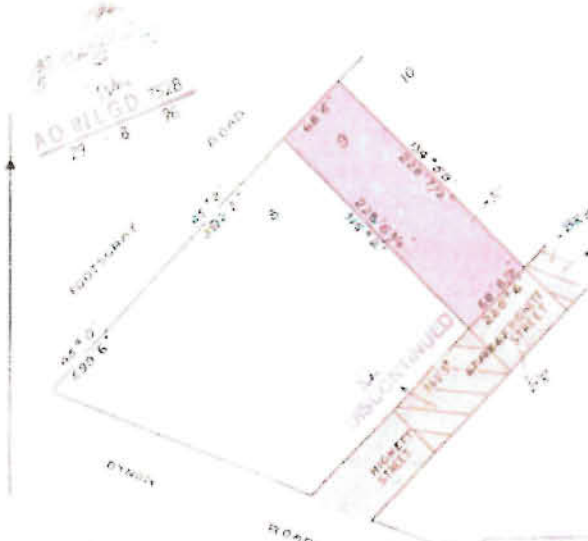
Dated the Fourteenth day of October
thousand nine hundred and twenty-four.

One

Committee
Assistant Registrar of Titles



ENCUMBRANCES REFERRED TO



For Measurement see FEET AND INCHES

DUPLICATE AMENDED
James Murray
REGISTRAR OF TITLES
DEALING TO BE REGISTERED UNTIL
LV IS AMENDED ON DUPLICATE
LGD 7526

DUPLICATE AMENDED
James Murray
REGISTRAR OF TITLES
LGD 7526

Delivered on-line by LANDATA® FULLY CONVERTED TITLE THIS IS A SUPPRESSED FOLIO OF THE REGISTER. Both text and diagram for this Folio have been fully converted to a computer Folio.

Vol. 7028 Fol. 552

Transfer 2676762

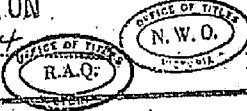
Application

JOHN A. & G. McCRAITH PROPRIETARY LIMITED of 284 City Road South Melbourne is now the proprietor Registered 23th January 1964 No. B837058



CAVEAT No. J936595 LODGED 20-5-82

CAVEAT WILL LAPSE ON REGISTRATION OF K686734 AS TO THE WITHIN LAND 25 JAN 1984



AUSTRALIAN RABBIT COMPANY PTY. LTD. of 36 Clarke Street South Melbourne is now the proprietor Registered 21st December 1983 No. K686734



EDWARD CLIFFORD RIDDLE of 40 Karnak Road South Ashburton Butcher is now the proprietor Registered 21st December 1983 No. K686735



MORTGAGE to THE COMMISSIONERS OF THE STATE BANK OF VICTORIA Registered 21st December 1983 No. K686736



CAVEAT No. L902471K LODGED 23 SEP 1985

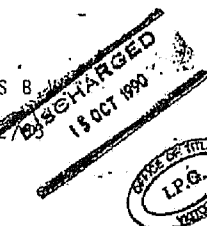
CAVEAT WILL LAPSE ON REGISTRATION OF M596236 3 JAN 1986



ANREN INVESTMENTS PTY. LTD. OF 382 MIDDLEBOROUGH RD. BLACKBURN AS TO ONE EQUAL UNDIVIDED HALF PART OR SHARE & FRANK SUI FUNG CHEUNG & DIANA YEE PEK CHEUNG OF 12 LEONARD ST. BALWYN AS JOINT PROPRIETORS AS TO THE OTHER ONE EQUAL UNDIVIDED HALF PART OR SHARE ARE NOW PROPRIETORS AS TENANTS IN COMMON REGISTERED 23/12/85 M592366

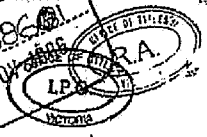
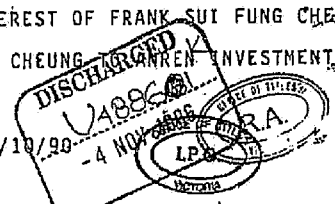


