5.2 ROAD DEDICATION OF VARIOUS RIGHTS OF WAY

Attachments:
1. **Diagram 6812 (ROW 51)**
2. **Diagram 1346 (ROW 66)**
3. **Diagram 6483 (ROW 67)**
4. **Rights of Way ownership - Certificates of Title**

RECOMMENDATION:

That Council:

1. REQUESTS the Minister for Lands to dedicate as a road pursuant to section 56(1)(c) of the *Land Administration Act 1997* (LAA) the following right of ways:

(a) Lot 51 on Diagram 6812 comprised in Certificate of Title Volume 1008 Folio 199;

(b) Lot 66 on Diagram 1346 comprised in Certificate of Title Volume 2761 Folio 264; and

(c) Lot 67 on Diagram 6483 comprised in Certificate of Title Volume 72 Folio 92;

subject to the Chief Executive Officer:

1.1 Providing public notice seeking submissions on the proposal to dedicate the right of ways pursuant to section 56(1)(c) of *Land Administration Act 1997* and Regulation 8 of *Land Administration Regulations*; and

1.2 Considering and responding to any submissions or objections received.

PURPOSE OF REPORT:

For Council to consider the dedication of the following rights of way as a road pursuant to section 56(1)(c) of the *Land Administration Act 1977* (LAA):

(a) sealed private right of way off Haynes Street, North Perth, known as Lot 51 on Diagram 6812 comprised within Certificate of Title Volume 1008 Folio 199 (ROW Lot 51);
(b) sealed private right of way off Richmond Street, Leederville, known as Lot 66 on Diagram 1346 compromised within Certificate of Title Volume 2761 Folio 264 (ROW Lot 66); and
(c) sealed private right of way off Loftus Street, Leederville and known as Lot 67 on Diagram 6483 comprised in Certificate of Title Volume 72 Folio 92 (ROW Lot 67).

collectively the above lots are referred to as Rights of Way.

DELEGATION:

Section 56(1)(c) of the LAA sets out that a Local Government may request the Minister for Lands to dedicate as road, land that comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years. The *Local Government Act 1995* defines 'Local Government' as the Elected Members unless otherwise delegated. This function has not been delegated.

BACKGROUND:

ROW Lot 51

ROW Lot 51 was created in 1925 when lots 12 and 13 on plan 167 was subdivided to create lots 1 – 6 on Diagram 6812 as shown in red on the plan below. Diagram 6812 at **Attachment 1**.

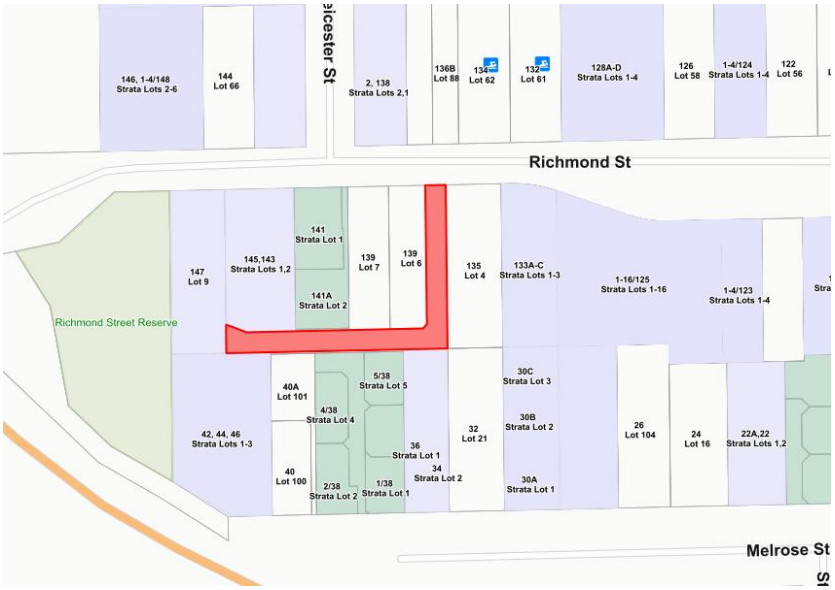
The six adjacent lots created on Diagram 6812 have an implied access to Lot 51 pursuant to S167A of *Transfer of Land Act 1893.* ROW Lot 51 is owned in fee simple and is believed to be a deceased estate.

