

**FEIGL & NEWELL PTY. LTD.** A.B.N. 91 155 326 195

*Professional Title Searchers*

ESTABLISHED 1968

*Consultant for:*

SEMI & LOCAL GOVERNMENT  
SURVEYORS  
PLANNERS  
VALUERS  
SOLICITORS  
ENVIROSCIENTISTS

*Searchers of:*

T.L.A. TITLES  
GENERAL LAW  
CROWN LANDS  
SURVEY INFORMATION  
CORPORATE AFFAIRS  
COVENANT BENEFICIARIES

18<sup>th</sup> November 2022

*TO WHOM IT MAY CONCERN*

**RE PROPERTY: 31-33 HIGH STREET ROAD, ASHWOOD**

My name is Dinah Newell I am a Partner of the firm Feigl & Newell Pty Ltd.

Our firm is considered to be experts in the field of Covenant Beneficiaries and we are retained by Barristers to brief them in these matters.

After careful perusal of the Covenant in InstrumentS of Transfer Number 1623360 and 1923252, it would appear that the beneficiaries are all of the land highlighted green and blue on the attached plan. The land highlighted orange and pink have the burden of said Covenants, the land hatched red being the subject site.

My methodology for arriving at this conclusion is that the Instruments of Transfer No.1623360 and 1923252 state that the Beneficiaries are the Registered Proprietors of **land** remaining untransferred in V.5807 F.224, excepting the land in said transfers.

The land highlighted green are the beneficiaries of the land highlighted orange Transfer 1923252, Lot 20.

The land highlighted green and blue are the beneficiaries of the land highlighted pink Transfer 1623360 Lot 21.

Please advise if any further information is required.

Yours Faithfully



Dinah Newell.

**Postal Address:** P.O. Box 76 St Kilda VIC 3182

**Telephone:** 03 9629 3011 **Email:** [info@feiglnewell.com.au](mailto:info@feiglnewell.com.au) **Website:** [www.feiglnewell.com.au](http://www.feiglnewell.com.au)

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The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

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

VOLUME 06715 FOLIO 845

Security no : 124097101134S  
Produced 27/04/2022 01:22 PM

LAND DESCRIPTION

Lot 20 on Plan of Subdivision 012951.  
PARENT TITLE Volume 05807 Folio 224  
Created by instrument 1923252 03/08/1944

REGISTERED PROPRIETOR

Estate Fee Simple  
Sole Proprietor  
ZC WOOD PTY LTD of 12 TUDOR STREET BURWOOD VIC 3125  
AV542727V 19/04/2022

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AV565130E 27/04/2022  
WESTPAC BANKING CORPORATION

COVENANT 1923252 03/08/1944  
VARIATION OF COVENANT AR019317V 15/05/2018

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 LP012951 FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER		STATUS	DATE
AV370155X (E)	CAVEAT	Registered	24/02/2022
AV542170V (E)	WITHDRAWAL OF CAVEAT	Registered	19/04/2022
AV542726X (E)	DISCHARGE OF MORTGAGE	Registered	19/04/2022
AV542727V (E)	TRANSFER	Registered	19/04/2022
AV560222B (E)	TRANSFER CONTROL OF ECT	Completed	26/04/2022
AV565130E (E)	MORTGAGE	Registered	27/04/2022

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

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

Street Address: 31 HIGH STREET ROAD ASHWOOD VIC 3147

ADMINISTRATIVE NOTICES

NIL

eCT Control 16320Q WESTPAC BANKING CORPORATION  
Effective from 27/04/2022

DOCUMENT END

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*Take Registrar  
Place register this  
transfer and have  
new title to  
Markham 2/18/1944  
2-8/1944  
Jm*

4171930

1923252

FREE HOLD  
14/6  
T.O.

G. A. HILFORD  
VICTORIA  
OFFICE OF LAND  
OFFICE OF SALE

KEEP  
-3 AUG. 1944



We HENRY LESLIE WITT of 96 Queen Street Melbourne Estate Agent and JAMES STUART KENNETT of Ruffy Farmer being registered as the proprietors of an estate in fee-simple in the land hereinafter described subject to the encumbrances notified hereunder IN CONSIDERATION of the sum of TWO HUNDRED AND SEVENTYTWO POUNDS paid to us by JOHN ROBERT BLYTH of No. 347 Warrigal Road Burwood Pitter and Turner DO HEREBY TRANSFER to the said John Robert Blyth all our estate and interest in ALL THAT PIECE of land being Lot 20 on Plan of Subdivision Number 12951 lodged in the Office of Titles being part of Crown Portion 113 at Burwood Parish of Mulgrave County of Bourke and being part of the land more particularly described in Certificate of Title Volume 5807 Folio 1161224 AND the said John Robert Blyth with the intent that the benefit of this covenant shall be annexed to and run at law and in equity with the land remaining untransferred in Certificate of Title Volume 5807 Folio 1161224 other than the land hereby transferred and that the burden of this covenant shall be annexed to and run at law and in equity with the land hereby transferred and be set out as an encumbrance at the foot of the Certificate of Title to be issued pursuant to this transfer DOTH HEREBY for himself his heirs executors administrators and transferees registered proprietor or proprietors for the time being of the land hereby transferred COVENANT with the said Henry Leslie Witt and James Stuart Kennett and each of them their and each of their heirs executors administrators and transferees and other the registered proprietor or proprietors for the time being of all the land now comprised in Certificate of Title Volume 5807 Folio 1161224 except the land hereby transferred that he the said John Robert Blyth his heirs executors administrators and transferees will not excavate carry away or remove or permit to be excavated carried away or removed any earth clay stone gravel or sand from the said land hereby transferred except for the purpose of excavating for the foundations of any building to be erected thereon and will not erect any building or hoarding for advertisement nor any forge nor timber yard upon the said land nor allow the said

*red & blue  
5807-224 pt  
under an acre*

*ENC. A to blue -  
the contract  
sec. 22.*

*to wh.  
the court  
herein*

*4/11/44  
28842*

*St  
St  
12.9.44*

*Extending  
til 11/11/44*

IMAGED

*6/11/57/8  
11/11/44*

land to be used for the storage of timber.

Dated this 2nd day of August 1944.

SIGNED by the said HENRY LESSIE WITT  
in Victoria by his Attorney ALEXANDER  
LLEWELLYN WETPENHALL under Power No.  
67150 in the presence of

*H L Witt*  
*by his attorney*  
*Alex Wetpenhall*

*Majorie McCulloch*  
*clerk to*  
*Mr S. I. McLeod*  
*Solicitor*  
*Melbourne.*

SIGNED by the said JAMES STUART  
KENNETT in Victoria by his Attorney  
ALEXANDER LLEWELLYN WETPENHALL under  
Power No. 59619 in the presence of

*J S Kennett*  
*by his attorney*  
*Alex Wetpenhall*

*Majorie McCulloch*

SIGNED by the said JOHN ROBERT BLYTH  
in Victoria in the presence of

*J. R. Blyth.*

*McLeod*  
*Solicitor*  
*Melbourne*

Encumbrances referred to.

As to so much of the said Lot 20 as is colored green on the map in the margin of the said Certificate of Title-The Easements deemed to be included by virtue of Section 212 (2) of the Transfer of Land Act 1928 in any transfer of a Lot on Plan of Subdivision No. 12951 lodged in the Office of Titles and referred to on the said map.