MORTGAGE DE HEUL HOLDINGS B REGISTERED 23/12/85 M592370



MORTGAGE

AS TO THE INTEREST OF FRANK SUI FUNG CHEUNG & DIANA YEE PEK CHEUNG ANREN INVESTMENTS PTY. LTD. REGISTERED 15/10/90 R46221F



QUOC KHOAN CHAU AS TO TWO EQUAL

UNDIVIDED THIRD PARTS OR SHARES &

KEN YUE AS TO ONE EQUAL UNDIVIDED THIRD

PART OR SHARE 12 VESPER ST. RICHMOND 3121

ARE PROPRIETORS AS TENANTS IN COMMON

U488602G 4/11/96



MORTGAGE

AUSTRALIA AND NEW ZEALAND BANKING

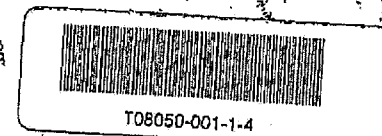
GROUP LIMITED

U488603D 4/11/96



CAVEAT

CAVEATOR: NATIONAL AUSTRALIA BANK LIMITED CAPACITY: MORTGAGEE DATE OF CLAIM DOCUMENT: 31/05/99 LODGED BY: NATIONAL AUSTRALIA BANK LIMITED NOTICE TO: HBB LENDING SECURITIES 271 COLLINS ST. MELBOURNE 3000 X3426490 01/03/01



Delivered by LANDATA® Land Victoria timestamp 20/10/2016 12:31 Page 2 of 2

ANNEXURE QS15

Register Search Statement - Volume 11049 Folio 894

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

VOLUME 11049 FOLIO 894

Security no : 124062912577S
 Produced 20/10/2016 11:58 am

LAND DESCRIPTION

Lot 1 on Plan of Subdivision 609112V.
 PARENT TITLE Volume 10307 Folio 391
 Created by instrument PS609112V 24/01/2008

REGISTERED PROPRIETOR

Estate Fee Simple
 Sole Proprietor
 LAURAVILLE PTY LTD of 171 KENSINGTON ROAD WEST MELBOURNE VIC 3003
 AG982068K 19/01/2010

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AK578097W 09/09/2013
 ALLINGHAM INVESTMENTS PTY LTD

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.

DIAGRAM LOCATION

SEE PS609112V FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

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

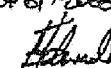

Additional information: (not part of the Register Search Statement)

Street Address: 171-183 KENSINGTON ROAD WEST MELBOURNE VIC 3003

DOCUMENT END

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PLAN OF SUBDIVISION		Stage No. <hr/>	LRS use only EDITION 1	Plan Number PS609112V
Location of Land Parish: <u>DOUTTA GALLA</u> Township: _____ Section: <u>2</u> Crown Allotment: <u>20 (PART)</u> Crown Portion: _____ Title References: Vol 10307 Fol 391 Last Plan Reference: <u>PC355443W</u> Postal Address: <u>171-193 KENSINGTON ROAD</u> <u>WEST MELBOURNE</u> MGA Co-ordinates: E <u>316 700</u> (Of approx centre of plan) N <u>5 814 290</u> Zone <u>55</u>		Council Certification and Endorsement Council Name: <u>MELBOURNE CITY COUNCIL</u> Ref: <u>TP07/581(3453)</u> 1 This plan is certified under section 6 of the Subdivision Act 1988. This plan is certified under section 11(7) of the Subdivision Act 1988. Date of original certification under section 6 / / This is a statement of compliance issued under section 21 of the Subdivision Act 1988. Open Space (i) A requirement for public open space under section 18 Subdivision Act 1988 has / has not been made and the requirement has been satisfied (iii) The requirement is to be satisfied in Stage Council Delegate Council seal Date <u>4/10/07</u> 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			
Nil	Nil			
Notations				
Depth Limitation: <u>Does not apply</u>		Staging <u>This is not a staged subdivision</u> Planning Permit No. <u>TP-2007-581</u>		
Other Notations • BOUNDARIES SHOWN BY THICK CONTINUOUS LINES ARE DEFINED BY BUILDINGS • LOCATION OF BOUNDARIES DEFINED BY BUILDINGS: MEDIAN: BOUNDARIES MARKED M EXTERNAL FACE: BOUNDARY MARKED E		Survey: This plan is not based on survey To be completed where applicable. This survey has been connected to permanent marks no(s). <u>PM318 & PM334</u> In proclaimed Survey Area no.		
Easement Information				
Legend: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)		SECTION 12(2) OF THE SUBDIVISION ACT 1988 APPLIES TO ALL LAND IN THIS PLAN		
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	WATER SUPPLY	8-61	PC355443W	MELBOURNE WATER CORPORATION
E-2	GAS SUPPLY	3	THIS PLAN	SPI NETWORKS (GAS) PTY LTD
LRS use only Statement of Compliance / Exemption Statement Received <input checked="" type="checkbox"/> Date <u>24/12/2007</u>				
LRS use only PLAN REGISTERED TIME <u>10:57am</u> DATE <u>24/12/2008</u>  Assistant Registrar of Titles				
Sheet 1 of 2 Sheets				
 Hellier McFarland - Cityplan Land Surveyors Property Consultants Town Planners 342 Hawthorn Rd, Caulfield South, VIC 3162 Tels 03 9532 9951 Fax: 03 9532 9941 www.hmf.com.au hmf@hmf.com.au		LICENSED SURVEYOR <u>PETER FRANCIS SULLIVAN</u> SIGNATURE _____ DATE / / REF <u>5941P/4</u> VERSION <u>B</u>		
		DATE / / COUNCIL DELEGATE SIGNATURE Original sheet size <u>A3</u>		