ROW Lot 51 is 5m in width and constructed from brick paving. It is serviced with drainage. The dedication of this ROW is in aid of a naming request made by the landowner of No.393A Charles Street, North Perth (strata lot 2). The naming of the ROW will assist in wayfinding for the five strata lots who utilise the ROW as a primary point entry for the dwellings.

ROW Lot 66

ROW Lot 66 was created in 1901 when Lot 23 on Plan 560 was subdivided to create lots 1-10 and 66 on Diagram 1346 as shown in red in the plan below. Diagram 1346 is at **Attachment 2**.

Adjacent lots created on Diagram 1346 have an implied right of access over Lot 66 pursuant to section 167A of *Transfer of Land Act 1893.* ROW Lot 66 is owned in fee simple and is believed to be a deceased estate.



ROW Lot 66 is 5m in width and sealed and drained. Since originally created there has been a number of subdivisions across the 10 lots created on the same diagram, as shown in the image above with many of these having vehicle access from the ROW only. Following a recent query from Landgate regarding naming of this ROW, Administration has confirmed that this ROW could be easily dedicated to support naming and improve wayfinding for the properties accessed by the ROW.

ROW Lot 67

ROW 67 (eastern portion) was created in 1924 during the subdivision process creating Lots 5 – 8 on Diagram 6483 (**Attachment 3**) and is shown in red in the plan below. Lots 5 – 8 have an implied right of access over ROW Lot 67 pursuant to pursuant to S167A of *Transfer of Land Act 1893*. ROW Lot 67 is owned in fee simple and is believed to be deceased estate. The right of way to the west of ROW 67 (shown in green below) has been owned by the City in freehold since 2011.

The City has received a request from the owner of No.129 Loftus Street, Leederville which is located to the north of ROW 67, to dedicate ROW 67 as road as they are intending to develop that site. No.129 Loftus Street is part of a separate plan of subdivision and does not currently have an implied right of access to ROW 67.

Drainage infrastructure, paving, sewer line and manholes are present within ROW 67.

DETAILS:

S56 LAA & Reg 8 *Land Administration Regulations 1998* (LAR) process

Administration is proposing to request that the Minister for Lands considers dedication of the three Right of Ways as 'Road' under section 56 of the LAA.

56. Dedication of land as road

(1) If in the district of a local government —

(c) land comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years, and that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.

private road means alley, court, lane, road, street, thoroughfare or yard on alienated land, or a right of way created under section 167A(1) of the TLA, which — (a) is not dedicated, whether under a written law or at common law, to use as such by the public; and (b) is shown on a plan or diagram deposited or in an instrument lodged with the Registrar.

The LAA defines a private road to include *"…alley, court, lane, road, street, thoroughfare or yard on alienated land, or a right of way… which is not dedicated… is shown on a plan or diagram… and which forms a common access to land…*".

Administration is satisfied that the dedication of the Rights of Way would not impact the adjoining properties to the Rights of Way and would not result in the loss of vehicle access to any adjoining properties. A review of Nearmaps and Landgate aerial imagery shows that each of the Rights of Way has been used for vehicle access for the past ten years and Administration considers that there is sufficient evidence to satisfy the requirements of the LAA.

Next Steps

The process requesting the Minister for Land's consent to the dedication is as follows:

