

**12.1 CONSIDERATION OF AUTHORISATIONS ASSOCIATED WITH LAND MANAGEMENT**

- Attachments:**
1. Deed of Discharge and Release No. 51 Albert Street, North Perth
  2. Certificate of Title No. 51 Albert Street, North Perth
  3. Right of Carriageway Easement to No. 177 (Lot: 2) Scarborough Beach Road, Mount Hawthorn
  4. Proposed Delegation - Power to Modify Documents

**RECOMMENDATION:****That Council:**

1. **APPROVES** the Withdrawal of Caveat over No. 51 Albert Street, North Perth;
2. **APPROVES** the:
  - 2.1 **Surrender of Easement over Lot 3 on Diagram 62595; and**
  - 2.2 **Grant of an Easement over a portion of Lot: 109 on Plan: 3642;**
3. **AUTHORISES** the execution of such documents as required to effect the:
  - 3.1 **Withdrawal of Caveat G758743 – No. 51 Albert Street, North Perth; and**
  - 3.2 **Surrender of Easement and Grant of Easement – Coogee St carpark;****to be executed in accordance with the Execution of Documents Policy; and**
4. **DELEGATES BY ABSOLUTE MAJORITY** the power to approve modification, variation, amendment or removal of an existing encumbrance, right or burden condition already approved by Council, under Delegated Authority or as required by a condition of a subdivision approval relating to the land within the control and management of the City, under Section 5.41 of the *Local Government Act 1995*, as detailed in Attachment 4.

**PURPOSE OF REPORT**

1. To consider withdrawal of caveat for No. 51 Albert Street, North Perth;
2. In respect of Coogee St carpark, to consider:
  - (a) Lot 3 on Diagram 62595 - surrender of easement; and
  - (b) Lot 109 on Plan 3642 – grant of easement;
3. Seek delegation from Council to deal with similar matters in the future.

**DELEGATION:**

The City's Register of Delegations, Authorisations and Appointments does not provide the Chief Executive Officer with the power to withdraw a caveat or enter into an agreement in relation to the City's land unless it is as a result of a condition of subdivision or development approval.

**BACKGROUND****No. 51 Albert Street, North Perth**

Previous Council decisions:

14 July 1997	The City accepted liability of City of Perth in respect of the structural damage/subsidence to the Macedonian Community Centre situated at No. 51 Albert Street, North Perth (Property), subject to the Macedonian Community of WA (Inc) (Landowner) entering into an appropriate legal agreement with the City.
8 September 1997	Council authorised the CEO to enter into a tripartite agreement with City of Perth and the Landowner to release City of Perth from any further obligations or liability in respect of the Property.

**Deed of Discharge and Release (Deed)**

In late 1997, the Deed was entered into between the City of Perth, Town of Vincent and the Landowner to record the terms of agreement between the parties regarding the rectification of damage to the Property and payment towards the costs of rectification. A copy of the Deed is at **Attachment 1**.

The Deed authorised lodgement of a caveat by the City to protect its interests under the terms of the Deed.

The Landowner has indemnified the City against any future liabilities and claims that may be brought against the City relating to the structural damage to the Property.

**Caveat G758743**

On 6 April 1998, the City lodged a caveat over No.51 Albert Street, North Perth. A copy of the Certificate of Title is at **Attachment 2**.

**Withdrawal of caveat**

The Landowner has requested the City to withdraw the caveat over the Property.

Administration has no objections to the request to withdraw the caveat at the Landowner's costs and expenses for the following considerations and reasons:

- No claims have been made against the City since the structural damage has been rectified; and
- The terms of the Deed still subsists notwithstanding the proposed withdrawal of caveat. The Landowner's obligations under the Deed, in particular, its indemnity to the City remains valid and in full force, which can be relied upon in the event of any claims against the City.

**Coogee Street Carpark**

In 1982, the City of Perth granted a right of carriageway easement to No. 177 (Lot 2) Scarborough Beach Road, Mount Hawthorn (**Attachment 3**) enabling egress and ingress from that site via the Coogee Street carpark. Coogee St carpark is owned by the City in freehold.

Administration has received a request from the landowner of No.177 Scarborough Beach Road seeking to amend the existing easement to accommodate rear access to the site, which would align better with the current development proposal being designed for the site. The site does not have existing access from Scarborough Beach Road and the City's preference under the Policy No. 7.1.1 – Built Form is that vehicle access where possible should be obtained from the rear or secondary street. The existing easement forms part of a broader easement which connects through the City's car park to the right of way at the rear of Coogee Street and Matlock Street properties and provides a necessary connection to Coogee Street.