PLAN OF SUBDIVISION

Stage No.

Plan Number

PS609112V



KENSINGTON ROAD

DYNON ROAD

HIGHETT STREET



Hellier McFarland - Cityplan

Land Surveyors Property Consultants Town Planners
 342 Hawthorn Rd. Caulfield South, VIC 3162
 Tel: 03 9532 8951 Fax: 03 9532 9841
 www.hmf.com.au hmf@hmf.com.au

CAD REF: C:\E\DATA\5900\5041\4.GOI

SHEET 2 OF 2 SHEETS

ORIGINAL SCALE

SHEET SIZE: A3

SCALE: 1:800

8 0 8 16 24 32

LENGTHS ARE IN METRES

LICENSED SURVEYOR PETER FRANCIS SULLIVAN

SIGNATURE _____ DATE ____/____/____

REF 5941P/4 VERSION B

DATE ____/____/____

COUNCIL DELEGATE SIGNATURE _____

ANNEXURE QS16

Register Search Statement - Volume 11414 Folio 202

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

VOLUME 11414 FOLIO 202
 No Coft exists
 LAND DESCRIPTION

Security no : 124062913201P
 Produced 20/10/2016 12:14 pm

Common Property 1 on Plan of Subdivision 702808L.
 PARENT TITLE Volume 11262 Folio 099
 Created by instrument PS702808L 05/04/2013

REGISTERED PROPRIETOR

Estate Fee Simple
 Sole Proprietor

OWNERS CORPORATION 1 PLAN NO. PS702808L of 9 RADCLIFFE STREET WEST MELBOURNE
 VIC 3003
 PS702808L 05/04/2013

ENCUMBRANCES, CAVEATS AND NOTICES

CAVEAT as to part AH985987R 01/06/2011

Caveator
 CITIPOWER PTY
 Capacity SEE CAVEAT
 Lodged by
 CITIPOWER PTY
 Notices to
 CITIPOWER PTY of LOCKED BAG 14031 MAIL CENTRE MELBOURNE VIC 8001

Any encumbrances affecting Common Property that are derived from an
 encumbrance shown on titles to lots affected by the Owners Corporation.

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.

