

Peter Zenni

From: Peter Zenni
Sent: Wednesday, 20 January 2021 3:04 PM
To: Marta Smerechuk
Cc: Jonelle Beck
Subject: RE: Site P0095 - Lease: Lot 200 (No. 108) Barrack Street, Merredin (MCL 43220)

Hi Marta

This is currently with Councils solicitors for lodgement on the property title.

Kind regards

Peter Zenni
 EXECUTIVE MANAGER DEVELOPMENT SERVICES



Shire of Merredin
 PO Box 42 MERREDIN WA 6415
 P: (08) 9041 1611 F: (08) 9041 2379 E: emds@merredin.wa.gov.au
 W: www.merredin.wa.gov.au  shireofmerredin

From: Marta Smerechuk <Marta.Smerechuk@optus.com.au>
Sent: Wednesday, 20 January 2021 1:17 PM
To: Peter Zenni <emds@merredin.wa.gov.au>
Cc: Network Property Co-ordination <NetworkPropertyCo-ordination@optus.com.au>
Subject: Site P0095 - Lease: Lot 200 (No. 108) Barrack Street, Merredin (MCL 43220)

Dear Peter,

I am following up on the landlord's execution and registration of the subject lease.
 Could you please advise the status?
 I look forward to hearing from you soon.

Kind regards,

Marta Smerechuk

Property and Leasing Executive
 Network Property
Network Deployment
02 8082 4855
 1 Lyonpark Road, Macquarie Park NSW 2113 Australia
marta.smerechuk@optus.com.au

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Ashleigh Brice

From: Peter Zenni
Sent: Tuesday, 9 March 2021 4:36 PM
To: Ashleigh Brice
Cc: CEO; Jonelle Beck; Trudi Firth
Subject: FW: Application for Lost Title Lot 200 (No. 108) Barrack Street, Merredin (43220)
Attachments: Application for Lost Title (Form A5).pdf; Statutory Declaration - Final.pdf; Identifier Certificate President.docx; Identifier Certificate CEO.docx

Hi Ashleigh

Would you be kind enough to coordinate the completion of the required documentation by the Shire President and CEO, to allow for a new title to be issued and the Optus lease to be registered against this title.

Once the relevant documentation has been completed can you please forward the originals through to myself so that I can organise for their delivery to the Shires solicitors.

Many thanks

Peter Zenni
EXECUTIVE MANAGER DEVELOPMENT SERVICES



Shire of Merredin
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P: (08) 9041 1611 F: (08) 9041 2379 E: emds@merredin.wa.gov.au
W: www.merredin.wa.gov.au  shireofmerredin

From: Trudi Firth <tfirth@mcleods.com.au>
Sent: Tuesday, 9 March 2021 4:30 PM
To: Peter Zenni <emds@merredin.wa.gov.au>
Cc: Fiona Grgich <fgrgich@mcleods.com.au>; Lisa Thompson <lthompson@mcleods.com.au>
Subject: Application for Lost Title Lot 200 (No. 108) Barrack Street, Merredin (43220)

Hi Peter

I refer to our recent discussion.

Please find **attached**:

- (a) Application for New Titles for signing by the CEO and the President.
- (b) Statutory Declaration for signing the Acting CEO. The Statutory Declaration must be witnessed by an authorised witness. A list of authorised witnesses, is at the end of the document; and
- (c) Identifier's certificates for the Acting CEO and the President for completion and signing by an officer of the Shire (please see further instructions below).

Please print both documents double sided.

As previously advised, it is necessary for Acting CEO and President, as signatories to the Application, to be visually identified as part of Landgate's anti-fraud measures. It is necessary for us to appoint an officer at the Shire to undertake the visual identification of the Acting CEO and Shire President on our behalf, as it is normally inconvenient for the local government signatories to visit our offices. The Shire's officer (**Identifier**) must follow the following procedure:

- (a) the Acting CEO and President must each provide their passport & Australian driver's licence (**Identity Documents**). If the Acting CEO or President do not have these documents available, please let us know and we will provide further details;
- (b) the Identifier should take a copy of the original Identity Documents, sign his or her name and date each photocopy stating that it is a true copy of the original (please provide us with a copy of this for our records);
- (c) the Identifier should meet with the Acting CEO and the President face-to-face and be satisfied that the Acting CEO and the President appear to have similar facial characteristics as those depicted in the Identity Documents provided; and
- (e) the Identifier should complete, date and sign the Identifier's Certificate for the Acting CEO and President and return to us the certificates at the time of returning the Application to us.

I look forward to receiving the signed Application, Statutory Declaration and Identifier's certificates x 2 in due course. Upon receipt of those documents, we will lodge the Application at Landgate with the Optus surrender of lease and new lease.

If you have any questions or queries in relation to the above, please do not hesitate to contact me on my mobile 040 020 4558.