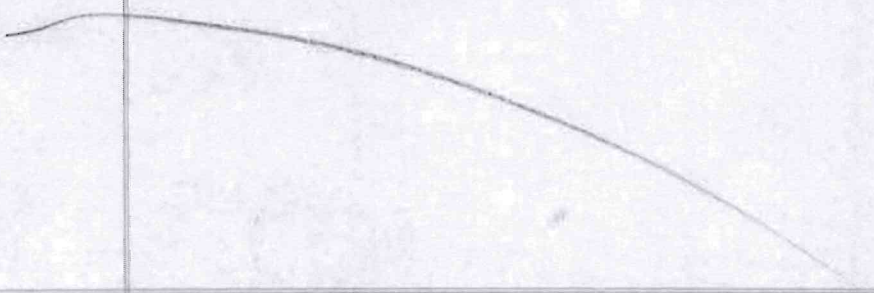
I JOHN ROBERT BLYTH, the withinnamed Transferee, hereby declare:-

1. That the transaction to which the withinwritten Instrument relates is not in contravention of any provision of the National Security (Land Transfer) Regulations.
2. That the said Instrument has not been executed in contravention of the said Regulations.

SIGNED in Victoria by the said JOHN  
ROBERT BLYTH in the presence of

*J. R. Blyth.*

*McLeod*  
*Solicitor*  
*Melbourne*



DATED 1944

MESSRS. H. L. STIMP & J.S. KENNEDY

- 60 -

MR. J. R. BLYTHE

TRANSFER OF LAND

G. A. Hillford,  
Sollitor,  
19 Queen Street,  
Melbourne.

MEMORIAL OF INSTRUMENT

NATURE OF INSTRUMENT	TIME OF ITS PRODUCTION FOR REGISTRATION	TO WHOM GIVEN	NUMBER OF TRANSFER THEREON
TRANSFER AS TO PART	THE 5 <sup>th</sup> DAY OF August 1944.	To John Robert Blyth	1925252

L. Forbes

ASSISTANT REGISTRAR OF TITLES

I CERTIFY THAT A MEMORIAL OF THE WITHIN INSTRUMENT WAS ENTERED AT THE TIME LAST MENTIONED IN THE REGISTER BOOK VOL 5807 FOL 1161224

L. Forbes

ASSISTANT REGISTRAR OF TITLES

**Application for declaration that restrictive covenant is released varied or modified**  
**Section 88(1B) Transfer of Land Act 1958**



Lodged by  
Name: AUGHTERSONS LAWYERS PTY LTD  
Phone: 9845 8200  
Address: 267 MAROONDAH HIGHWAY, RINGWOOD  
Reference: GE:161079  
Customer code: 0436J

The applicant applies for declaration by the Registrar that the restrictive covenant has been released/varied, or modified.

Land: (volume and folio)

VOLUME 6715 FOLIO 845

Applicant: (full name)

PEI YAO JIANG

Covenant: (describe the instrument creating covenant)

COVENANT 1923252 BE MODIFIED PURSUANT TO SUPREME COURT ORDER NO. S CI 2016 02814  
DATED 27 OCTOBER 2017

Signing:

35271702A

88(1B)TLA

Page 1 of 2

**THE BACK OF THIS FORM MUST NOT BE USED**

Land Use Victoria contact details: [www.delwp.vic.gov.au/property](http://www.delwp.vic.gov.au/property)>Contact us

**Application for declaration that restrictive covenant is released varied or modified**  
**Section 88(1B) Transfer of Land Act 1958**



Certifications

- 1.The Certifier has taken reasonable steps to verify the identity of the applicant.
- 2.The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
- 3.The Certifier has retained the evidence supporting this Registry Instrument or Document.
- 4.The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of PEI YAO JIANG

Signer Name GLEN ANDREW EGERTON  
Signer Organisation AUGHTERSONS LAWYERS PTY LTD  
Signer Role AUSTRALIAN LEGAL PRACTITIONER

Signature

A handwritten signature in black ink, appearing to be "Glen Andrew Egerton", written over the printed name. To the right of the signature, the date "10/5/18" is handwritten.

Execution Date

**GLEN ANDREW EGERTON**  
*267 Maroondah Highway, Ringwood*  
An Australian Legal Practitioner  
within the meaning of the *Legal Profession Uniform Law (Victoria)*

---

35271702A

88(1B)TLA

Page 2 of 2

**THE BACK OF THIS FORM MUST NOT BE USED**

Land Use Victoria contact details: [www.delwp.vic.gov.au/property](http://www.delwp.vic.gov.au/property)>Contact us



IN THE SUPREME COURT  
OF VICTORIA  
AT MELBOURNE  
COMMON LAW DIVISION  
PROPERTY LIST

S CI 2016 02814

IN THE MATTER of an Application pursuant to section 84 of the *Property Law Act 1958* for the modification of a restrictive covenant

PEI YAO JIANG

Plaintiff

-v-

MONAYGON PTY LTD (ACN 005 621 161)

Defendant

**GENERAL FORM OF ORDER**

JUDGE:	The Honourable Associate Justice Derham
DATE MADE:	27 October 2017
ORIGINATING PROCESS:	Originating Motion filed 19 July 2016
HOW OBTAINED:	By judgment of the Court following the trial of the proceeding
ATTENDANCE:	Mr W Rimmer of Counsel for the plaintiff Mr T Alexander of Counsel, with Mr H Kirimov of Counsel, for the defendant



**OTHER MATTERS:**

- A. The Court's Reasons for Judgment are at: *Jiang v Monaygon Pty Ltd* [2017] VSC 591 (3 October 2017). The Courts reasons for the costs order are at: *Jiang v Monaygon Pty Ltd (Costs)* [2017] VSC 655.
- B. This order is signed by the Associate Judge pursuant to Rule 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2015 (Vic)*.

**THE COURT ORDERS THAT:**

- 1. Pursuant to section 84(1)(c) of the *Property Law Act 1958* the restrictive covenant contained in transfer of land registered no. 1923252 to the extent affecting the land in folio of the register volume 6715 folio 845, being the land known as 31 High Street Road Ashwood, be modified by deletion of the words struck through and insertion of the words double underlined as shown in the relevant part of the transfer so that the covenant reads -



... COVENANT with the said Henry Leslie Witt and James Stuart Kennett and each of them their and each of their heirs executors administrators and transferees and other the registered proprietor or proprietors for the time being of all the land now comprised in Certificate of Title Volume 5807 Folio 1161224 except the land hereby transferred that he the said John Robert Blyth his heirs executors administrators and transferees will not excavate carry away or remove or permit to be excavated carried away or removed any earth clay stone gravel or sand from the said land hereby transferred ~~except for the purpose of excavating for the foundations of any building to be erected thereon~~ except in connection with the residential development or use of the land and will not erect any building or hoarding for advertisement nor any forge nor timber yard upon the said land nor allow the said land to be used for the storage of timber.



2. Pursuant to section 84(1)(c) of the *Property Law Act 1958* the restrictive covenant contained in transfer of land registered no. 1623360 to the extent affecting the land in folio of the register volume 11638 folio 177, being the land known as 33 High Street Road Ashwood, be modified by deletion of the words struck through and insertion of the words double underlined as shown in the relevant part of the transfer so that the covenant reads -

... COVENANTS with the said Henry Leslie Witt and James Stuart Kennett their heirs executors administrators and transferees or other the registered proprietor or proprietors of the balance of the land comprised in the said Certificate of Title that he and they shall not at any time hereafter excavate carry away or remove or permit to be excavated carried away or removed any earth clay stone gravel or sand from the said land hereby transferred ~~except for the purpose of excavating for the foundations of any building to be erected thereon~~ except in connection with the residential development or use of the land or use or permit or allow the said land to be used for the manufacture or winning of bricks tiles or pottery-ware and further shall not erect more than ~~one dwelling house~~ one residential apartment building on the said land AND the said Theodore David Gaunson with the intent that the foregoing covenant shall run with and bind the said land at law and in equity hereby requests that the said covenant shall appear in the Certificate of Title issued pursuant to this transfer.