A surrender of the existing easement over Lot 3 on Diagram 62595 and grant of a new easement over Lot 109 on Plan 3642 have been proposed (as per diagram below) to facilitate access from the rear of the site while also maintaining the existing vehicle access arrangements. Amending the easement configuration to be wholly contained within Lot 109 removes the burden from Lot 3 and this would be unconstrained freehold land with street frontage. The land is zoned District Centre and is within a 5 storey building height area as identified under the Built Form Policy and could be developed in future should the City elect to sell or develop the site.

The landowner has agreed to prepare the relevant documentation and lodge the documents with Landgate for registration at their cost and expense.



#### Delegation of power to modify documents in the control and management of City land

In the course of dealing with these two matters, Administration has identified that there is no delegation to the Chief Executive Officer (CEO) to make these decisions. In accordance with Section 5.41 of the *Local Government Act 1995* the Functions of the CEO includes to *manage the day to day operations of the local government*.

Presently the CEO and relevant staff have authorisation through Council's adopted Execution of Document Policy only to execute documents required to enact a decision made by Council, under Delegated Authority or as required by a condition of subdivision approval to enter into agreements relating to land. This includes where a condition of planning approval may require the grant of an easement or lodgement of a caveat. Similarly, where an agreement was required by a condition of approval and is no longer required, such as a caveat requiring amalgamation of land and the land has been amalgamated, then presently Administration only has authority to sign the document for removal. There is no authority to approve the decision to remove the caveat.

It is proposed that delegation be extended to the CEO with authority to approve certain documents related to the control and management of land within the City of Vincent where the CEO is satisfied that the relevant document would not result in any risk to the City such as financial or environmental. The authority to approve would only apply to modification, variation, amendment or removal of an existing encumbrance, right or burden condition already approved by Council under Delegated Authority or as required by a condition of a subdivision approval relating to the land within the control and management of the City. The proposed new delegation is at **Attachment 4**.

#### **CONSULTATION:**

Nil. The removal of caveat and modification to the easement does not require public notice or public consultation.

#### **LEGAL/POLICY:**

The withdrawal of caveat, surrender and grant of easement will be subject to the requirements of Landgate respective to each process.

**RISK MANAGEMENT IMPLICATIONS**

Low: It is low risk for Council to withdraw the caveat for No. 51 Albert Street, North Perth as the Landowner's obligations under the Deed, in particular, its indemnity to the City remains valid and in full force, which can be relied upon in the event of any claims against the City.

It is low risk for Council to surrender of the existing easement over Lot 3 on Diagram 62595 and grant a new easement over Lot 109 on Plan 3642 as this reduces the current easement burden the exists presently across two parcels of freehold land owned by the City and contains the burden to one parcel only. This also provides for consolidated vehicle access arrangements should No. 177 Scarborough Beach Road be developed, tis would allow the existing wide footpath and onstreet parking and street tree to remain undisturbed.

**STRATEGIC IMPLICATIONS:**

This is in keeping with the City's *Strategic Community Plan 2022-2032*:

Accessible City

*Our pedestrian and cyclist networks are well designed, connected, accessible and encourage increased use.*

Innovative and Accountable

*Our decision-making process is consistent and transparent, and decisions are aligned to our strategic direction.*

**SUSTAINABILITY IMPLICATIONS:**

Not applicable.

**PUBLIC HEALTH IMPLICATIONS:**

This does not contribute to any public health outcomes in the *City's Public Health Plan 2020-2025*.

**FINANCIAL/BUDGET IMPLICATIONS:**

The landowner seeking removal of the caveat and the landowner seeking modification to the easement have agreed to pay the costs associated with the preparation and lodgement of documents.

