

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

Page 1 of 2

VOLUME 12449 FOLIO 083

Security no : 124104790954S
Produced 21/03/2023 09:54 AM

LAND DESCRIPTION

Land in Plan of Consolidation 379699Y.

PARENT TITLES :

Volume 09478 Folio 038 Volume 09478 Folio 041 Volume 10952 Folio 333

Created by instrument PC379699Y 18/01/2023

REGISTERED PROPRIETOR

Estate Fee Simple

ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT as to part J562595

COVENANT as to part L178112B 31/07/1984

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE PC379699Y FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER	PLAN OF CONSOLIDATION	STATUS	DATE
PC379699Y (B)		Registered	18/01/2023

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

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

ADMINISTRATIVE NOTICES

NIL

eCT Control 15940N COMMONWEALTH BANK OF AUSTRALIA
Effective from 18/01/2023

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

Page 2 of 2

DOCUMENT END

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach copyright legislation.

WYNDHAM CITY COUNCIL
Town Planning
Advertised Documents

Plan: 4 of 21

Imaged Document Cover Sheet

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach copyright legislation.

The document following this cover sheet is an imaged document supplied by LANDATA®, Secure Electronic Registries Victoria.

Document Type	Instrument
Document Identification	J562595
Number of Pages (excluding this cover sheet)	4
Document Assembled	20/12/2022 12:29

Copyright and disclaimer notice:

© State of Victoria. This publication is copyright. No part may be reproduced by any process except in accordance with the provisions of the Copyright Act 1968 (Cth) and for the purposes of Section 32 of the Sale of Land Act 1962 or pursuant to a written agreement. The information is only valid at the time and in the form obtained from the LANDATA® System. None of the State of Victoria, LANDATA®, Secure Electronic Registries Victoria Pty Ltd (ABN 86 627 986 396) as trustee for the Secure Electronic Registries Victoria Trust (ABN 83 206 746 897) accept responsibility for any subsequent release, publication or reproduction of the information.

The document is invalid if this cover sheet is removed or altered.

WYNDHAM CITY COUNCIL
Town Planning
Advertised Documents

Plan: 5 of 21

J562595

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach copyright legislation.

\$89
34

\$520



DJ562595-1-5

GOULOPOULOS SHIELDS & CO.

VICTORIA
TO ISSUE TO
TRANSFER OF LAND

REGD

P18134413

MYTHIN HOMES & STAFF PTY.LTD. (formerly MYTHIN HOMES PTY.LTD.)

being registered as the proprietor of an estate in fee simple in the land hereinafter described subject to the encumbrances notified hereunder

THAT Piece of land being Lot 13 on Plan of Subdivision No. 134413 Parish of Tarneit County of Bourke and being part of the land described in Certificate of Title Volume 9377 Folio 091 AND the said do hereby for themselves their heirs executors administrators and transferees the registered proprietor or proprietors for the time being of the Lot hereby transferred COVENANT with the said MYTHIN HOMES & STAFF PTY.LTD. and its respective heirs executors administrators and transferees or other the registered proprietor or proprietors for the time being of each and every Lot on the said Plan of Subdivision or any part thereof other than the Lot hereby transferred that the said transferees their heirs executors administrators and transferees shall not at any time build construct or erect or cause to be built constructed or erected on the said Lot hereby transferred or any part thereof any buildings including any outbuildings having external walls of any material other than brick brick veneer or stone with the prior written consent of the said Mythin Homes & Staff Pty. Ltd. first had and obtained nor shall any such dwelling so built constructed or erected on the Lot hereby transferred be of a floor area of less than 170 square metres AND IT IS INTENDED that this Covenant shall appear as an encumbrance on the Certificate of Title to issue

memorandum of the written instrument has been entered in the Register Book

WYNDHAM CITY COUNCIL
Town Planning
Advertised Documents

Plan: 6 of 21



JUL-14-01 4 43 6 25 67246 LEA 101

GOULOPOULOS SHIELDS & CO.

8/6/82

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach copyright legislation.

same shall forever run at law.

DATED the 10th day of July 1981.