3. As soon as practicable after the authentication of this order, the plaintiff shall lodge an authenticated copy with the Registrar of Titles.
4. The plaintiff has liberty to apply to the Court for any further or other orders necessary or incidental to give effect to this order.

**AR019317V**

15/05/2018 \$189.10 88V



5. The plaintiff shall pay the defendant's costs of the proceeding up to and including the mediation of the proceeding on 19 April 2017 and the defendant shall pay the plaintiff's costs of the proceeding after the mediation on 19 April 2017, both on a standard basis to be taxed in default of agreement.

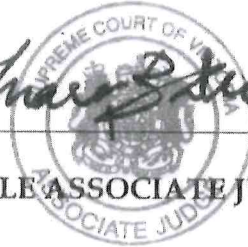
DATE AUTHENTICATED: 27 October 2017



*Justice Derham*

---

THE HONOURABLE ASSOCIATE JUSTICE DERHAM



**AR019317V**

15/05/2018 \$189.10 88V



LP 12951

EDITION 2

PLAN MAY BE LODGED 20/05/1929

2 SHEETS  
SHEET 1.

**COLOUR CODE**

- E-1 = BLUE
- R1 = BROWN
- E-3 = HATCHED RED OVER BLUE
- E-4 = HATCHED RED OVER RED

**APPROPRIATIONS**

THE LAND APPROPRIATED OR SET APART FOR ROADS IS COLOURED BROWN

THE LAND APPROPRIATED OR SET APART FOR DRAINAGE AND SEWERAGE PURPOSES IS COLOURED BLUE AND HATCHED RED OVER RED AND IS SIX FEET WIDE

**ENCUMBRANCES**

AS TO THE LAND MARKED R1: ANY EASEMENTS AFFECTING THE SAME

**NOTATIONS**

DRAINAGE AND SEWERAGE EASEMENT COLOURED RED HATCHED OVER BLUE IS EXCISED. EASEMENT COLOURED RED HATCHED OVER RED IS INSERTED VIDE. Appn. 16239 SEC. 103

STREET NAME AMENDED FROM BOUNDARY ROAD TO WARRIGAL ROAD CORR. 37/26979

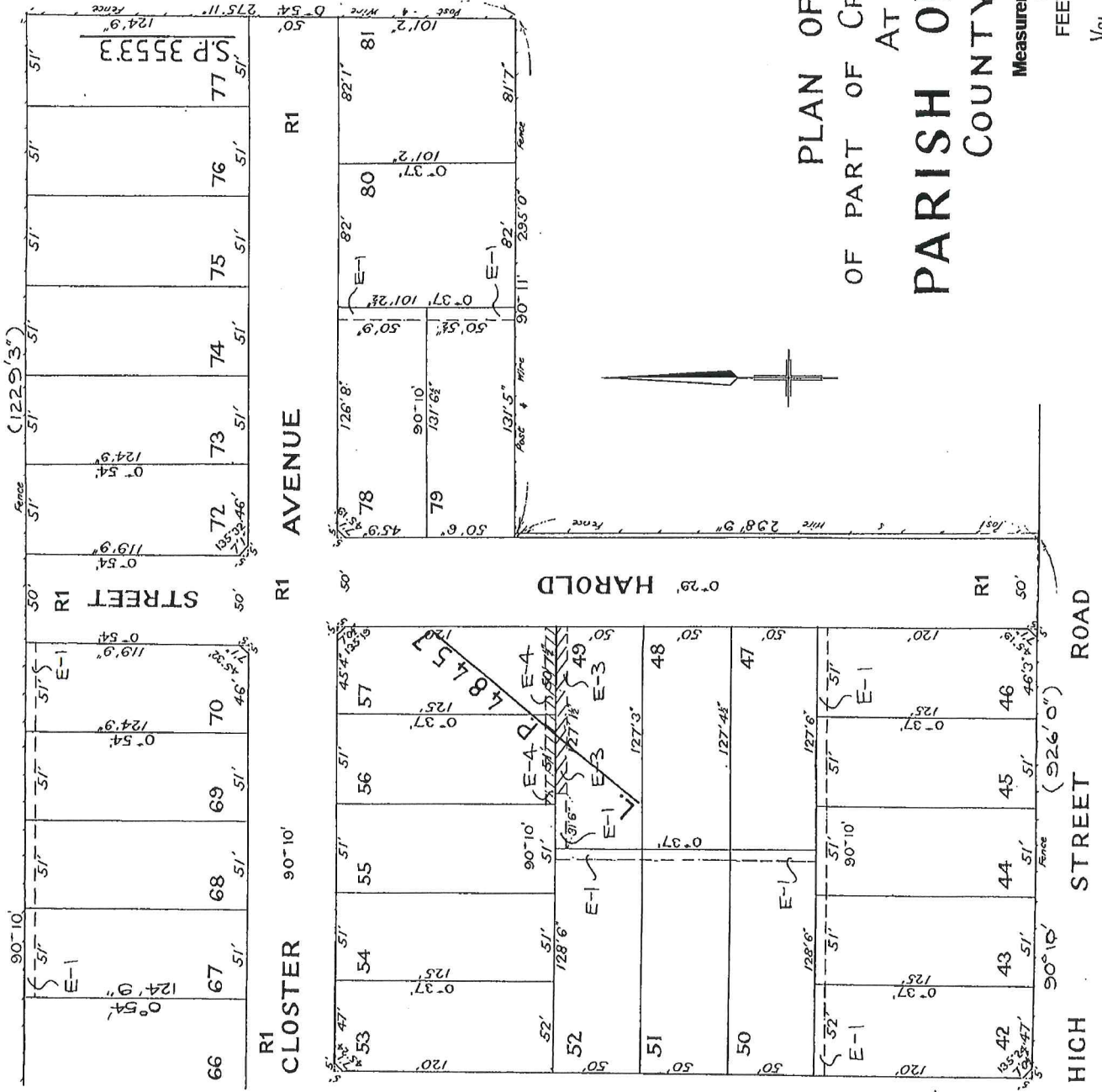
PLAN OF SUBDIVISION  
OF PART OF CROWN PORTION I13  
AT BURWOOD  
**PARISH OF MULGRAVE**  
COUNTY OF BOURKE