CITY OF PERTH

and

TOWN OF VINCENT

and

MACEDONIAN COMMUNITY OF WA (INC)

**DEED OF DISCHARGE AND RELEASE**

51 Albert Street, North Perth

**MINTER ELLISON**

Lawyers

Level 51, Central Park

152-158 St George's Terrace

PERTH WA 6000

DX 124 PERTH

Telephone (08) 9429 7444

Facsimile (08) 9429 7666

Reference GCS:505024

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THIS DEED is made

1997

**BETWEEN**      **CITY OF PERTH** of Westralia Square, 141 St George's Terrace, Perth,  
Western Australia ('City')

**AND**            **TOWN OF VINCENT** of 244 Vincent Street, Corner of Loftus Street,  
Leederville, Western Australia ('Town')

**AND**            **MACEDONIAN COMMUNITY OF WA (INC)**, C/- PO Box 12, North Perth,  
Western Australia ('Community')

#### RECITALS

- A.      The Community is the registered proprietor of the Land. The Community erected the Centre on the Land.
- B.      At all relevant times until 1 July 1994 the Land was within the boundaries of the City. The Land is now within the boundaries of the Town as part of the division of the City under the CPR Act. Pursuant to the provisions of the CPR Act and the LGA, that division is taken to have been made by order of the Governor within the meaning of Section 2.1 of the LGA.
- C.      The Town has issued the Community with a rectification order for immediate repairs to be undertaken to correct the Current Damage.
- D.      The Community has claimed in the Claim Submissions that the City has a liability to compensate the Community for the cost of rectifying the Current Damage.
- E.      The City has denied that it has any Current and Future Liabilities to the Community. References in this Deed to the City's Current and Future Liabilities are references to the City's Current and Future Liabilities to the extent that they exist at the date of this Deed or may exist at any time in the future.
- F.      The City and the Town have negotiated under clause 11(2) of Schedule 2.1 of the LGA as to the transfer to the Town of all of the City's liability for Current Damage.
- G.      As a result of those negotiations the City agrees to transfer to the Town and the Town agrees to accept a transfer of the City's liability for Current Damage subject to the terms of this Deed.
- H.      It is a condition precedent to the operation and enforcement of any of the provisions of this Deed that the Minister give the Minister's Approval.
- I.      The Community agrees to discharge and forever release the City from all Current and Future Liabilities and to indemnify the City in each case in the manner referred to in this Deed.
- J.      The Community agrees to discharge and forever release the Town from all Current and Future Liabilities and to indemnify the Town in each case in the manner referred to in this Deed.
- K.      The parties agree to enter into this Deed for the purpose of recording their agreement.

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## OPERATIVE PART

## 1. DEFINITIONS AND INTERPRETATION

## 1.1 Definitions

In this Deed, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

'Acts' includes all acts and statutes (State or Federal) for the time being enacted or modifying any Acts and all regulations by-laws requisitions or orders made under any Act from time to time by any statutory public or other competent authority;

'Centre' means the Macedonian Community Centre Building and the bitumen carpark and crossovers erected on the Land at the date of this Deed.

'Claim Submissions' means:

- (a) the letters from the Community to the City dated 24 February 1997 and 13 March 1997;
- (b) the letters from the Community's lawyer Andrew Lynn to the City dated 26 July 1996, 6 August 1996 and 2 October 1996; and
- (c) the oral submissions of representatives of the Community to a City Sub-Committee Meeting on 18 February 1997;

'COPPF Act' means the City of Perth Parking Facilities Act;

'CPR Act' means the City of Perth Restructuring Act 1993;

'Current Damage' means the damage to the Land and to the Centre referred to in Van der Meer's Report and alleged by the Community to be caused by subsidence of the Land;

'Current and Future Damage' means any or all of:

- (a) the Current Damage; and
- (b) any damage to either or both of the Land and the Centre whether existing at the date of this Deed or occurring at any time in the future as a result (either directly or indirectly) of any subsidence in the Land or any other land in the vicinity of the Land;

'Current and Future Liabilities' means all liabilities (actual or contingent) of any nature whether existing at the date of this Deed or arising at any time in the future to:

- (a) rectify any or all of the Current and Future Damage;
- (b) compensate the Community in any manner for any loss, damage or costs, arising directly or indirectly from the Current and Future Damage;

'Deed' means the deed between the Parties constituted by this document and includes the recitals and the schedule contained in this document;

'Land' means 51 Albert Street, North Perth and being more particularly described as Lot 192 on Diagram 56091 and being the whole of the land in Certificate of Title Volume 1545 Folio 398;



'LGA' means the Local Government Act 1995;

'Minister' means the Minister for Local Government and Disability Services;

'Minister's Approval' means a valid written approval given by the Minister to the City to pay the Sum to the Town pursuant to Section 7A(2) of the COPPF Act for the purpose of the Town then paying the Sum to the Community to be applied by the Community towards the cost of rectifying the Current Damage;

'Party' means a party to this Deed and 'Parties' has a corresponding meaning;

'Sum' means the sum of A\$1,296,610;

'Van der Meer's Report' means a report by Van der Meer & Associates commissioned by the Community dated the 13th day of February 1997.