DIAGRAM LOCATION

SEE PS702808L 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)

OWNERS CORPORATIONS

The land in this folio is affected by
 OWNERS CORPORATION 1 PLAN NO. PS702808L

DOCUMENT END

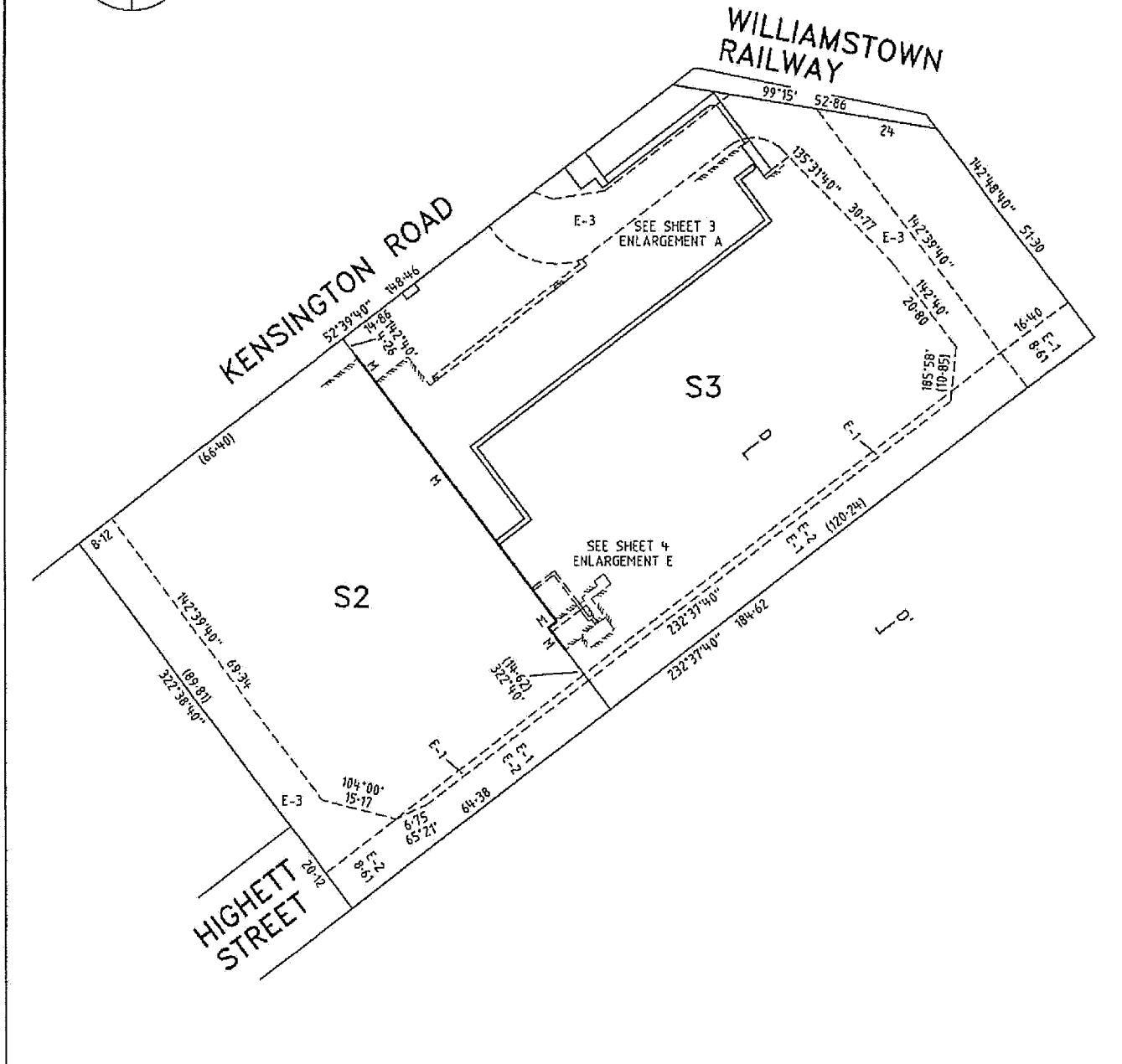
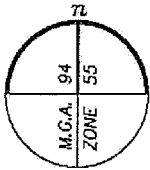
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Delivered at 20/10/2016, for Order Number 39936245. Your reference: 160927.