Measurements are in Feet & Inches

Conversion Factor

FEET X 0.3048 = METRES

Vol. 5511 Fol. 1102115

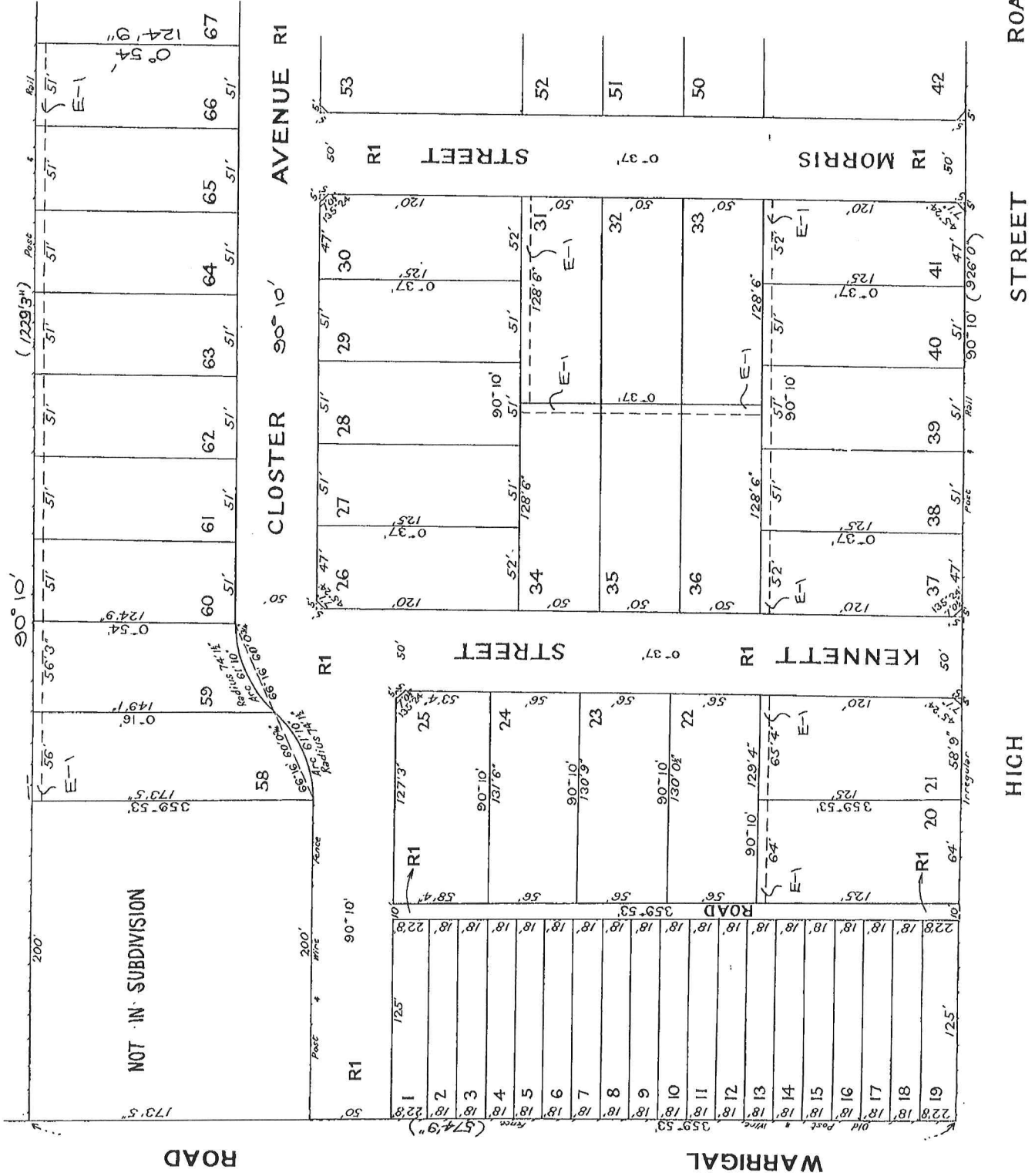


SEE SHEET 2 STREET MORRIS 0' 37'

LP 12951

2 SHEETS  
SHEET 2

SEE SHEET 1



ROAD

STREET

HIGH

NOT IN SUBDIVISION

WARRIGAL

ROAD



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

VOLUME 11638 FOLIO 177

Security no : 124097101205Q  
Produced 27/04/2022 01:23 PM

LAND DESCRIPTION

Lot 21 on Plan of Subdivision 012951.  
PARENT TITLE Volume 06057 Folio 313  
Created by instrument AM595710T 29/02/2016

REGISTERED PROPRIETOR

Estate Fee Simple  
Sole Proprietor  
ZC WOOD PTY LTD of 12 TUDOR STREET BURWOOD VIC 3125  
AV542731F 19/04/2022

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AV565131C 27/04/2022  
WESTPAC BANKING CORPORATION

COVENANT 1623360 01/09/1936  
VARIATION OF COVENANT AQ922633G 16/04/2018

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 LP012951 FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER		STATUS	DATE
AV370156V (E)	CAVEAT	Registered	24/02/2022
AV542198W (E)	WITHDRAWAL OF CAVEAT	Registered	19/04/2022
AV542730H (E)	DISCHARGE OF MORTGAGE	Registered	19/04/2022
AV542731F (E)	TRANSFER	Registered	19/04/2022
AV560150A (E)	TRANSFER CONTROL OF ECT	Completed	26/04/2022
AV565131C (E)	MORTGAGE	Registered	27/04/2022

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

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

Street Address: 33 HIGH STREET ROAD ASHWOOD VIC 3147

ADMINISTRATIVE NOTICES

NIL

eCT Control 16320Q WESTPAC BANKING CORPORATION  
Effective from 27/04/2022

DOCUMENT END

70  
139

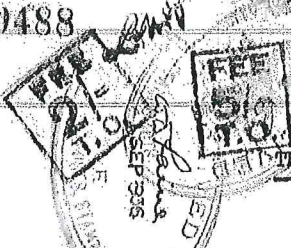
3520488

WENTON AND LUNN

1623360

Victoria

FREEHOLD



TRANSFER OF LAND

*C. Paul*



We HENRY LESLIE WITT of 96 Queen Street Melbourne Estate agent and JAMES STUART KENNETT of Ruffy Farmer being registered as the proprietors of an estate in fee simple in the land hereinafter described subject to the encumbrances notified hereunder in consideration of the sum of ONE HUNDRED AND FORTY-FOUR POUNDS -- paid to us by ANNIE GAUNSON of 501 High Street East Prahran Married woman AND in further consideration of the sum of ONE HUNDRED AND THIRTY-TWO POUNDS ----- paid to the said Annie Gaunson by THEODORE DAVID GAUNSON of 501 High Street East Prahran Bank clerk DO HEREBY at the request and by the direction of the said Annie Gaunson testified by her ----- execution hereof T R A N S F E R to the said Theodore ----- David Gaunson All our estate and interest in ALL THAT piece of land being Lot 21 on Plan of Subdivision Number 12951 lodged in the Office of Titles being part of Crown Portion 113 at --- Burwood Parish of Mulgrave County of Bourke and being part of the land more particularly described in Certificate of Title -- Volume 5807 Folio 1161224 AND the said Theodore David Gaunson for himself his heirs executors administrators and ----- transferees or other the registered proprietor or proprietors of the land hereby transferred COVENANTS with the said Henry Leslie Witt and James Stuart Kennett their heirs executors ----- administrators and transferees or other the registered proprietor or proprietors of the balance of the land comprised in the said Certificate of Title That he and they shall not at any time --- hereafter excavate carry away or remove or permit to be ----- excavated carried away or removed any earth clay stone gravel or sand from the said land hereby transferred except for the ----- purpose of excavating for the foundations of any building to be erected thereon or use or permit or allow the said land to be used for the manufacture or winning of bricks tiles or pottery-ware and further shall not erect more than one dwelling house on the said land AND the said Theodore David Gaunson with the intent that the foregoing covenant shall run with and bind the said land at law and in equity hereby requests that the said covenant shall appear in the Certificate of Title issued pursuant

*2000  
6/11/36  
8/9/36*

*FEE: REAR-DUNE  
5807  
PART OF  
UNDER AN HERE  
ENC. AT THE REAR DUNE ESTATE  
E.C. SEC. 212.  
AS TO THE COVENANT  
HEKEN.*

*SRM  
17/9/36  
dwy  
18/9/36*



*Am  
3-9-36*

IMAGED

to this transfer.