## 1.2 Interpretation

In this Deed, unless the contrary intention appears:

- (a) a reference to this Deed or any other document includes:
  - (i) both express and implied terms, covenants and conditions of those documents; and
  - (ii) all variations, additions and deletions to the terms, covenants and conditions contained in those documents whenever effected;
- (b) a reference to a person includes a reference to the person's personal representatives, executors, administrators, successors and assigns and a reference to a corporation includes a reference to the corporation's successors and assigns;
- (c) a reference to any person if that person ceases to exist is reconstituted, renamed or replaced or its powers or functions are transferred to any other person, refers respectively to the person established or constituted in its place or succeeding to its powers or functions;
- (d) a reference to a person includes a reference to a corporation, firm, unincorporated association and a government or statutory body or authority;
- (e) an obligation, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally;
- (f) an obligation, representation or warranty on the part of two or more persons binds them jointly and severally;
- (g) a reference to any thing includes the whole or any part of that thing and a reference to a group of things or persons includes each thing or person in that group;
- (h) a reference to a clause or the schedule is a reference to a clause in or the schedule to this Deed;
- (i) the index and all headings have been included for ease of reference only and they are not to be used to construe or interpret any part of this Deed; and

- (j) a reference to any statute includes a reference to all regulations made pursuant to that statute and all statutes amending or consolidating the statutes referred to.

## 2. MINISTER'S APPROVAL

The Parties mutually acknowledge and agree that it is a condition precedent to the operation and enforcement of the provisions of this Deed that:

- (a) the Minister issue the Minister's Approval; and
- (b) the Minister's Approval is not subject to any conditions (other than any conditions which each Party accepts by written notice to all other Parties).

## 3. THE COMMUNITY'S SUCCESSORS IN TITLE

3.1 The Community expressly acknowledges to the City and the Town that:

- (a) the Community enters into this Deed as registered proprietor of the Land; and
- (b) all of the provisions of this Deed which apply to the Community bind the registered proprietors of the Land from time to time as if references in this Deed to the Community were references to that registered proprietor.

3.2 Without limiting the generality of clause 3.1, the Community agrees with the City and the Town that the Community will not transfer or attempt to transfer the whole or any part of its freehold estate in the Land to any person (whether that transfer or attempted transfer is at law or in equity ) unless the Community has first obtained the execution by the City, the Town, the Community and the proposed transferee of a deed (prepared by the City's solicitors at the cost of the Community and containing provisions reasonably required by the City and the Town) by which the proposed transferee agrees to become bound by this Deed as if it were referred to in this Deed as the Community.

3.3 The Community indemnifies the City and the Town and will keep the City and the Town indemnified from any loss, damages or costs arising directly or indirectly from any breach by the Community of the provisions of clause 3.2.

## 4. THE SUM

The City must pay the Sum to the Town within 5 working days after receipt by the City of the Minister's Approval.

## 5. TRANSFER OF THE CITY'S LIABILITY FOR CURRENT DAMAGE

Contemporaneously with the payment of the Sum by the City to the Town, the City will transfer to the Town and the Town will accept the transfer of the City's liability for Current Damage.

## 6. PAYMENT OF THE SUM TO THE COMMUNITY

6.1 On receipt of the Sum, subject to clause 6.2, the Town will hold the Sum on trust for the Community (in an interest bearing trust account) for use by the Community in payment towards the cost of rectifying the Current Damage in accordance with Van Der Meer's Report.

6.2 **The Town may withdraw from the trust account from time to time:**

- (a) the Town's reasonable charges and expenses of administering the trust account, paying the Sum to the Community, and making inspection and obtaining verification as referred to in the Schedule; and
- (b) the Town's legal costs in respect of this Deed including any stamp duty payable.

6.3 The Town agrees to pay the Sum (together with the interest earned on the Sum but less any amount withdrawn pursuant to clause 6.2 and less any taxes, duties and fees charged in respect of the trust account) to the Community by instalments in the manner set out in the Schedule.