Signed by Council: Melbourne City Council, Council Ref: TP-2011-948, SA-2011-131, Original Certification: 04/01/2012, S.O.C.: 04/01/2012

PLAN OF SUBDIVISION		Stage No. 1	LR use only EDITION 1	Plan Number PS 702808L
Location of Land Parish: DOUTTA GALLA Township: ----- Section: 2 Crown Allotment: 20 PT Crown Portion: ----- Title Reference: VOL 11262 FOL 099 Last Plan Reference: LOT 2 ON PS 700466Y Postal Address: 133 - 165 KENSINGTON ROAD, (at time of subdivision) WEST MELBOURNE, 3003 MGA Co-ordinates E 316 808 Zone: 55 (of approx. centre of land in plan) N 5 814 388		Council Certification and Endorsement Council Name: MELBOURNE CITY COUNCIL 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. OPEN SPACE (i) A requirement for public open space under section 18 of the Subdivision Act 1988 has/has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in Stage..... Council Delegate Council Seal Date / / Re-certified under section 11(7) of the Subdivision Act 1988 Council Delegate Council Seal Date / /		
Vesting of Roads and/or Reserves				
Identifier	Council/Body/Person			
NIL	NIL			
Notations				
Staging This is/is not a staged subdivision Planning Permit No.				
Depth Limitation DOES NOT APPLY BOUNDARIES SHOWN BY THICK CONTINUOUS LINES ARE DEFINED BY BUILDINGS LOCATION OF BOUNDARIES DEFINED BY BUILDINGS MEDIAN FACE: BOUNDARIES MARKED AS "M" UNLESS OTHERWISE NOTED CP No.1 - COMMON PROPERTY No.1 COMMON PROPERTY No. 1 IS ALL THE LAND IN THIS PLAN EXCEPT LOTS Survey This plan is/is not based on survey This survey has been connected to permanent marks no(s) In Proclaimed Survey Area No.				
LOTS IN THIS PLAN MAY BE AFFECTED BY ONE OR MORE OWNERS CORPORATIONS FOR DETAILS OF ANY OWNERS CORPORATIONS INCLUDING PURPOSE, RESPONSIBILITY, ENTITLEMENT & LIABILITY SEE OWNERS CORPORATION SEARCH REPORT, OWNERS CORPORATION ADDITIONAL INFORMATION AND IF APPLICABLE, OWNERS CORPORATION RULES				
AND - AUSTRALIAN HEIGHT DATUM BASED ON MMB215 WITH A STATED VALUE OF 1-005				
Easement Information				
Legend: E - Encumbering Easement, Condition in Crown Grant in the Nature of an Easement or Other Encumbrance A - Appurtenant Easement R - Encumbering Easement (Road)				LR use only
Easements & Rights Implied by Section 12(2) of the Subdivision Act 1988 applies to the whole of the land in this plan.				Statement of Compliance/Exemption Statement
Subject Land	Purpose	Width (metres)	Origin	Land Benefited/In Favour Of
E-1	AS PROVIDED FOR IN SECTION 528(2)(E) LOCAL GOVERNMENT ACT	SEE DIAG	SECTION 528(2)(E) LOCAL GOVERNMENT ACT	MELBOURNE AND METROPOLITAN BOARD OF WORKS
E-2 & E-3	CARRIAGEWAY - LIMITED IN DEPTH AND HEIGHT TO SITE LEVEL AND 5m ABOVE SEE SECTIONS A-A', B-B' & D-D'	SEE DIAG	THIS PLAN	LAND IN PS 702808L
E-4	FOOTWAY - LIMITED IN DEPTH AND HEIGHT SEE SECTION A-A' AND C-C'	SEE DIAG	THIS PLAN	LOT S2 AND COMMON PROPERTY No.1
E-5 & E-8	FOOTWAY - LIMITED IN DEPTH AND HEIGHT TO BETWEEN THE GROUND FLOOR SLAB AND 2-10m ABOVE	SEE DIAG	THIS PLAN	LOT S2 ON THIS PLAN
E-6	FOOTWAY - LIMITED IN DEPTH AND HEIGHT TO BETWEEN THE GROUND FLOOR SLAB AND 8-60m ABOVE	SEE DIAG	THIS PLAN	LOT S2 ON THIS PLAN
E-7 & E-8	FOOTWAY - LIMITED IN DEPTH AND HEIGHT TO BETWEEN THE UPPER FACE OF THE METAL DECK AT ROOF LEVEL AND 2-10m ABOVE	SEE DIAG	THIS PLAN	LOT S2 ON THIS PLAN
Bosco Jonson Pty Ltd A.B.N 55 282 532 642 P.O. Box 5075, South Melbourne, Vic 3205 16 Eastern Road South Melbourne Vic 3205 Australia DX 20524 Emerald Hill Tel 03) 9699 1400 Fax 03) 9699 3992				LICENSED SURVEYOR (PRINT) ANDREI FIJAN SIGNATURE DATE / / REF 7175003 DWG 717500CB 15/12/11 VERSION B
..... DATE / / COUNCIL DELEGATE SIGNATURE Original sheet size A3				Received <input checked="" type="checkbox"/> Date 27/3/13 LR use only PLAN REGISTERED TIME 2:47 DATE 5/4/13 Randall McDonald Assistant Registrar of Titles Sheet 1 of 5 sheets