DATED the 19<sup>th</sup> day of August 1936.

SIGNED in Victoria by the said )  
HENRY LESLIE WITT in the pres- )  
ence of )

*Henry Leslie Witt*  
Clerk to Parkinson & Wettenhall  
Solicitors Melbourne

*Henry Leslie Witt*

SIGNED by the said JAMES -- )  
STUART KENNETT by his attorney )  
ALEXANDER LLEWELLYN WETTENHALL )  
under Power Number 59519 within )  
Victoria in the presence of )

*Alexander Llewellyn Wettenhall*  
Clerk to Parkinson & Wettenhall  
Solicitors Melbourne

*Stuart Kennett*  
*Alexander Llewellyn Wettenhall*

SIGNED in Victoria by the said )  
ANNIE GAUNSON in the presence )  
of )

*Annie Gaunson*  
THE COMMERCIAL BANKING COMPANY  
OF SYDNEY, LIMITED. *Armadale*

*Annie Gaunson*

SIGNED in Victoria by the said )  
THEODORE DAVID GAUNSON in the )  
presence of )

*Theodore David Gaunson*  
Solicitor  
Melbourne

*Theodore David Gaunson*

ENCUMBRANCES REFERRED TO

As to the land colored green on the map in the margin of Certificate of Title Volume 8807 Folio 1161224 -- The easements deemed to be included by virtue of Section 212 (2) of the Transfer of Land Act 1928 in any transfer of a Lot on Plan of Subdivision Number 12951 lodged in the Office of Titles and referred to on the above mentioned map.



FENTON & DUNN, Solicitors,  
422 Collins Street,  
MELBOURNE.

TRANSFER OF LAND

MR. T.D. GAUNSON

By direction of  
MRS. A. GAUNSON  
to

MESSRS. H.L. WITTY and  
J.S. KENNEDY

DATED ..... 1936

MEMORIAL OF INSTRUMENT.

NATURE OF INSTRUMENT	TIME OF ITS PRODUCTION FOR REGISTRATION	TO WHOM GIVEN	NUMBER OR SYMBOL THEREON
<i>Transfer as to part</i>	THE 1st DAY OF <i>September</i> 1936	TO <i>Theodore David</i> <i>Gaunson</i>	1623360
<p style="text-align: center;"><i>[Signature]</i> ASSISTANT REGISTRAR OF TITLES.</p> <p>I CERTIFY THAT A MEMORIAL OF THE WITHIN INSTRUMENT WAS ENTERED AT THE TIME LAST MENTIONED IN THE REGISTER BOOK VOL. 5807 FOL. 116/224</p> <p style="text-align: center;"><i>[Signature]</i> ASSISTANT REGISTRAR OF TITLES.</p>			

**Application for declaration that restrictive covenant is released varied or modified**  
**Section 88(1B) Transfer of Land Act 1958**



*Accept*  
*13.4.18*

Lodged by  
Name: AUGHTERSONS LAWYERS PTY LTD  
Phone: 9845 8200  
Address: 267 MAROONDAH HIGHWAY, RINGWOOD  
Reference: GE:161079  
Customer code: 0436J

The applicant applies for declaration by the Registrar that the restrictive covenant has been released/varied, or modified.

---

Land: (volume and folio)

VOLUME 11638 FOLIO 177

---

Applicant: (full name)

PEI YAO JIANG

---

Covenant: (describe the instrument creating covenant)

COVENANT 1623360 BE MODIFIED PURSUANT TO SUPREME COURT ORDER NO. S CI 2016 02814  
DATED 27 OCTOBER 2017

---

Signing:

---

35271702A

88(1B)TLA

Page 1 of 2

**THE BACK OF THIS FORM MUST NOT BE USED**

Land Use Victoria contact details: [www.delwp.vic.gov.au/property](http://www.delwp.vic.gov.au/property)>Contact us

**Application for declaration that restrictive  
covenant is released varied or modified  
Section 88(1B) Transfer of Land Act 1958**



Certifications

1. The Certifier has taken reasonable steps to verify the identity of the applicant.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of PEI YAO JIANG

Signer Name GLEN ANDREW EGERTON

Signer Organisation AUGHTERSONS LAWYERS PTY LTD

Signer Role AUSTRALIAN LEGAL PRACTITIONER

Signature

A handwritten signature in black ink, appearing to read 'Glen Andrew Egerton'.

**GLEN ANDREW EGERTON**  
*267 Maroondah Highway, Ringwood*  
An Australian Legal Practitioner  
within the meaning of the *Legal*  
*Profession Uniform Law (Victoria)*

Execution Date

10/04/18

35271702A

88(1B)TLA

Page 2 of 2

**THE BACK OF THIS FORM MUST NOT BE USED**

Land Use Victoria contact details: [www.delwp.vic.gov.au/property](http://www.delwp.vic.gov.au/property)>Contact us

**AQ922633G**

16/04/2018 \$189.10 88V



IN THE SUPREME COURT  
OF VICTORIA  
AT MELBOURNE  
COMMON LAW DIVISION  
PROPERTY LIST

S CI 2016 02814

**IN THE MATTER** of an Application pursuant to section 84 of the *Property Law Act 1958* for the modification of a restrictive covenant

PEI YAO JIANG

Plaintiff

- v -

MONAYGON PTY LTD (ACN 005 621 161)

Defendant

**GENERAL FORM OF ORDER**



JUDGE: The Honourable Associate Justice Derham

DATE MADE: 27 October 2017

ORIGINATING PROCESS: Originating Motion filed 19 July 2016

HOW OBTAINED: By judgment of the Court following the trial of the proceeding

ATTENDANCE: Mr W Rimmer of Counsel for the plaintiff  
Mr T Alexander of Counsel, with Mr H Kirimov of Counsel, for the defendant

**OTHER MATTERS:**

- A. The Court's Reasons for Judgment are at: *Jiang v Monaygon Pty Ltd* [2017] VSC 591 (3 October 2017). The Courts reasons for the costs order are at: *Jiang v Monaygon Pty Ltd (Costs)* [2017] VSC 655.
- B. This order is signed by the Associate Judge pursuant to Rule 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2015 (Vic)*.

**THE COURT ORDERS THAT:**

- 1. Pursuant to section 84(1)(c) of the *Property Law Act 1958* the restrictive covenant contained in transfer of land registered no. 1923252 to the extent affecting the land in folio of the register volume 6715 folio 845, being the land known as 31 High Street Road Ashwood, be modified by deletion of the words struck through and insertion of the words double underlined as shown in the relevant part of the transfer so that the covenant reads -

... COVENANT with the said Henry Leslie Witt and James Stuart Kennett and each of them their and each of their heirs executors administrators and transferees and other the registered proprietor or proprietors for the time being of all the land now comprised in Certificate of Title Volume 5807 Folio 1161224 except the land hereby transferred that he the said John Robert Blyth his heirs executors administrators and transferees will not excavate carry away or remove or permit to be excavated carried away or removed any earth clay stone gravel or sand from the said land hereby transferred ~~except for the purpose of excavating for the foundations of any building to be erected thereon~~ except in connection with the residential development or use of the land and will not erect any building or hoarding for advertisement nor any forge nor timber yard upon the said land nor allow the said land to be used for the storage of timber.