- Council resolves to request the Minister dedicate the Rights of Way as a road pursuant to Section 56 of the LAA, subject to the City advertising the intention and considering any submissions.
- The City gives public notice for a period of 31 days of its decision to request the Minister dedicate the Rights of Way as a road and considers any responses to any public submissions received.
- The City gives notice to suppliers of public utility services for a period of 31 days of its decision to request the Minister dedicate as road the Rights of Way and considers any responses received from the public utility service providers.
- The City makes a request in writing to the Minister for Lands for the Rights of Way to be dedicated as a road under Section 56 of LAA and Regulation 8 of LAR which includes the following:
    - Copy of the Council report recommendation and minutes to dedicate as road the Rights of Way.
    - Plan of survey, sketch plan or document to describe the dimensions of the road.
    - Written confirmation that the public has had uninterrupted use of the private road for a period of not less than 10 years.
    - A description of the section or sections of the public who have had that use.
    - A description of how the Rights of Way have been constructed.
    - Information on Rights of Way ownership. Provided on Certificates of Title (**Attachment 4**).
    - Copies of any submissions/objections received in response to the public notice, and the City's comments on these submissions / objections.
    - Written confirmation that the City has complied with section 56(2) of LAA.

Where a private road is dedicated as road by a Dedication Order under S.56 of LAA, compensation is not payable to **any** person with an interest in the land (including the owner of the fee simple interest in the land) nor any person who may have the benefit of an easement over the private road created under s.167A of the *Transfer of Land Act*.

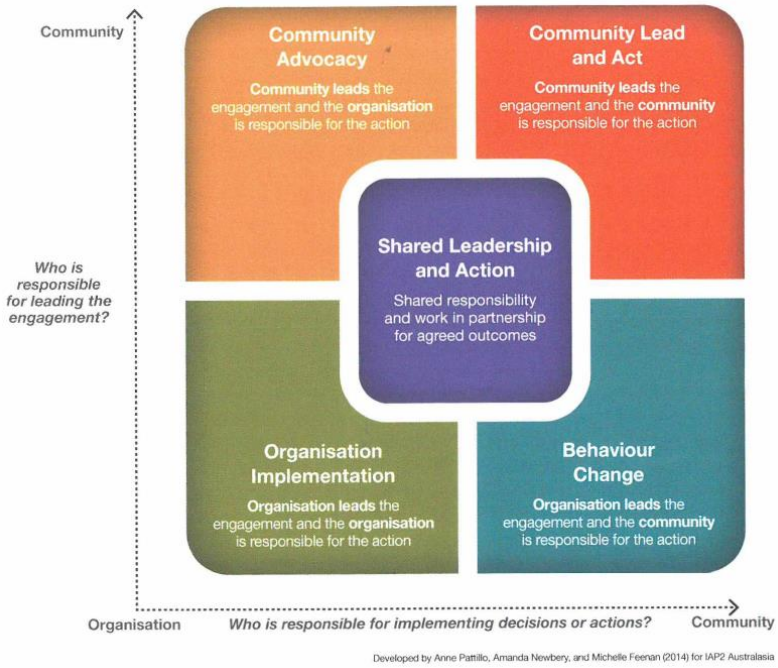
If the Minister grants the request for the dedication of the Rights of Way as a road, the right of way will become Crown Land owned by the State of Western Australia, with care, control and management the responsibility of the City in accordance with section 55(2) of the LAA.

CONSULTATION/ADVERTISING:

Public notice is required prior to dedication and notice to public utility services suppliers pursuant to *S56 Land Administration Act 1997* and Reg 8 of the *Land Administration Regulations 1998*.

Public notice will be provided for a minimum of 31 days in the following ways:

- on the City's website;
- in the local paper;
- letters to adjoining property owners; and
- on the City's Public Notice board.



Organisation Implementation

Organisations lead engagement and seek input, shape the policies, projects and services for which they are responsible. This is a familiar and traditional approach to policy development, project management and service delivery.
Tension: People feel forced leading to an unresponsive process.
Mitigation: Increasing the level of influence, and implementing a transparent, robust process.

LEGAL/POLICY:

Land Administration Act 1997

Section 56 of *Land Administration Act 1997*

Regulation 8 *Land Administration Regulations 1998*

RISK MANAGEMENT IMPLICATIONS

RISK CATEGORY	RISK APPETITE/TOLERANCE STATEMENT	DESCRIPTOR/CLARIFICATION
Activities against ratepayer values & ethics	The city has a very low risk appetite for investments and activities that do not align with the city's values.	The city has set its vision, purpose and guiding values based on the interpretation of those of the community it serves. When entering into new projects, investments and proposals, these values must be considered as one of the key consideration sets.