7. **APPLICATION OF THE SUM**

7.1 Subject to clause 7.2, the Community must use the whole of the Sum for the purpose of rectifying the Current Damage in accordance with Van Der Meer's Report.

7.2 If the Community desires to rectify the Current Damage other than in accordance with Van Der Meer's Report then it may do so only with the prior written consent of the Town.

8. **THE SUM AND ALL CURRENT AND FUTURE DAMAGE**

The Community acknowledges to the City and the Town that to the extent that the Sum is insufficient to enable the Community to rectify the Current and Future Damage, the cost of rectifying the Current and Future Damage will be borne by the Community.

9. **DISCHARGE AND RELEASE OF THE CITY AND INDEMNITY**

From the date that the City's liability for Current Damage is transferred to the Town and the Sum is paid by the City to the Town, the Community:

- (a) forever discharges and releases the City from the Current and Future Liabilities;
- (b) indemnifies the City and will keep the City indemnified from:
  - (i) the Current and Future Liabilities;
  - (ii) all actions, suits, claims, proceedings and demands which may be brought by the Community or by third parties against the City whether at common law, in equity or pursuant to statute or otherwise in respect of the Current and Future Liabilities; and
  - (iii) all losses, costs and expenses incurred by the City in respect of any of the matters referred to in sub-paragraph (ii).

10. **DISCHARGE AND RELEASE OF THE TOWN AND INDEMNITY**

Without limiting the Town's obligations as Trustee of the Sum pursuant to this Deed, from the date of receipt of the Sum by the Town, the Community:

- (a) forever discharges and releases the Town from the Current and Future Liabilities;
- (b) indemnifies the Town and will keep the Town indemnified from:
  - (i) the Current and Future Liabilities; and

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- (ii) all actions, suits, claims, proceedings and demands which may be brought by the Community, the City or by third parties against the Town whether at common law, in equity or pursuant to statute or otherwise in respect of the Current and Future Liabilities; and
- (iii) all losses, costs and expenses incurred by the Town in respect of any of the matters referred to in sub-paragraph (ii).

**11. LIABILITY OF THE TOWN'S SERVANTS AND AGENTS**

- 11.1 Every exemption from, and limitation of, liability, defence and immunity of whatever nature that applies to the Town, or to which the Town is entitled, including those set out in this Deed, shall also be available and extend to protect every one of its servants or agents acting under this Deed, or in any way connected with or relating to it.

**12. BAR TO ACTION**

This Deed may be pleaded as a bar to any action brought by:

- (a) the Community against the City in respect of any Current and Future Liabilities;
- (b) the Community against the Town in respect of any Current and Future Liabilities.

**13. CHARGE AND CAVEAT**

- 13.1 The Community charges the Land in favour of the City and the Town with the payment to the City and the Town of all money which is or may become payable by the Community to either or both of the City and the Town pursuant to the provisions of this Deed (including, without limitation, the indemnities the subject of clauses 3.3 and 9(b) and 10(b)). The charge granted to the City and the charge granted to the Town pursuant to this clause will at all times rank *pari passu*.

- 13.2 The Community acknowledges that each of the City and the Town may lodge and maintain a subject to claim caveat against the certificate of title to the Land in order to protect their respective interests as chargees of the Land. The Community must not do or cause or allow to be done anything which has the effect or may at any time in the future have the effect of removing from the register any of caveats registered by either or both of the City and the Town pursuant to this clause.

**14. FURTHER ASSURANCES**

Each Party must do, sign, execute and deliver and must procure that each of its employees and agents does, signs, executes and delivers all deeds, documents, instruments, and acts reasonably required of it or them by notice from another Party effectively to carry out and give full effect to this Deed and the rights and obligations of the Parties under it.

**15. GOVERNING LAW**

- 15.1 This Deed shall be governed by and be construed in accordance with the laws of Western Australia.
- 15.2 The Parties submit to the non-exclusive jurisdiction of the courts of Western Australia.

**16. GENERAL****16.1 Amendment**

No variation or waiver of, or any consent to any departure by a Party from, a provision of this Deed is of any force or effect unless it is confirmed in writing signed by all Parties and then that variation, waiver or consent is effectively only to the extent for which it is made or given.

**16.2 Waiver**

The failure, delay, relaxation or indulgence on the part of any Party in exercising any power or right conferred upon that party by this Deed does not operate as a waiver of that power or right, nor does any single exercise of any power or right preclude any other or further exercise of it or the exercise of any other power or right under this Deed.