Signed by Council: Melbourne City Council, Council Ref: TP-2011-948, SA-2011-131, Original Certification: 04/01/2012, S.O.C.: 04/01/2012

PLAN OF SUBDIVISION	Stage No. 1	Plan Number PS 702808L
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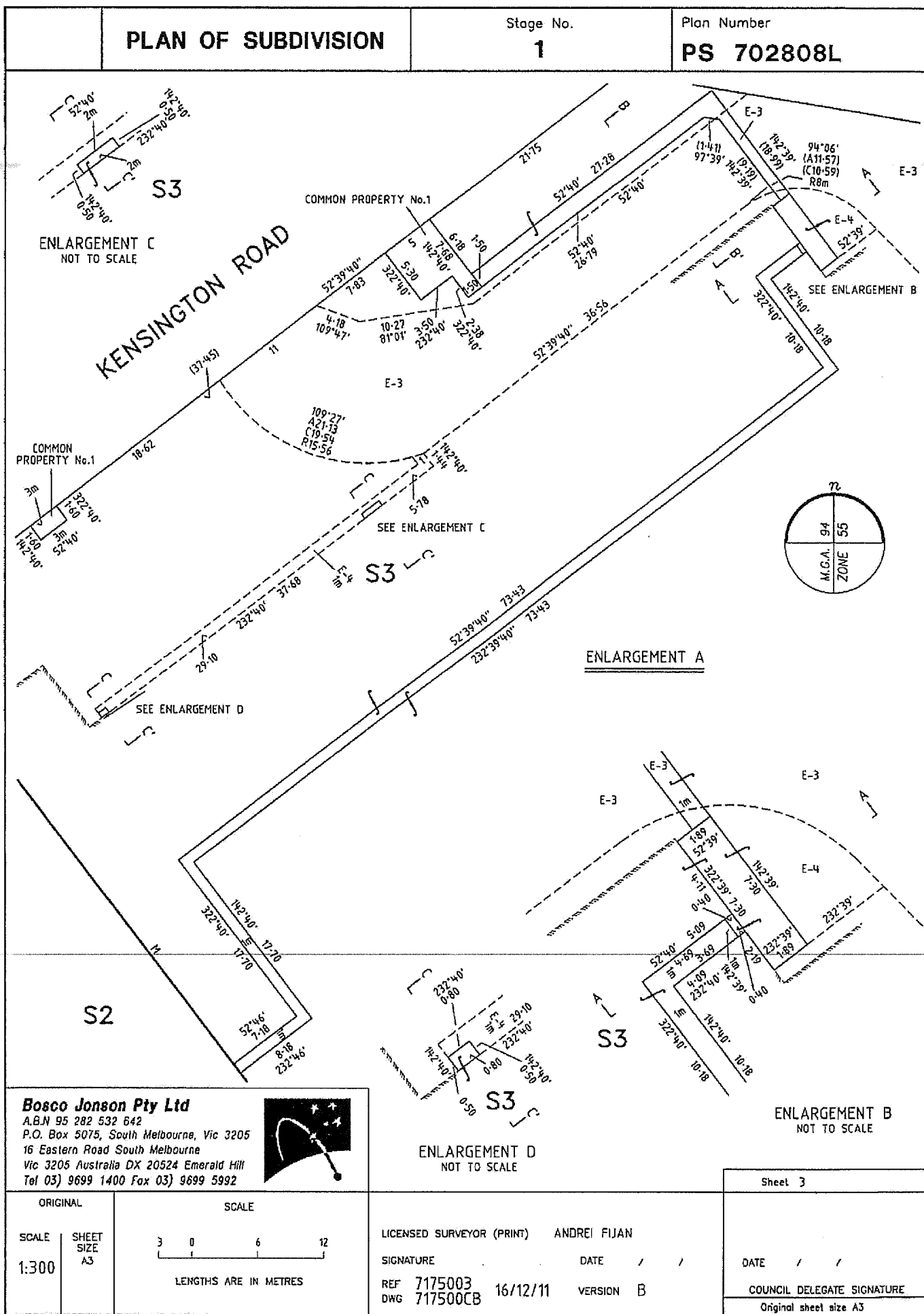
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 P.O. Box 5075, South Melbourne, Vic 3205
 16 Eastern Road South Melbourne
 Vic 3205 Australia DX 20524 Emerald Hill
 Tel (03) 9699 1400 Fax (03) 9699 5992