Council's adopted Risk Appetite & Tolerance Statements page 5.

Low: It is low risk for Council to dedicate the Rights of Way as roads. The dedication aligns with the pillars of Council's adopted SCP.

The Rights of Way are currently operating as publicly accessible roads, dedication of the lots as a road would not have a noticeable impact on the surrounding area and adjoining landholdings which have had access will continue to have uninterrupted vehicle access. Dedication will allow for proper management of the ROWs and subsequent naming which will improve addressing and way finding for those properties with sole access from the ROW.

STRATEGIC IMPLICATIONS:

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

Thriving Places

Efficiently managed and maintained City assets in the public realm.

Innovative and Accountable

We engage with our community so they are involved in what we are doing and how we are meeting our goals.

FINANCIAL/BUDGET IMPLICATIONS:

The dedication of the road will require a nominal fee of approximately $209 for each lot for the lodgement of the Dedication Order with Landgate. Improvements to the pedestrian amenity of the right of way following the dedication by the Minster for Lands will be considered in future budget allocations.

COMMENTS:

Administration supports the dedication of the Rights of Way as road under section 56 of the *Land Administration Act 1997* as the public has had uninterrupted use of the Rights of Way for a period of not less than 10 years and the intention is to continue granting the public an accessible road. Dedication of the Rights of Way would allow consideration of improvements to the Rights of Way.

Mitchell Transfer 394 Vol. 887, Fol. 177
1929. 25540/29
11107/36. 6306/43.

ORIGINAL

INDEXED.

REGISTER BOOK.
Vol. 1008 Fol. 199

WESTERN AUSTRALIA.

Certificate of Title

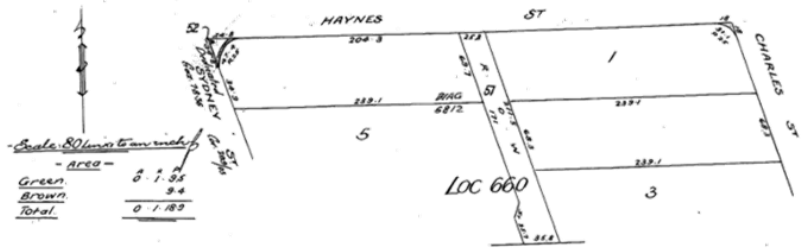
under "The Transfer of Land Act, 1893" (Sch. 5, 56 Vict., 14.)

CT 1008 0199 F

John Lew Goovey of Albert Street North Perth Market Gardener

is now the sole proprietor

of an estate in fee simple in possession subject to the easements and encumbrances notified hereunder in ALL those piece of land delineated and coloured green and brown on the map hereon, containing together one rood eighteen and nine tenths perches or thereabouts, being portion of Swan Location 660 and being part of the land on diagram 6812



Dated the twenty seventh day of February

Transfer 9504/1929 Transferred to Wong Hee Goovey of Albert Street North Perth wife of John Lew Goovey
Registered 16th August 1929 at 12:45 pm

Cor. 389/43.
The portion of the within land Area 0:0:9 dedicated as Sydney St on the map on the face hereof is pursuant to Sections 222 and 227 of the Municipal Corporations Act 1906 by Gazette notice published 7.6.36 dedicated as a public highway.

Asst. Registrar of Titles.

being Lots 51 & 52 on Survey Diag. 6812.
Portion coloured brown & alone remains

Land Parcel identifier amended - Regulation 6 of Transfer of Land (Surveys) Regulations 1995 Corr. 1775-2000-01
Date: 22.3.06

For encumbrances and other matters affecting the land see back.