2. Pursuant to section 84(1)(c) of the *Property Law Act 1958* the restrictive covenant contained in transfer of land registered no. 1623360 to the extent affecting the land in folio of the register volume 11638 folio 177, being the land known as 33 High Street Road Ashwood, be modified by deletion of the words struck through and insertion of the words double underlined as shown in the relevant part of the transfer so that the covenant reads -

... COVENANTS with the said Henry Leslie Witt and James Stuart Kennett their heirs executors administrators and transferees or other the registered proprietor or proprietors of the balance of the land comprised in the said Certificate of Title that he and they shall not at any time hereafter excavate carry away or remove or permit to be excavated carried away or removed any earth clay stone gravel or sand from the said land hereby transferred ~~except for the purpose of excavating for the foundations of any building to be erected thereon~~ except in connection with the residential development or use of the land or use or permit or allow the said land to be used for the manufacture or winning of bricks tiles or pottery-ware and further shall not erect more than ~~one dwelling house~~ one residential apartment building on the said land AND the said Theodore David Gaunson with the intent that the foregoing covenant shall run with and bind the said land at law and in equity hereby requests that the said covenant shall appear in the Certificate of Title issued pursuant to this transfer.

3. As soon as practicable after the authentication of this order, the plaintiff shall lodge an authenticated copy with the Registrar of Titles.
4. The plaintiff has liberty to apply to the Court for any further or other orders necessary or incidental to give effect to this order.

**AQ922633G**

16/04/2018 \$189.10 88V



5. The plaintiff shall pay the defendant's costs of the proceeding up to and including the mediation of the proceeding on 19 April 2017 and the defendant shall pay the plaintiff's costs of the proceeding after the mediation on 19 April 2017, both on a standard basis to be taxed in default of agreement.

DATE AUTHENTICATED: 27 October 2017


---

THE HONOURABLE ASSOCIATE JUSTICE DERHAM

**AQ922633G**

16/04/2018 \$189.10 88V





Data Source: Vicmap Property	
Co-ordinates of Plot Corners	Co-ordinates of Plot Corners
NW 332253.5807583	NE 332465.5807588
SW 332259.5807288	SE 332471.5807292
MGA Zone 55	MGA Zone 55
MGA Zone 55 Melways- 60 G10 (ed.42) Vicroads- 437 G11 (ed.8) Created 01:25 PM on Nov 18, 2022	

WARNING: No warranty is given as to the accuracy or completeness of this map. Dimensions are approximate. For property dimensions, undertake a Title search.

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Entered in the Register Book

Vol. 5807 Fol. 1161224

# Certificate of Title,

UNDER THE "TRANSFER OF LAND ACT 1928."

Henry Lealie Witt of 96 Queen Street Melbourne Estate Agent and James Stuart --

Kennett of Ruffy Farmer are now joint proprietors - - - - -

*All now the proprietors of an Estate in Fee-simple, subject to the Encumbrances notified hereunder in All that piece of Land, delineated and coloured*

red, blue and green on the map on the sheet annexed hereto being part of Crown - - - - -

Portion One hundred and thirteen at Burwood Parish of Mulgrave County of Bourke - -

ORIGINAL CERTIFICATE.  
Not to be dealt with outside the Titles Office.

Dated the Sixth thousand nine hundred and thirty-two.

day of July



Assistant Registrar of Titles.

### ENCUMBRANCES REFERRED TO.

As to the land colored blue - - -

ANY EASEMENTS affecting the same - - - - -

As to the land colored green - - -

THE EASEMENTS deemed to be included, by virtue of Section 212(2) of the Transfer of Land Act 1928, in any transfer of a Lot on Plan of Subdivision No. 12951 lodged in the Office of Titles and referred to on the above-mentioned map - - - - -

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T05807-224-1-9

The Measurements are in



Vol. 5511 Fol. 1102115

Transfer. 1504644. Application.

CAVEAT NO 81506 LODGED 16<sup>th</sup> October 1929 *AM*  
affecting part of the land herein  
CAVEAT NO 81506 LAPSED 1<sup>st</sup> September 1936 *AD*

TRANSFER AS TO PART to  
*George Silder*  
on 6<sup>th</sup> March 1933 registered  
numbered 1519041  
CANCELLED AS TO PART See Certificate of Title  
Vol. 5832 Fol. 1166349 *J. McLennan*  
Assistant Registrar of Titles

TRANSFER AS TO PART to  
*John Edward Fraser*  
on 27<sup>th</sup> July 1934 registered  
numbered 1534470  
CANCELLED AS TO PART See Certificate of Title  
Vol. 5910 Fol. 1181880 *L. Kennedy*  
Assistant Registrar of Titles

TRANSFER AS TO PART to  
*Johannes Stiven*  
on 26<sup>th</sup> October 1934 registered  
numbered 1562121  
CANCELLED AS TO PART See Certificate of Title  
Vol. 5929 Fol. 1185635 *J. McLennan*  
Assistant Registrar of Titles

TRANSFER AS TO PART to  
*Cypel James Sweten*  
on 4<sup>th</sup> March 1935 registered  
numbered 1571571  
CANCELLED AS TO PART See Certificate of Title  
Vol. 5958 Fol. 1191546 *A. Higgins*  
Assistant Registrar of Titles

TRANSFER AS TO PART to  
*Theodore David Gaunster*  
on 1<sup>st</sup> September 1936 registered  
numbered 1633300  
CANCELLED AS TO PART See Certificate of Title  
Vol. 6057 Fol. 1211313 *J. McLennan*  
Assistant Registrar of Titles

TRANSFER AS TO PART to  
*William Aubrey de la Perelle*  
on 11<sup>th</sup> February 1937 registered  
numbered 1637261  
CANCELLED AS TO PART See Certificate of Title  
Vol. 6096 Fol. 1219104 *J. McLennan*  
Assistant Registrar of Titles

TRANSFER AS TO PART to  
*Lothar von Ferrera*  
on 22<sup>nd</sup> February 1937 registered  
numbered 1637765  
CANCELLED AS TO PART See Certificate of Title  
Vol. 6106 Fol. 1221179 *J. McLennan*  
Assistant Registrar of Titles

TRANSFER AS TO PART to  
*Harold Walter Spering*  
on 1<sup>st</sup> March 1937 registered  
numbered 1640285  
CANCELLED AS TO PART See Certificate of Title  
Vol. 6106 Fol. 1221180 *J. McLennan*  
Assistant Registrar of Titles

TRANSFER AS TO PART to  
*Pauline Mathilda Makinson*  
on 9<sup>th</sup> November 1937 registered  
numbered 1668335  
CANCELLED AS TO PART See Certificate of Title  
Vol. 6162 Fol. 1232329 *J. McLennan*  
Assistant Registrar of Titles

TRANSFER AS TO PART to  
*Sarah Florence Swan*  
on 7<sup>th</sup> January 1938 registered  
numbered 1671853  
CANCELLED AS TO PART See Certificate of Title  
Vol. 6184 Fol. 1236634 *J. McLennan*  
Assistant Registrar of Titles

TRANSFER AS TO PART to  
*Evelyn Fanny Smith*  
on 17<sup>th</sup> October 1941 registered  
numbered 1835509  
CANCELLED AS TO PART See Certificate of Title  
Vol. 6515 Fol. 1302849 *J. McLennan*  
Assistant Registrar of Titles  
For Continuation of Endorsement  
see annexed sheet marked A  
*J. McLennan*  
Assistant Registrar of Titles