ORIGINAL	SCALE
SCALE 1:800	 LENGTHS ARE IN METRES
SHEET SIZE A3	

LICENSED SURVEYOR (PRINT)	ANDREI FIJAN
SIGNATURE	DATE / /
REF 7175003	16/12/11
DWG 717500CB	VERSION B

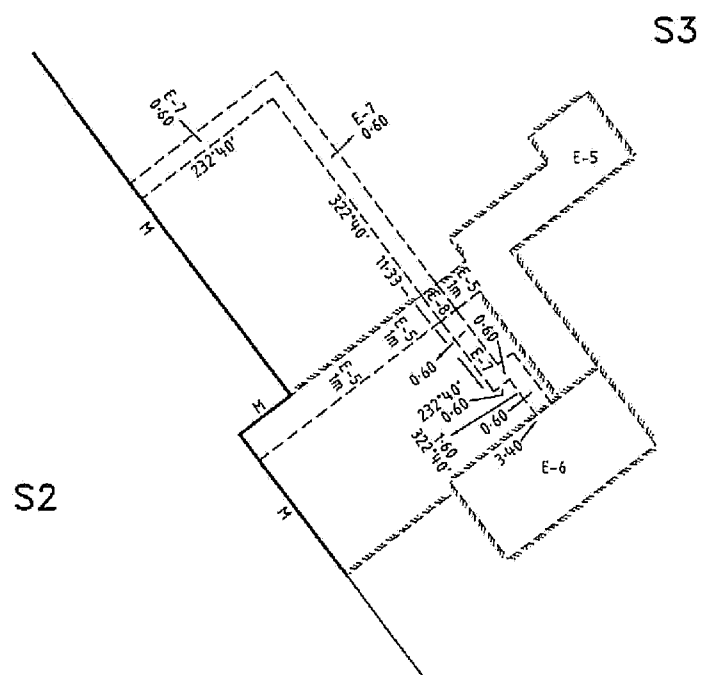
Sheet 2
DATE / /
COUNCIL DELEGATE SIGNATURE
Original sheet size A3

Signed by Council: Melbourne City Council, Council Ref: TP-2011-948, SA-2011-131, Original Certification: 04/01/2012, S.O.C.: 04/01/2012



Signed by Council: Melbourne City Council, Council Ref: TP-2011-948, SA-2011-131, Original Certification 04/01/2012, S.O.C.: 04/01/2012

PLAN OF SUBDIVISION	Stage No. 1	Plan Number PS 702808L
----------------------------	-----------------------	----------------------------------



ENLARGEMENT E

Bosco Jonson Pty Ltd
 A.B.N 95 282 532 642
 P.O. Box 5075, South Melbourne, Vic 3205
 16 Eastern Road South Melbourne
 Vic 3205 Australia DX 20524 Emerald Hill
 Tel 03) 9699 1400 Fax 03) 9699 5992