LANDGATE COPY OF ORIGINAL NOT TO SCALE 06/02/2025 04:07 PM Request number: 67754926

Landgate
www.landgate.wa.gov.au

EASEMENTS AND ENCUMBRANCES REFERRED TO:

Mortgage 3274/1936. Wong Hee Goocy to George Webber Buckingham of 15 Wasley Street. North Perth. Gentleman to secure £ 100. Registered 26th June 1936 at 3 o'c

ASSISTANT REGISTRAR OF TITLES

Discharge 2900/1943 of Mortgage 3274/1936. Registered 12th July 1943 at 1 o'c

ASSISTANT REGISTRAR OF TITLES

TRANSFER 17251/1950 Lot 11 to Arthur Goocy

Registered this 21st day of September 1950

at 12 — o'c

W. 1130. 570.

Application 3234/1950 A separate certificate issued for Lot 2. Registered 21st September 1950 at 12 o'c

W. 1130. 396.

REGISTRAR OF TITLES

CT 1008 0199 B

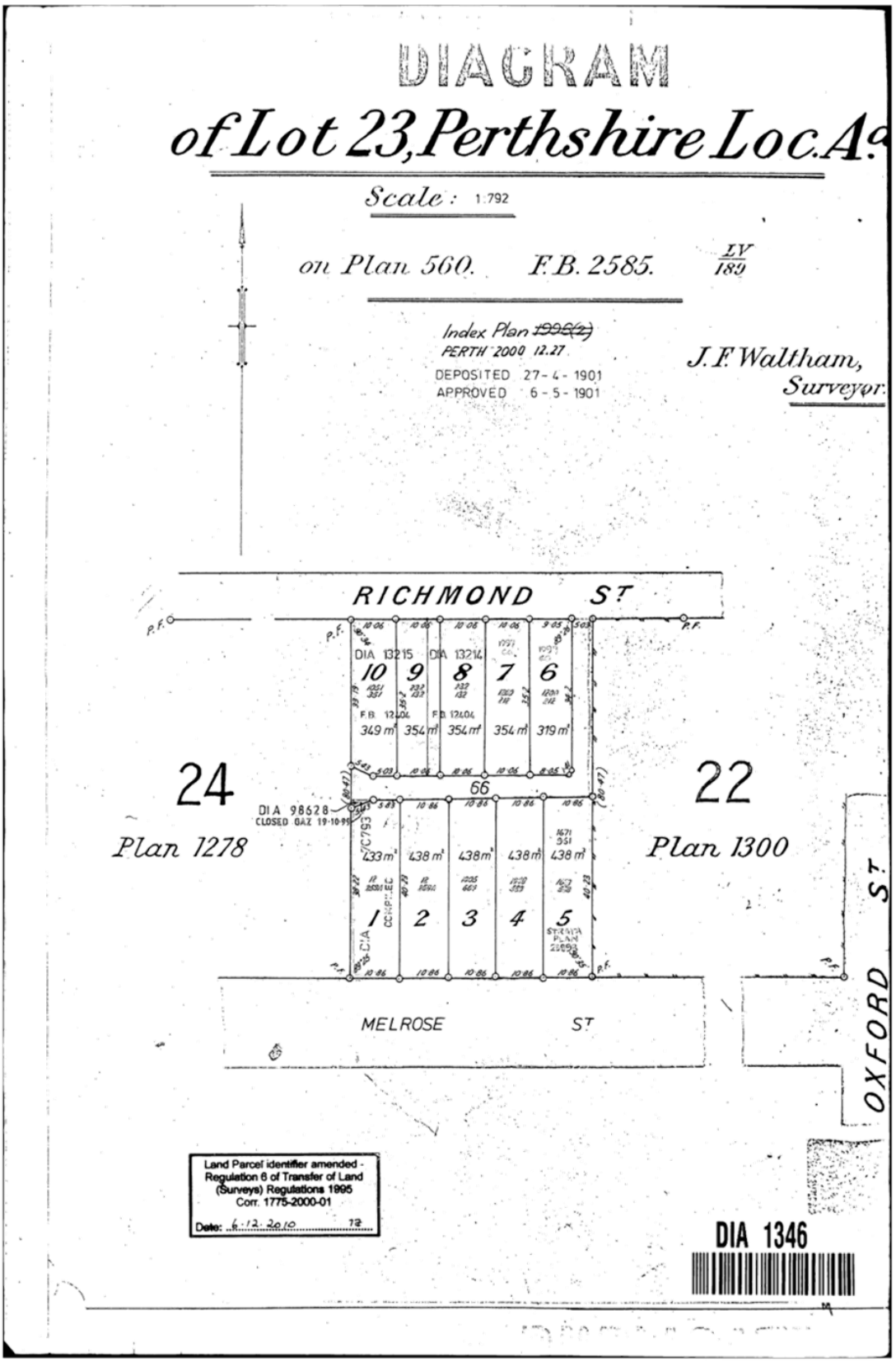
CERTIFICATE OF TITLE.