THE COMMON SEAL of MYTHIN HOMES)
& STAFF PTY.LTD. was hereunto)
affixed in accordance with its)
Articles of Association in the)
presence of:)

Director: _____

Secretary: _____



SIGNED by the said VICTOR)
SAMARTZIS in Victoria in the)
presence of:)

SIGNED by the said MARY)
SAMARTZIS in Victoria in the)
presence of:)

ENCUMBRANCES REFERRED TO:

The easements, encumbrances and covenants (if any)
as set out at the foot of the said Certificate
of Title.

WYNDHAM CITY COUNCIL
Town Planning
Advertised Documents

Plan: 7 of 21

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach copyright legislation.

WYNDHAM CITY COUNCIL
Town Planning
Advertised Documents

Plan: 3 of 21



DJ562595-2-1

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach copyright legislation.

To the Registrar of Titles: *transfer*
Please register this ~~partial discharge~~
transfer & on completion hand Certificate
of Title to issue to lodging party
& return ~~mortgage~~ parent title to Corr
& Corr.
Corr & Corr
Per [REDACTED]

DATED

1981

MYTHIN HOMES & STAFF
PTY. LTD.

to

TRANSFER OF LAND

1119

WYNDHAM CITY COUNCIL
Town Planning
Advertised Documents

Plan: 9 of 21

Imaged Document Cover Sheet

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach copyright legislation.

The document following this cover sheet is an imaged document supplied by LANDATA®, Secure Electronic Registries Victoria.

Document Type	Instrument
Document Identification	L178112B
Number of Pages (excluding this cover sheet)	2
Document Assembled	20/12/2022 12:27

Copyright and disclaimer notice:

© State of Victoria. This publication is copyright. No part may be reproduced by any process except in accordance with the provisions of the Copyright Act 1968 (Cth) and for the purposes of Section 32 of the Sale of Land Act 1962 or pursuant to a written agreement. The information is only valid at the time and in the form obtained from the LANDATA® System. None of the State of Victoria, LANDATA®, Secure Electronic Registries Victoria Pty Ltd (ABN 86 627 986 396) as trustee for the Secure Electronic Registries Victoria Trust (ABN 83 206 746 897) accept responsibility for any subsequent release, publication or reproduction of the information.

The document is invalid if this cover sheet is removed or altered.

WYNDHAM CITY COUNCIL
Town Planning
Advertised Documents

Plan: 10 of 21

NEIL COLE
SOLICITOR
40 SHIELDS ST
FLEMINGTON 3031

This document is for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach copyright legislation.

310/84 100/ 45 33 L178112B

TRANSFER OF LAND



CODE	004
DUTY:	\$ 643.50
ASSESSOR:	C
VALUE:	\$ 33,000

I VERNON TANNER Driver of Flat 3/8 Salisbury Street, Moonee Ponds in the State of Victoria being registered or entitled to be registered as the proprietor of an estate in fee simple in the land hereinunder described, subject to the encumbrances notified hereunder, in consideration of the sum of THIRTY-THREE THOUSAND DOLLARS (\$33,000.00) being paid to me by [REDACTED]

Fitter of 2 Noonan Court, Altona Green in the said State DO HEREBY TRANSFER to the said BARRY HOWDEN all my estate and interest in ALL THAT piece of land being Lot 14 on Plan of Subdivision No. 134413 and being part of Crown Portion C Section 11 Parish of Tarneit County of Bourke and being the whole of the land more particularly described in Certificate of Title Volume 9478 Folio 038 and the Transferee with the intent that the benefit of the following covenant shall be annexed to and run at law and in equity with each and very lot on the said Plan of Subdivision (other than the land hereby transferred) and each and every part thereof and that the burden of this covenant shall be annexed to and run at law and in equity with and shall bind the land hereby transferred and each and every part thereof HEREBY for himself his heirs executors administrators and transferees the registered proprietor or proprietors for the time being of the land hereby transferred CONVENANT with the Transferor its Transferees or other the registered proprietor or proprietors for the time being of each and every lot on the said Plan of Subdivision or any part thereof other than the land hereby transferred that the Transferee his heirs executors administrators or Transferees shall not at any time build construct or erect or cause to be built constructed or erected on the land hereby transferred or any part thereof any building having external walls of any material other than brick brick veneer or stone nor shall nor shall any such building be of a floor area of less than 170 square metres AND IT IS INTENDED that the above Covenant shall appear as an encumbrance on the Certificate of Title in respect of the land hereby transferred and shall run with such land forever.