**16.3 Entire Agreement**

This Deed constitutes the sole and entire agreement between the Parties and a warranty, representation, guarantee or other term or condition of any nature not contained or recorded in this Deed is of no force or effect.

**17. COSTS AND STAMP DUTY**

17.1 Each Party will bear its own costs and disbursements in respect of the negotiation for and preparation of this Deed and all copies of it.

17.2 The Town will pay stamp duty assessed on this Deed and all copies of it.

**EXECUTED** by the parties as a Deed.

THE COMMON SEAL of THE CITY OF )  
PERTH was hereunto affixed in the  
presence of:

  
\_\_\_\_\_  
Lord Mayor

  
\_\_\_\_\_  
Chief Executive Officer

THE COMMON SEAL of THE TOWN OF  
VINCENT was hereunto affixed in the  
presence of:

A.J. Marks J.P.  
Mayor

[Signature]  
Chief Executive Officer



THE COMMON SEAL of MACEDONIAN  
COMMUNITY OF WESTERN AUSTRALIA  
(INC) is hereunto affixed pursuant to the  
authority of a resolution of

in the presence of: 22-10-97

S. Navstean President

[Signature] Secretary





**SCHEDULE A****Manner of Payment of the Sum**

1. The Community must make written application to the Town for the payment of any portion of the Sum.
2. Each application by the Community must be accompanied by a copy of the progress claim made by the Community's builder or other relevant consultant in respect of the work undertaken by that builder or other relevant consultant in rectifying the Current Damage.
3. Before paying the amount the subject of the application the Town may require the Community to verify to the Town's reasonable satisfaction that the amount the subject of the application is fair and reasonable having regard to the work the subject of the application.
4. The Town will not incur any liability to the Community as a result of conducting the verification referred to in paragraph 3 and the Community alone must bear all responsibility for the suitability, quality and quantity of the work the subject of any application to the Town.

WESTERN



AUSTRALIA

## TITLE NUMBER

Volume Folio

1545 398

## RECORD OF CERTIFICATE OF TITLE

UNDER THE TRANSFER OF LAND ACT 1893

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.

*BGRoberts*  
REGISTRAR OF TITLES



## LAND DESCRIPTION:

LOT 192 ON DIAGRAM 56091

REGISTERED PROPRIETOR:  
(FIRST SCHEDULE)

MACEDONIAN COMMUNITY OF WA INC OF CORNER OF ALBERT AND KAYLE STREETS, NORTH PERTH  
(A B797038 ) REGISTERED 12/10/1979

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:  
(SECOND SCHEDULE)

1. THE RIGHT TO MINES OF COAL OR OTHER MINERALS BEING EXCLUDED FROM PORTION OF THE SAID LAND
2. G758743 CAVEAT BY TOWN OF VINCENT LODGED 6/4/1998.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.  
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

## STATEMENTS:



The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: 1545-398 (192/D56091)  
PREVIOUS TITLE: 2-125A, 1271-442  
PROPERTY STREET ADDRESS: 51 ALBERT ST, NORTH PERTH.  
LOCAL GOVERNMENT AUTHORITY: CITY OF VINCENT

LANDGATE COPY OF ORIGINAL NOT TO SCALE 22/08/2024 02:54 PM Request number: 67044289