Registered Vol. ..... Fol. .....

LANDGATE COPY OF ORIGINAL NOT TO SCALE 06/02/2025 04:07 PM Request number: 67754926

Landgate

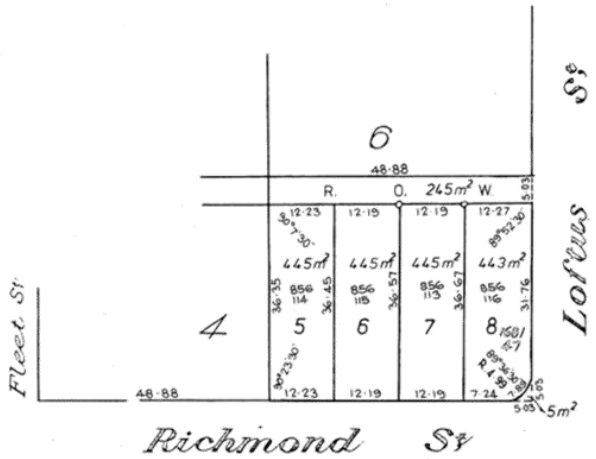
www.landgate.wa.gov.au



LANDGATE COPY OF ORIGINAL NOT TO SCALE 30/01/2025 02:39 PM Request number: 67721989

Landgate
www.landgate.wa.gov.au

...n or District	Number of Lot or Location	On	Surveyor	Field Book	Scale	Vol.	Fol.	Deposited	Area
Perthshire	Lots 63 & 64 of Lot 9 of Loc: A?	Plan 958 Diag Index Plan 1996 (2) PERTH 2000 12:27	Cedric Hope	8114	1:792	72	92	3 4 24 Passed. 5 4 24	



~~P.A.W~~/ R.O.W as shown on this Survey is amended to Lot ...67....
Regulation 6 Transfer of Land (Surveys) Regulation 1995
Corr. 1775-2000-01
Date: .....17.5.96....

DIA 6483

DUPLICATE 6483

LANDGATE COPY OF ORIGINAL NOT TO SCALE 04/02/2025 03:12 PM Request number: 67741891

Landgate
www.landgate.wa.gov.au

Lot 67 on D6483 (Off Loftus St)

Sch. 6. 56 V. 14.

CULLED

REGISTER BOOK

Vol. LXXII., Fol. 92

CT 0072 0092 F

WESTERN AUSTRALIA.

Certificate of Title under "The Transfer of Land Act, 1893."

Elizabeth Pinker of Guildford Spinster

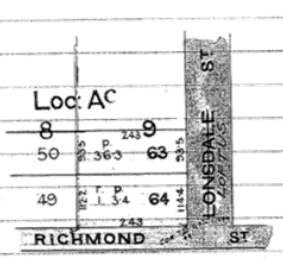
is now the sole proprietor

of an estate in fee simple in possession subject to the easements and encumbrances notified hereunder

in ALL those pieces of land delineated and coloured Green on the map hereon

containing together two roods

or thereabouts being Parts of Lots 8 and 9 of Perthshire Location A^c numbered 63 and 64 Plan deposited No 056 — Together with a right of carriage way over the several Roads and Streets shewn on said Plan and Plan No 000



Scale 2 Chains to an Inch

Transfer 1329/99 Totally transferred by endorsement to Albert Thomas Jones of Barrack Street, Perth. Instrument registered 14th day of April 1899 @ 1.40 p.m.