DATED the 26th day of July One thousand nine hundred and eighty-four.

SIGNED by the said [REDACTED] in the State of Victoria)
in the presence of: [REDACTED])

SIGNED by the said B [REDACTED] in the State of Victoria)
in the presence of: [REDACTED])

ENCUMBRANCES REFERRED TO

The easements (if any) affecting the said land and the encumbrances (if any) set out at the foot of the Certificate of Title to the said land.

STAMFORD CITY COUNCIL
Town Planning
Advertised Documents

Plan: 11 of 21

A memorandum of the within instrument has been entered in the Register Book.



As to [REDACTED] Sufft

R. M. A. S.

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach copyright legislation.

Neil Cole,
Solicitor,
40 Shields Street,
FLEMINGTON. 3031.
Phone: 376 0388

WYNDHAM CITY COUNCIL
Town Planning
Advertised Documents

Plan: 12 of 21

Imaged Document Cover Sheet

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach copyright legislation.

The document following this cover sheet is an imaged document supplied by LANDATA®, Secure Electronic Registries Victoria.

Document Type	Plan
Document Identification	PC379699Y
Number of Pages (excluding this cover sheet)	2
Document Assembled	21/03/2023 09:56

Copyright and disclaimer notice:

© State of Victoria. This publication is copyright. No part may be reproduced by any process except in accordance with the provisions of the Copyright Act 1968 (Cth) and for the purposes of Section 32 of the Sale of Land Act 1962 or pursuant to a written agreement. The information is only valid at the time and in the form obtained from the LANDATA® System. None of the State of Victoria, LANDATA®, Secure Electronic Registries Victoria Pty Ltd (ABN 86 627 986 396) as trustee for the Secure Electronic Registries Victoria Trust (ABN 83 206 746 897) accept responsibility for any subsequent release, publication or reproduction of the information.

The document is invalid if this cover sheet is removed or altered.

WYNDHAM CITY COUNCIL
Town Planning
Advertised Documents

Plan: 13 of 21

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach copyright legislation.

PLAN OF CONSOLIDATION

EDITION 1

PC 279699 Y

Location of Land

Parish: Tarneit

Township:

Section: II

Crown Allotment:

Crown Portion: C (Part)

Title References:

10952/333

9478/038

9478/041

Last Plan Reference: LP134413 Lots 13, 14, 15

Postal Address: 405, 411 & 417 Sayers Road
Hoppers Crossing 3029

MGA 2020 Co-ordinates: E 297 956

(Of approx. centre of plan) N 5 808 261 Zone 55

Council Name: Wyndham City Council

Council Reference Number: WYS5946/22

Planning Permit Reference: N/A

SPEAR Reference Number: S190867P

Certification

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

Statement of Compliance

This is a statement of compliance issued under section 21 of the Subdivision Act 1988

Public Open Space

A requirement for public open space under section 18 of the Subdivision Act 1988 has not been made

Digitally signed by: Mark Tenner for Wyndham City Council on 15/07/2022

NOTATIONS

NOTATIONS

DEPTH LIMITATION Does not apply

SURVEY:

This plan is/is not based on survey.

This survey has been connected to permanent marks No(s).

In Proclaimed Survey Area No. NA

EASEMENT INFORMATION

LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	DRAINAGE	2.50	LP134413	LOTS ON LP134413

WYNDHAM CITY COUNCIL
Town Planning
Advertised Documents

REF:2801 VER A

ORIGINAL SHEET
SIZE: A3

SHEET 1 OF 2

Digitally signed by: Robert Hatch, Licensed Surveyor,
Surveyor's Plan Version (A),
09/03/2022, SPEAR Ref: S190867P