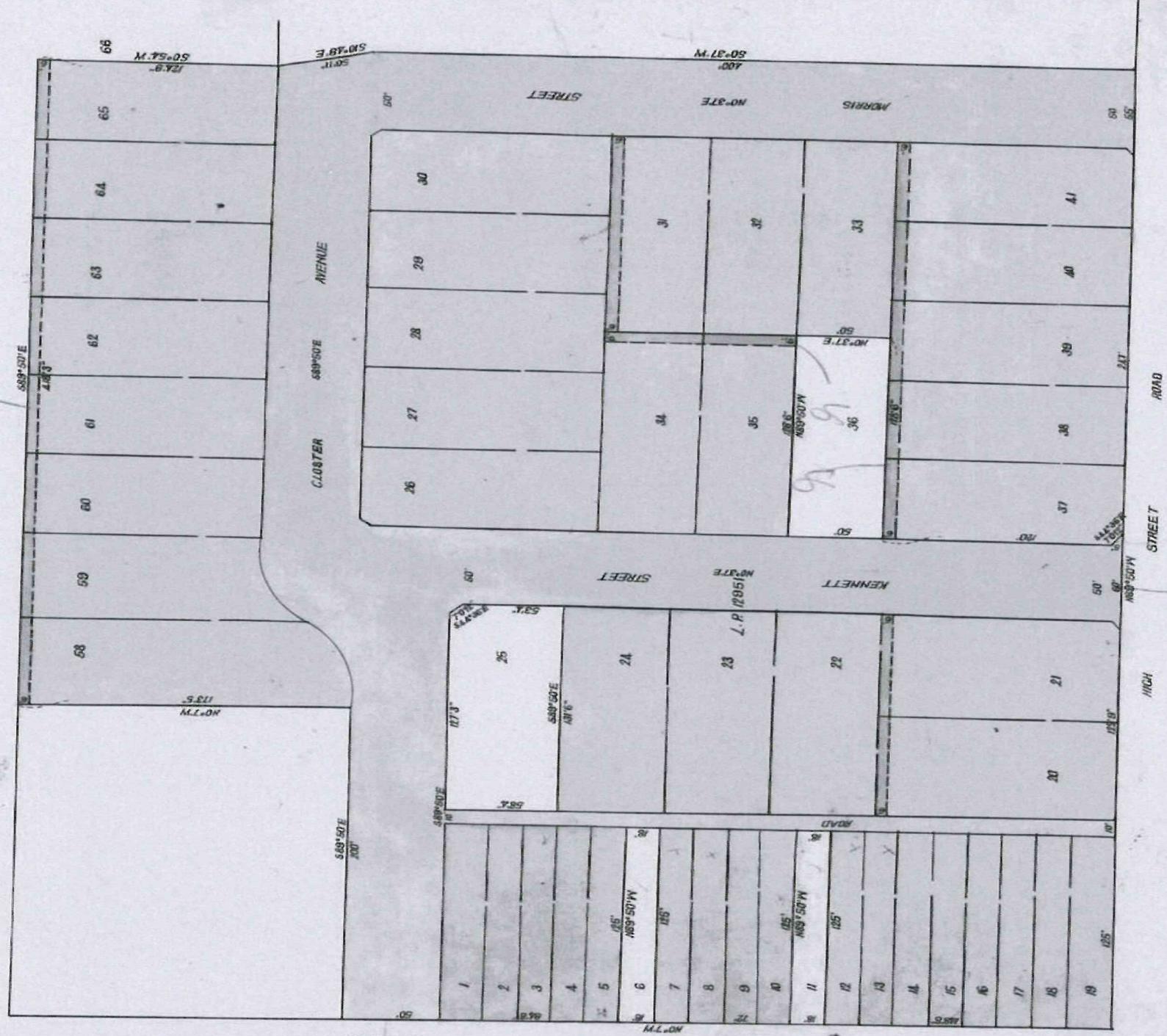
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Certificate of Title entered in the Register  
Book, Vol. 5807 Fol. 1161224

*Shanley*  
Assistant-Registrar of Titles.

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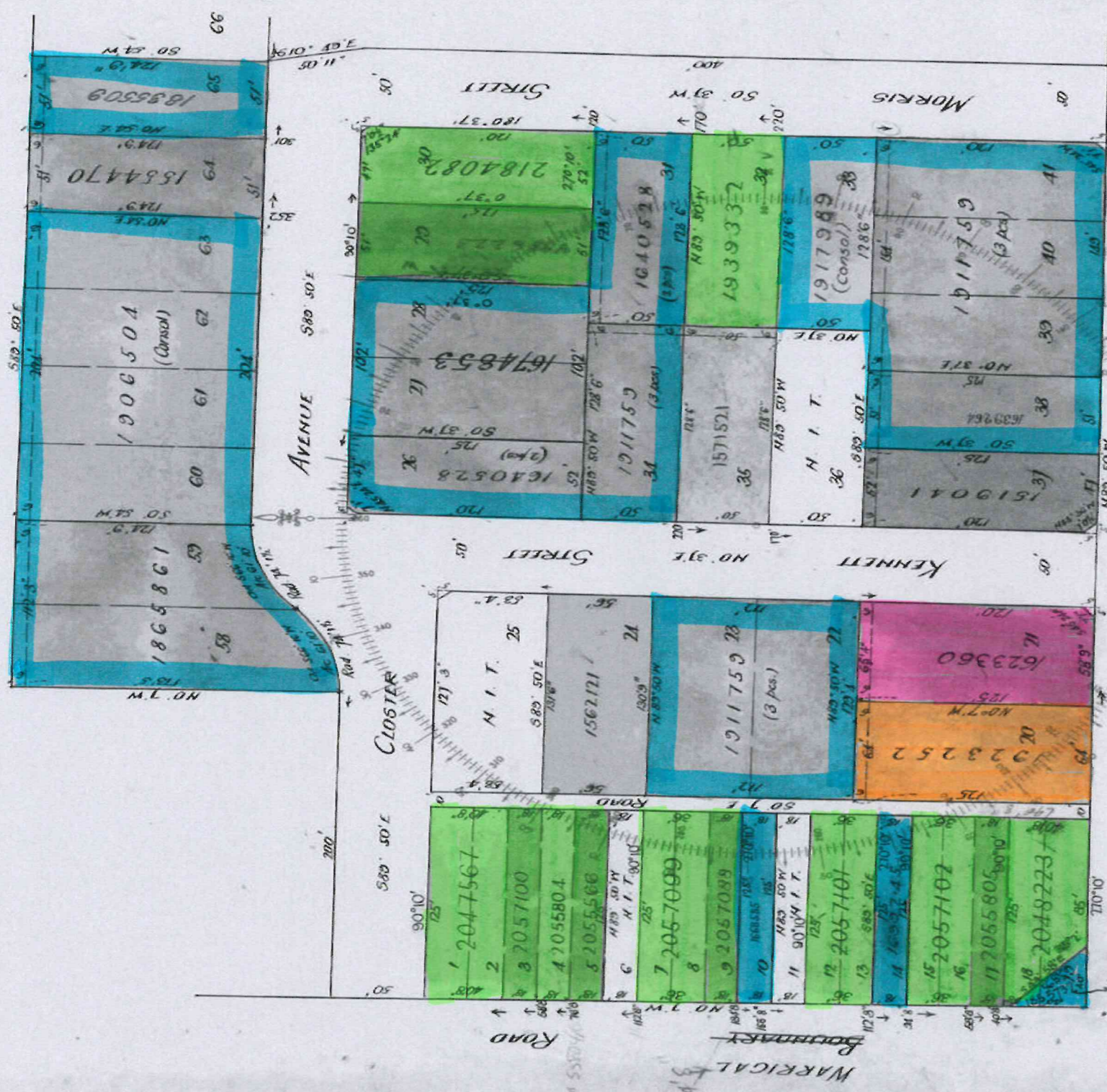


The Measurements are in feet and inches.