  
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<p style="text-align: center; font-size: 1.2em; font-weight: bold;">C 447230 E</p> 	<p>No. <span style="font-size: 1.2em; font-weight: bold;">C447230</span></p> <p style="text-align: center;"><u>DEED OF EASEMENT</u></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">FEES (office use)</td> <td style="width: 10%; text-align: center;">\$</td> <td style="width: 30%; text-align: center;">c</td> </tr> <tr> <td style="text-align: center;">1982 NOV 2 PM 3:19</td> <td></td> <td></td> </tr> <tr> <td></td> <td style="text-align: center; font-size: 1.5em;">23</td> <td style="text-align: center;">-</td> </tr> </table> <p>Parties <u>CITY OF PERTH</u></p> <p style="text-align: center;">- and -</p> <p style="text-align: center;"><u>ADAM ZENCICH</u></p> <hr/> <p>Lodged by <u>NORTHMORE HALE DAVY &amp; LEAKE</u>  <u>SOLICITORS, 29TH FLOOR,</u>  <u>ALLENDALE SQUARE, 77 ST.</u>  Address <u>GEORGE'S TERRACE, PERTH.</u></p> <p>Phone No. <u>325.9833</u> PD:JS/LM</p> <p>Use this space for instructions if any documents are to issue to other than lodging party.</p> <p style="font-size: 1.5em; font-weight: bold;">1630-868</p> <p style="font-size: 1.5em; font-weight: bold;">869</p> <p style="font-size: 1.5em; font-weight: bold;">57</p> <p style="font-size: 1.5em; font-weight: bold;">14570-6</p> <hr/> <p>Titles, Crown Leases, Declarations, etc., lodged with this document. (To be filled in by person lodging.)</p> <table style="width: 100%;"> <tr> <td style="width: 70%;">1. <u>Dep. easement</u></td> <td rowspan="4" style="width: 30%; vertical-align: middle;"> Received items  No's <u>1-2</u> </td> </tr> <tr> <td>2. <u>Trip easement</u></td> </tr> <tr> <td>3. <u>CT-45-52</u></td> </tr> <tr> <td>4. <u>CT-45-52</u></td> </tr> <tr> <td>5. _____</td> <td rowspan="2" style="vertical-align: bottom;"> Rec. Clerk. </td> </tr> <tr> <td>6. _____</td> </tr> </table>	FEES (office use)	\$	c	1982 NOV 2 PM 3:19				23	-	1. <u>Dep. easement</u>	Received items No's <u>1-2</u>	2. <u>Trip easement</u>	3. <u>CT-45-52</u>	4. <u>CT-45-52</u>	5. _____	Rec. Clerk.	6. _____
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5. _____	Rec. Clerk.																	
6. _____																		
BELOW THIS LINE FOR OFFICE USE ONLY																		
Encumbrances not notified on face.	Registered <u>2nd November 1982</u> at <u>3.19</u> o'clock and particulars entered in the Register Book.																	
New Titles to issue or Endorsing instruction.	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> Initials of Signing Officer </div> <div style="margin-top: 10px; text-align: center;">   <b>REGISTRAR OF TITLES</b> </div>																	
EXAMINED																		

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Form B2  
5-00

WESTERN AUSTRALIA.  
Transfer of Land Act 1893 as amended

Blank Instrument Form (see footnote)

a. Insert type of document here.

WESTERN AUSTRALIA  
28SEP82  
No. 447230

AUSTRALIA  
14058342 5/8 \$5.00

STAMP  
DUTY

a. DEED OF EASEMENT

THIS DEED OF EASEMENT is made the 19th day of August 1982

B E T W E E N :

CITY OF PERTH of 27-29 St. George's Terrace Perth  
Western Australia ("the Grantor")

and

ADAM ZENCICH of 171 Scarborough Beach Road, Mount  
Hawthorn Western Australia, Storekeeper ("the Grantee")

W H E R E A S :

A. The Grantor is registered as the proprietor of an estate in fee simple in the land described in the First Schedule hereto ("the servient tenement").

B. The Grantee is registered as the proprietor of an estate in fee simple in the land described in the Second Schedule hereto ("the dominant tenement").

C. The Grantor has agreed to grant to the Grantee an easement over that portion of the servient tenement as is delineated and coloured green in the sketch plan annexed hereto ("the right of carriageway") for the purpose hereinafter specified.

NOW THIS DEED WITNESSES as follows:

1. In consideration of the premises the Grantor as registered proprietor of the servient tenement on behalf of the Grantor and the Grantor's successors in title the registered proprietor or proprietors for the time being of an estate or interest in fee simple in the servient tenement HEREBY TRANSFERS AND GRANTS unto the Grantee and the Grantees successors in title the registered proprietor or proprietors for the time being of an estate or interest in fee simple in the dominant tenement and to their respective servants, tenants, agents, workmen, visitors and all other persons

STATE

DRM APPROVAL  
No. 046  
GISTRAR OF TITLES

NOTE: This Form may be used only when the "Box Type" Form is not suitable. It may be completed in narrative style.

Sands & McDougall  
STOCK FORM 324

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acting under the authority of the Grantee from time to time and at their will or pleasure to go, pass and repass through over and along the right of carriageway and either with or without motor cars and other vehicles of any description laden or unladen for all purposes whatsoever connected with the use and enjoyment of the dominant tenement or any part thereof.