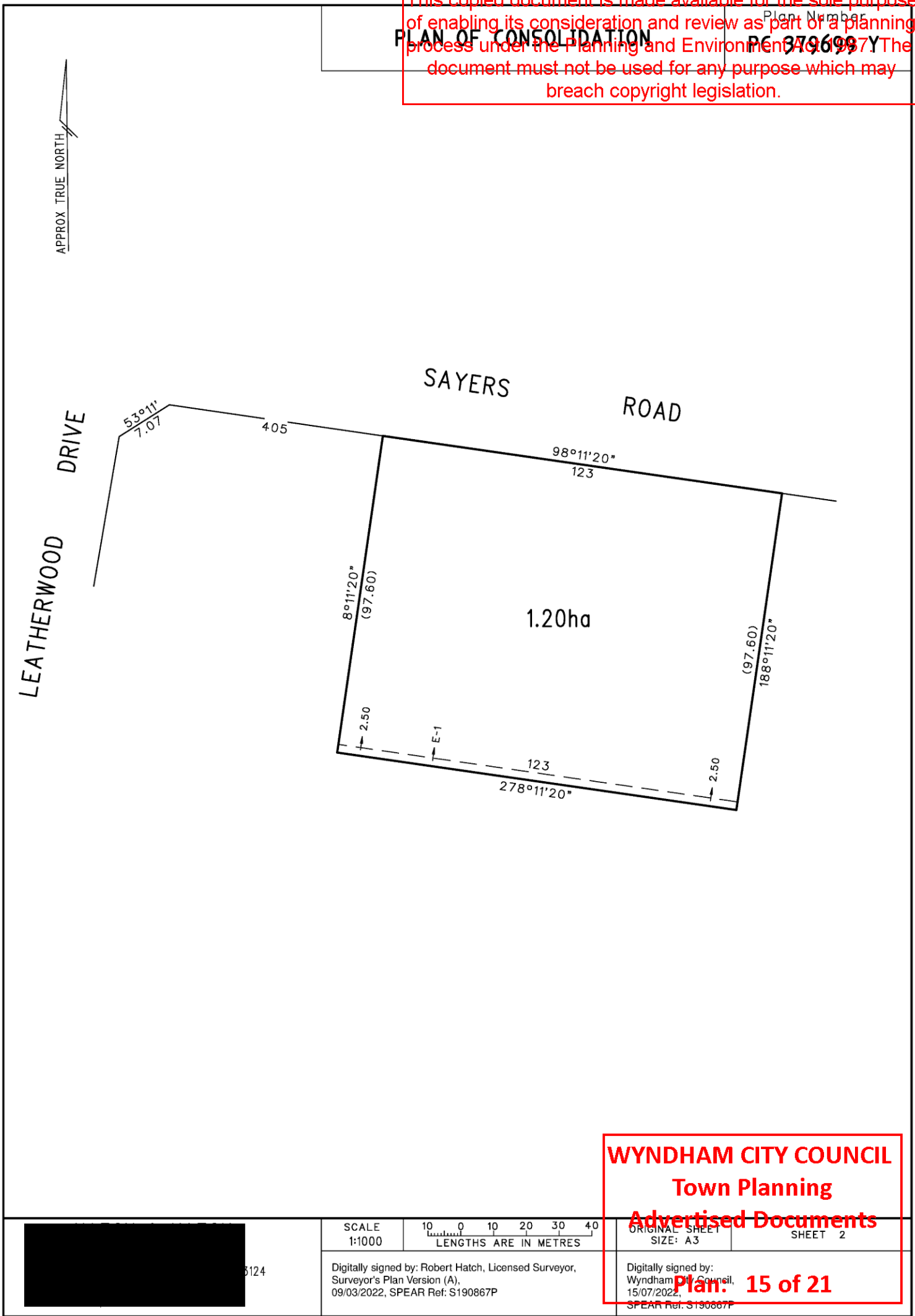
PLAN REGISTERED

TIME: 2:40:39 AM DATE: 28/01/2023

R. Zheng

Assistant Registrar of Titles

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach copyright legislation.