Arthur G. Harvey Land Surveyor

and being Lot 67 on Survey D6483

Portion colored brown remains

Land Parcel identifier amended - Regulation 6 of Transfer of Land (Surveys) Regulations 1995 Corr: 1775-2000-01

Date: 12.3.04

Dated the Thirteenth day of August One thousand eight hundred and ninety five

LANDGATE COPY OF ORIGINAL NOT TO SCALE 25/03/2024 01:39 PM Request number: 66383743

Landgate

www.landgate.wa.gov.au

EASEMENTS AND ENCUMBRANCES REFERRED TO.

Transfer 2823/1924. Lots 4 and 5 to Arthur Norman Geere. Registered 5th April 1924 at 11.40 o'c.
Lot 4 to 856-113
" 5 to 856-114.
Registrar of Titles

Transfer 2824/1924. Lots 6 and 8 to Alfred Norman Geere. Registered 5th April 1924 at 11.40 o'c.
Lot 6 to 856-115
Lot 8 to 856-116.
Registrar of Titles

CT 0072 0092 B

LANDGATE COPY OF ORIGINAL NOT TO SCALE 25/03/2024 01:39 PM Request number: 66383743

Landgate
www.landgate.wa.gov.au

Lot 51 on D6812 (off Haynes St)

Mpicadin Transfer 394 Vol. 887, Fol. 177
1929. 25540/29
11107/36. 6306/63.

ORIGINAL

INDEXED

REGISTER BOOK.
Vol. 1008 Fol. 199

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Certificate of Title

under "The Transfer of Land Act, 1893" (Sch. 5, 56 Vict., 14.)

CT 1008 0199 F

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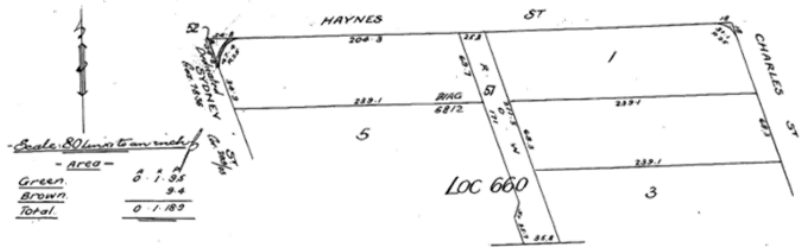

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Asst Registrar of Titles.

being Lots 51 & 52 on Survey D6812.
Portion coloured brown alone remains

Land Parcel identifier amended - Regulation 6 of Transfer of Land (Surveys) Regulations 1995 Corr. 1775-2000-01
Date: 22.3.06

For encumbrances and other matters affecting the land see back.

LANDGATE COPY OF ORIGINAL NOT TO SCALE 06/02/2025 04:07 PM Request number: 67754926

Landgate
www.landgate.wa.gov.au

EASEMENTS AND ENCUMBRANCES REFERRED TO:

Mortgage 3274/1936. Wong Hee Goocy to George Webber Buckingham of 15 Wasley Street. North Perth. Gentleman to secure £ 100. Registered 26th June 1936 at 3 o'c

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TRANSFER 17251/1950 Lot 11 to Arthur Goocy

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W. 1130. 570.

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W. 1130. 396.

REGISTRAR OF TITLES

CT 1008 0199 B

CERTIFICATE OF TITLE.

Registered Vol. ..... Fol. .....

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Landgate

www.landgate.wa.gov.au

Lot 66 on D1346 (off Richmond St)

WESTERN AUSTRALIA

TITLE NUMBER	
Volume	Folio
2761	**264**

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 66 ON DIAGRAM 1346

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)

CHARLES ALFRED LE FARRINGTON OF WEST PERTH

(XA L507661) REGISTERED 15/12/2010

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

1. TITLE EXCLUDES THE LAND SHOWN ON DIAGRAM 98628
2. EASEMENT BURDEN FOR RIGHT OF CARRIAGEWAY PURPOSES.

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:	D1346
PREVIOUS TITLE:	55-189
PROPERTY STREET ADDRESS:	NO STREET ADDRESS INFORMATION AVAILABLE.
LOCAL GOVERNMENT AUTHORITY:	CITY OF VINCENT

NOTE 1: L537775 THIS LOT IS COLOURED BROWN ON DIAGRAM 1346

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