SCALE: 60 feet to one inch.

Vol. 5801 fol. - 221



Reservations

From	To Lots	Transfer	Lots Affected	Equip <sup>mt</sup>	To Lots	Transfer	Lots Affected	Equip <sup>mt</sup>
		1510041	NI					
		1554470	NI					
		1562721	NI					
		1571531	NI					
		1623360	NI					
		1639264	NI					
		1639264	NI					
		1648385	NI					
		1674853	NI					
		1833329	NI					
		1859792	NI					
		1864861	NI					
		1906104	NI					
		1911750	NI					
		1923252	NI					
		1917983	NI					
		1939332	NI					
		1986223	NI					
		2047567	NI					
		2057100	NI					
		2055804	NI					
		2055566	NI					
		2057089	NI					
		2057102	NI					
		2055805	NI					



L.P. 12951  
(part)

This is the Sheet marked *A* referred to in Certificate of Title entered in the Register Book Vol. 5807 Fol. 116/224

*Hewson*

Assistant Registrar of Titles.

TRANSFER AS TO PART TO  
COUNTRY ROADS BOARD registered  
on 10<sup>th</sup> April 1942 numbered **1155732**  
CANCELLED AS TO PART See Certificate of Title  
Vol. **6552** Fol. **1310318** *Hewson*  
Assistant Registrar of Titles

TRANSFER AS TO PART TO  
*Reginald Harold Loolan.* registered  
on 1<sup>st</sup> September 1944. numbered **1155731**  
CANCELLED AS TO PART See Certificate of Title  
Vol. **6579** Fol. **1315034** *Hewson*  
Assistant Registrar of Titles

TRANSFER AS TO PART TO  
*John William Warner* registered  
on 28<sup>th</sup> January 1944 numbered **1906500**  
CANCELLED AS TO PART See Certificate of Title  
Vol. **6687** Fol. **1337278** *L. Forbes*  
Assistant Registrar of Titles

TRANSFER AS TO PART TO  
*Robert Albert Boulter* registered  
on 3<sup>rd</sup> March 1944 numbered **1911759**  
CANCELLED AS TO PART See Certificate of Title  
Vol. **6687** Fol. **1337279** *L. Forbes*  
Assistant Registrar of Titles

CAVEAT NO 113510 LODGED *June 1944*  
*reflecting part of the land shown*  
CAVEAT NO 113510 LAPSED 11 February 1946

TRANSFER AS TO PART TO  
*John Robert Blyth* registered  
on 2<sup>nd</sup> August 1944 numbered **1913352**  
CANCELLED AS TO PART See Certificate of Title  
Vol. **6715** Fol. **1342842** *L. Forbes*  
Assistant Registrar of Titles

TRANSFER AS TO PART TO  
*Lester William Hudson* registered  
on 14<sup>th</sup> June 1944 numbered **1917989**  
CANCELLED AS TO PART See Certificate of Title  
Vol. **6733** Fol. **1346484** *L. Forbes*  
Assistant Registrar of Titles.

TRANSFER AS TO PART TO  
*Ernest Keith Hudson* registered  
on 4<sup>th</sup> January 1945 numbered **1939332**  
CANCELLED AS TO PART See Certificate of Title  
Vol. **6760** Fol. **1351847** *Hewson*  
Assistant Registrar of Titles.

TRANSFER AS TO PART TO  
*John Henry Gallas* registered.  
on 11<sup>th</sup> February 1946 numbered **1986223**  
CANCELLED AS TO PART See Certificate of Title  
Vol. **6936** Fol. **1387174** *L. Forbes*  
Assistant Registrar of Titles.

TRANSFER AS TO PART TO  
*Reginald George Barker* registered  
on 11<sup>th</sup> December 1946 numbered **2091567**  
CANCELLED AS TO PART See Certificate of Title  
Vol. **7045** Fol. **1408925** *Hewson*  
Assistant Registrar of Titles

TRANSFER AS TO PART TO  
*Norman Frank White* registered  
on 19<sup>th</sup> December 1946 numbered **208223**  
CANCELLED AS TO PART See Certificate of Title  
Vol. **7045** Fol. **1408926** *Hewson*  
Assistant Registrar of Titles.

TRANSFER AS TO PART TO  
*Richard James* registered.  
on 11<sup>th</sup> February 1947 numbered **2055566**  
CANCELLED AS TO PART See Certificate of Title  
Vol. **7045** Fol. **1408927** *Hewson*  
Assistant Registrar of Titles.



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TRANSFER AS TO PART to  
*George Edward Dickens* registered  
on *12<sup>th</sup> February 1947* numbered *2055804*  
CANCELLED AS TO PART See Certificate of Title  
Vol. *7045* Fol. *1408928*  
*H. Newson*  
Assistant Registrar of Titles.

TRANSFER AS TO PART to  
*Arthur Edward Walford* registered  
on *12<sup>th</sup> February 1947* numbered *2055805*  
CANCELLED AS TO PART See Certificate of Title  
Vol. *7045* Fol. *1408929*  
*H. Newson*  
Assistant Registrar of Titles.

TRANSFER AS TO PART to  
*Joyce Gleeson* registered  
on *19<sup>th</sup> February 1947* numbered *2057088*  
CANCELLED AS TO PART See Certificate of Title  
Vol. *7045* Fol. *1408930*  
*H. Newson*  
Assistant Registrar of Titles.

TRANSFER AS TO PART to  
*Nat Armstrong* registered  
on *6<sup>th</sup> March 1947* numbered *2057102*  
CANCELLED AS TO PART See Certificate of Title  
Vol. *7045* Fol. *1408931*  
*H. Newson*  
Assistant Registrar of Titles.

TRANSFER AS TO PART to  
*Ronald McLean Berry* registered  
on *18<sup>th</sup> March 1947* numbered *2057099*  
CANCELLED AS TO PART See Certificate of Title  
Vol. *7045* Fol. *1408932*  
*H. Newson*  
Assistant Registrar of Titles.

TRANSFER AS TO PART to  
*Kathleen Mary Louise Berry* registered  
on *18<sup>th</sup> March 1947* numbered *2057100*  
CANCELLED AS TO PART See Certificate of Title  
Vol. *7045* Fol. *1408933*  
*H. Newson*  
Assistant Registrar of Titles.

TRANSFER AS TO PART to  
*Robert Ernest McE* registered  
on *18<sup>th</sup> March 1947* numbered *2057101*  
CANCELLED AS TO PART See Certificate of Title  
Vol. *7045* Fol. *1408934*  
*H. Newson*  
Assistant Registrar of Titles.

TRANSFER AS TO PART to  
*John Desally* registered  
on *24 January 1949* numbered *2084082*  
CANCELLED AS TO PART See Certificate of Title  
Vol. *7235* Fol. *1446893*  
*W. Fitzgerald*  
Assistant Registrar of Titles.

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