PLAN OF CONSOLIDATION

Plan Number
PC 379699 Y

WYNDHAM CITY COUNCIL
Town Planning
Advertised Documents

Digitally signed by: Robert Hatch, Licensed Surveyor,
Surveyor's Plan Version (A),
09/03/2022, SPEAR Ref: S190867P

Digitally signed by:
Wyndham City Council,
15/07/2022,
SPEAR Ref: S190867P

Plan: 15 of 21

SCALE 1:1000	10 0 10 20 30 40 LENGTHS ARE IN METRES
Digitally signed by: Robert Hatch, Licensed Surveyor, Surveyor's Plan Version (A), 09/03/2022, SPEAR Ref: S190867P	

ORIGINAL SHEET SIZE: A3	SHEET 2
----------------------------	---------

UNDER SECTION 23 OF THE SUBDIVISION ACT 1988

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach copyright legislation.

PARISH:	TARNEIT
TOWNSHIP:	-
SECTION:	11
CROWN ALLOTMENT:	-
CROWN PORTION:	C (PART)
TITLE REFERENCE:	VOL. 12449 FOL. 083

LAST PLAN REFERENCE: PC379699Y

POSTAL ADDRESS: 405, 411 & 417 SAYERS ROAD
(at time of subdivision) HOPPERS CROSSING 3029

MGA 2020 CO-ORDINATES: E: 297 950 ZONE: 55
(of approx centre of land in plan) N: 5 808 260

Council Name: WYNDHAM CITY COUNCIL

EXPLANATORY NOTE:
WARNING THIS PLAN IS UNREGISTERED.
THIS PLAN WAS PREPARED TO BE CERTIFIED BY COUNCIL AND TO BE REGISTERED BY THE REGISTRAR OF TITLES. AS ALTERATIONS MAY BE REQUIRED BY THE COUNCIL AND THE REGISTRAR OF TITLES PRIOR TO REGISTRATION, FARREN GROUP PTY LTD ACCEPTS NO RESPONSIBILITY WHATSOEVER FOR ANY LOSS OR DAMAGE SUFFERED HOWSOEVER ARISING TO ANY PERSON OR CORPORATION WHO MAY USE OR RELY UPON THIS PLAN FOR ANY OTHER REASON.
THIS PLAN MUST NOT BE REPRODUCED EXCEPT:
a) FROM THE ELECTRONIC VERSION HELD BY FARREN GROUP PTY LTD, AND
b) UNLESS THE REPRODUCTION INCLUDES THIS NOTE.

NOTATIONS

For title boundaries and easement details please refer to PC379699Y

DEPTH LIMITATION: DOES NOT APPLY

SURVEY:

This plan is not based on survey.

PURPOSE OF PLAN:

To remove covenant J562595 and L178112B from VOL. 12449 FOL. 083

GRUNDS FOR REMOVAL:

By direction in Wyndham City Council Planning Permit No.

EASEMENT INFORMATION

LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)

WYNDHAM CITY COUNCIL

REF: 20120
VERSION: 01

ORIGINAL SHEET
SIZE: A3

Planning

LICENSED SURVEYOR: MICHAEL A. BARCA

Advertised Documents

Plan: 16 of 21

27 June 2023

Attention: James Robson
OTL Consulting Group Pty Ltd

By Email:

Dear James

OTL Consulting Group Pty Ltd - Advice re Restrictive Covenants

You have asked us to advise in respect to whether your clients' proposed development at 405-417 Sayers Road Hoppers Crossing will be in breach of the two Restrictive Covenants registered on the Title to that property.

Background

Your client is the Registered Proprietor of the land in Plan of Consolidation 379699Y contained in Certificate of Title Volume 12449 Folio 083.

The Plan of Consolidation consolidates Lots 13, 14, 15 on Plan of Subdivision 134413. This plan of subdivision contains 19 lots.

There are two Restrictive Covenants that affect parts of the land owned by your client which are contained in instruments J562595 applying to that part of the land previously being Lot 13 and L178112B applying to that part of the land previously being Lot 14.

Lot 15 does not have any covenants registered over it, even though it is one of the lots in the Plan of Subdivision.

You have provided proposed plans which show your clients are proposing to construct a place of worship, community centre and education centre.