2. The Grantor hereby agrees to pay the costs of and incidental to the preparation, stamping and registration of this deed and all necessary counterparts.

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first hereinbefore written.

#### THE FIRST SCHEDULE

##### The Servient Tenement

- (a) Portion of Swan Location 669 and being Lot 3 on diagram 62595 and formerly being part of the land comprised in Certificates of Title Volume 1235 Folio 563, Volume 1235 Folio 562 and Volume 402 Folio 94 and now being the whole of the land comprised in Certificate of Title Volume 1630 Folio 368
- (b) Portion of Swan Location 669 and being Lot 109 on diagram 62262 and formerly being part of the land comprised in Certificates of Title Volume 953 Folio 52 and Volume 402 Folio 94 and now being the whole of the land comprised in Certificate of Title Volume 1630 Folio 869

#### THE SECOND SCHEDULE

##### The Dominant Tenement

Portion of Swan Location 669 and being part of Lot 2 the subject of Diagram 25122 and being the balance of the land comprised in Certificate of Title Volume 1235 Folio 562.

Form B1.

WESTERN AUSTRALIA  
Transfer of Land Act 1893 as amended

ANNEXURE " " PAGE No.

Annexure to DEED OF EASEMENT Dated 19th August 1982  
between CITY OF PERTH and A. ZENCICH

SCARBOROUGH BEACH ROAD

COOGEE STREET

NOTE: Every Annexed sheet must be signed at the foot of each page by all parties and their witnesses and be dated. If more than one page, number consecutively.

FORM APPROVAL No. 035 REGISTRAR OF TITLES

STOCK FORM 322 L.M.L. Sands & McDougall

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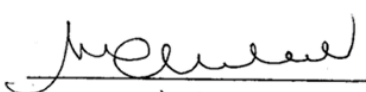
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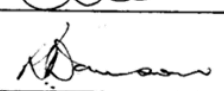
www.landgate.wa.gov.au

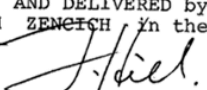


3

THE COMMON SEAL of CITY OF PERTH )  
 was hereunto affixed in the pre- )  
 sence of :

 Lord Mayor

 Town Clerk

SIGNED SEALED AND DELIVERED by )  
 the said ADAM ZENCICH in the )  
 presence of :  x Adam Zencich

8 LAMBARDY ST  
 WOODLANDS  
 OCCUPATION, CONTRACTOR

ENDORSED: ON THE FACE OF CIT 1235-562 (DRUG ONLY) *deed LOT 3 ON DIAGRAM 62595*  
 TRANSFER C 447230 A right of carriageway over the portion of *AND LOT 109 ON PLAN 36426*  
 coloured GREEN on the map in Transfer C 447230 is granted to the proprietor  
 or proprietors for the time being of THE BALANCE OF THE WITHIN LAND as set out in the  
 said Transfer. Registered 2.11.82 & 3.19.

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Power to modify documents affecting land within the control and management of City

*Delegation from Council to CEO*

<b>Head of power to Delegate:</b> <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> S5.42 Delegation of some powers or duties to the CEO S5.43 Limitations on delegations to the CEO
<b>Express Power or Duty Delegated:</b>	<i>Local Government Act 1995:</i> S5.41 Functions of CEO
<b>Delegate:</b>	Chief Executive Officer
<b>Function:</b> <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	Authority to approve any modification, variation, amendment or removal of an existing encumbrance, right or burden condition relating to the control and management of land.
<b>Council Conditions on this Delegation:</b>	This delegation does not: (i) extend to new encumbrances, rights or burden conditions to be imposed over land under the control and management of the City; and (ii) apply to registered leases.
<b>Express Power to Sub-Delegate:</b>	<i>Local Government Act 1995:</i> S5.44 CEO may delegate some powers and duties to other employees

*Delegation from CEO to other employees*

<b>Sub-Delegate/s:</b> <i>Appointed by CEO</i>	All Executive Directors Executive Manager Corporate Strategy and Governance Manager Development and Design Coordinator Planning Services
<b>CEO Conditions on this Sub-Delegation:</b> <i>Conditions on the original delegation also apply to the sub-delegations.</i>	<u>Manager Development and Design and Coordinator Planning Services</u> Where the encumbrance is a condition of subdivision or development approval.
<b>Compliance Links</b>	<a href="#">Local Government Act 1995</a> – S5.41 Functions of CEO