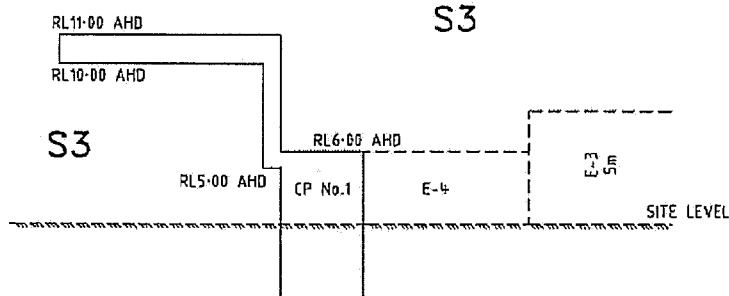
Sheet 4
DATE / /
COUNCIL DELEGATE SIGNATURE
Original sheet size A3

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SCALE 1:150	<p>LENGTHS ARE IN METRES</p>
SHEET SIZE A3	

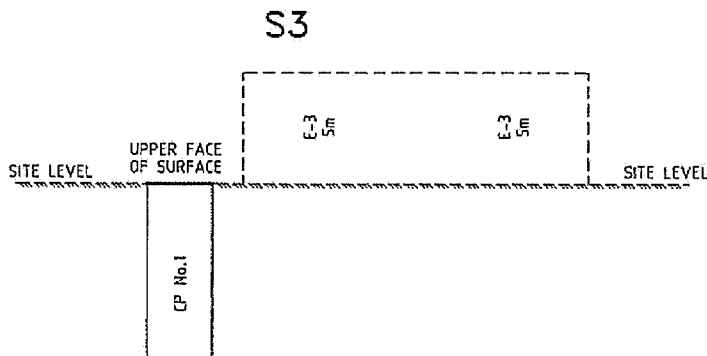
LICENSED SURVEYOR (PRINT)	ANDREI FIJAN
SIGNATURE	DATE / /
REF 7175003	16/12/11
DWG 717500CB	VERSION B

Signed by Council: Melbourne City Council, Council Ref: TP-2011-948, SA-2011-131, Original Certification: 04/01/2012, S.O.C. 04/01/2012

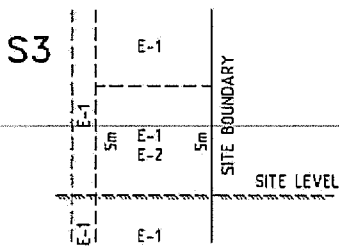
PLAN OF SUBDIVISION	Stage No. 1	Plan Number PS 702808L
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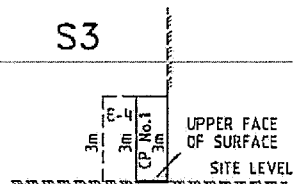
SECTION A-A'
NOT TO SCALE



SECTION B-B'
NOT TO SCALE



SECTION D-D'
NOT TO SCALE



SECTION C-C'
NOT TO SCALE

Bosco Jonson Pty Ltd
 A.B.N 95 282 532 642
 P.O. Box 5075, South Melbourne, Vic 3205
 16 Eastern Road South Melbourne
 Vic 3205 Australia DX 20524 Emerald Hill
 Tel 03) 9699 1400 Fax 03) 9699 5892



Sheet 5

ORIGINAL	SCALE
SCALE	SHEET SIZE A3
<p>LENGTHS ARE IN METRES</p>	

LICENSED SURVEYOR (PRINT) ANDREI FIJAN
 SIGNATURE DATE / /
 REF 7175003 16/12/11 VERSION B
 DWG 717500CB

DATE / /
 COUNCIL DELEGATE SIGNATURE
 Original sheet size A3



**Plan of Subdivision PS702808L/S1
Certification by Council (Form 5)**

SUBDIVISION (PROCEDURES) REGULATIONS 2000

SPEAR Reference Number: S018644T
Plan Number: PS702808L/S1
Responsible Authority Name: Melbourne City Council
Responsible Authority Reference Number 1: TP-2011-948
Responsible Authority Reference Number 2: SA-2011-131
Surveyor's Plan Version: B

Certification

This plan is certified under section 6 of the Subdivision Act 1988

Public Open Space

A requirement for public open space under section 18 of the Subdivision Act 1988

Has not been made

Digitally signed by Council Delegate: Christopher Neil Blackwood
Organisation: Melbourne City Council
Date: 04/01/2012