Restrictive Covenant J562595

This restricts the Registered Proprietor as follows:- "shall not at any time build construct or erect or cause to be built constructed or erected on the said lot hereby transferred or any part thereof any buildings including any outbuildings having external walls of any material other than brick veneer or stone with the prior consent of the Mythin Homes & Staff Pty Ltd first had and obtained nor shall any such dwelling so built constructed or erected on the lot hereby

WYNDHAM CITY COUNCIL
Town Planning
Advertised Documents

transferred be of a floor area of less than 170 square metres?

Thus, the Restriction is in two parts. Firstly, using only brick, brick veneer or stone for the external walls unless written consent is obtained from Mythin Homes & Staff Pty Ltd. Secondly, the Restrictive Covenant purports to impose a minimum floor area on dwellings.

We understand from your instructions that the building your client wishes to erect is unlikely to have external walls of brick, brick veneer or stone and as consent can't be obtained from Mythin Homes & Staff Pty Ltd it being deregistered on 3rd April 1990, your client will be in breach of this part of the Restrictive Covenant.

Courts tend to interpret Restrictive Covenants narrowly in that they will look at the substance rather than the form of the words and will give words their normal meaning. Precision is therefore necessary in setting out the extent of the restriction so that it is clear.

In our view, this Restriction Covenant contemplates that any building can be erected provided the materials used for the external walls are brick, brick veneer or stone. In particular, it does not specifically limit buildings to only dwellings but rather if it is a dwelling, then it must have a floor area of at least 170 square metres.

Restrictive Covenant L178112B

The Restrictive Covenant contained in this document has similar wording to that of the above Covenant, but it does use the word 'building' rather than 'dwelling' when referring to minimum floor area. Your client will not be in breach provided the requisite materials for external walls are used and the proposed building has a minimum floor area of 170 square metres.

Dominant Tenement

The persons who have the benefit of the restrictions contained in the two Restrictive Covenants are the Registered Proprietors of the other lots in the Plan of Subdivision 134413. We have listed the names and addresses as of Registered Proprietors in the attached schedule.

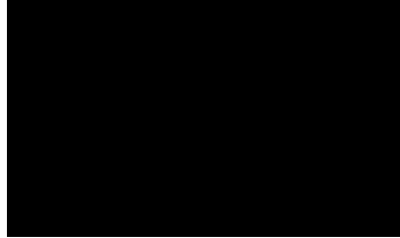
Summary

The Restrictive Covenants each only apply to part of the land your client owns is the area previously being Lots 13 and 14. Both restrict the type of material used for external walls and neither restrict your client from constructing a building which is not dwelling. However, J562595 requires that if a dwelling is constructed it must have a minimum floor area whereas under L178112B any building must have a minimum floor area.

Your clients will be in breach of both Restrictive Covenants if they use different material to brick, brick veneer or stone for the external walls but only insofar as it relates to buildings on that part of the land covered by Lots 13 and 14. Lot 15 has no restrictions.

We trust the above clarifies the effect of the two Restrictive Covenants.

Yours faithfully



Andrew Robson
Lawyer



Enc.

SCHEDULE A

Lot number	Name	Property Address (Sayers Road)
1		489 SAYERS ROAD HOPPERS CROSSING VIC 3029
2		2/483 SAYERS ROAD HOPPERS CROSSING 3029
3		477 SAYERS ROAD HOPPERS CROSSING VIC 3029
4		471 SAYERS ROAD HOPPERS CROSSING VIC 3029
5		465 SAYERS ROAD HOPPERS CROSSING VIC 3029
6		459 SAYERS ROAD HOPPERS CROSSING VIC 3029
7		453 SAYERS ROAD HOPPERS CROSSING VIC 3029
8		447 SAYERS ROAD HOPPERS CROSSING VIC 3029
9		441 SAYERS ROAD HOPPERS CROSSING VIC 3029
10		435 SAYERS ROAD HOPPERS CROSSING VIC 3029
11		429 SAYERS ROAD HOPPERS CROSSING VIC 3029
12		423 SAYERS ROAD HOPPERS CROSSING VIC 3029
13-15		
16		399 SAYERS ROAD HOPPERS CROSSING VIC 3029
17		393 SAYERS ROAD HOPPERS CROSSING VIC 3029

Lot number		Property Address (Sayers Road)
18		387 SAYERS ROAD HOPPERS CROSSING VIC 3029