Kind regards

Trudi

Trudi Firth | Senior Associate
McLeods | Barristers & Solicitors

Stirling Law Chambers | 220 Stirling Highway | CLAREMONT WA 6010

T: (08) 9383 3133 | F: (08) 9383 4935
E: tfirth@mcleods.com.au
W: www.mcleods.com.au

Please note I am not in the office on Mondays and Fridays

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STATUTORY DECLARATION

I/WE MARK DACOMBE care of Shire of Merredin, PO Box 42, Merredin, Western Australia, Chief Executive Officer

(name, address and occupation of person(s) making the declaration)

Sincerely declare as follows

1. I am the Acting Chief Executive Officer of the Shire of Merredin (**Shire**) and am authorised to make this declaration on the Shire's behalf in support of its Application for Lost Title.
2. The Shire is registered as the proprietor of Lot 200 on Deposited Plan 56205 and being the whole of the land comprised in Certificate of Title Volume 2668 Folio 423 (**Land**).
3. The Shire has undertaken comprehensive searches of its files and records for the duplicate Certificate of Title for the Land (**Title**), and the Title cannot be located by the Shire despite numerous searches and enquiries.
4. Located on the Land is a telecommunications tower (**Tower**), and leases have been granted to Optus Mobile Pty Ltd (**Optus**), Broadcast Australia Pty Ltd and Telstra Corporation Limited (**Telstra**) in respect of the Tower. The Shire is currently in the process of surrendering the existing Optus leases, and granting a new lease to Optus (**Optus Documents**). It was discovered that the Title could not be located when the Shire sought to lodge the Optus Documents at Landgate.
5. I understand that Landgate's issuing records note that the Title was last issued to the Australian Government Solicitors (**AGS**), solicitors for Telstra, on or around 7 November 2017, following registration of leases in favour of Telstra.
6. As the Shire has been unable to locate the Title, the Shire's solicitors contacted AGS to see if they, or their client, held the title. Attached hereto as **Annexure 1**, is AGS's response. AGS's records show that the title was delivered to Telstra's agent, Deighton Pty Ltd (**Deighton**). AGS has contacted Deighton, and Deighton advised AGS that its records show that the title was sent by post to the Shire under cover letter dated 21 November 2017 (**Deighton's Letter**).
7. The Shire has been able to confirm receipt of Deighton's Letter, however, has been unable to locate the Title.
8. The land is not rateable, as the Land is owned by the Shire, and consequently no rates notice is available.
9. The Title has not been deposited with any bank, firm or person by way of security for any lien, or loan or for any other purpose
10. Other than AGS and Deighton, who have both confirmed that they are not in possession of the title, there is no person known to have nor likely to have the Title in their possession.
11. The Shire has made all reasonable searches and enquiries to locate the Title and seeks the issue of a new duplicate edition of the certificate of title for the Land.

This declaration is true and I / WE know that it is an offence to make a declaration knowing that it is false in a material particular.

This declaration is made under the Oaths, Affidavits and Statutory Declarations Act 2005 at (place)

on day of 20 by –

Signature(s) of person(s) making the declaration (sign in the space above)

In the presence of -

Signature of authorised witness (sign in the space above)

Full Name of witness:

Full Address of Witness:

Qualification of Witness:

(Print the full name, Address and qualification of authorised witness in the space above)

THIS PAGE IS NOT TO BE USED

INSTRUCTIONS

1. If insufficient space hereon Form B2 should be used.

NOTES

1. A Person making a declaration should ensure it is sworn under the relevant Act applying to the State or Country. The Oaths, Affidavits and Statutory Declarations Act 2005 applies only to a declaration declared in the in the State of Western Australia.
2. If more than one declarant, each signature must have a separate attestation.
3. No person under eighteen years of age may be a witness.
4. A complete list of authorised witnesses for statutory declarations is contained in Schedule 2 of the Oaths, Affidavits and Statutory Declarations Act 2005.

Item	Formal description	Informal description
1.	A member of the academic staff of an institution established under any of the following Acts — <ul style="list-style-type: none"> <i>Curtin University of Technology Act 1966</i>; <i>Edith Cowan University Act 1984</i>; <i>Murdoch University Act 1973</i>; <i>University of Notre Dame Australia Act 1989</i>; <i>University of Western Australia Act 1911</i>; <i>Vocational Education and Training Act 1996</i>. 	Academic (post-secondary institution)
2.	A member of any of the following bodies — <ul style="list-style-type: none"> Association of Taxation and Management Accountants (ACN 002 876 208); CPA Australia (ACN 008 392 452); The Institute of Chartered Accountants in Australia (ARBN 084 642 571); National Institute of Accountants (ACN 004 130 643); National Tax & Accountants' Association Limited (ACN 057 551 854). 	Accountant
3.	A person who is registered under the <i>Architects Act 2004</i> .	Architect
4.	An Australian Consular Officer within the meaning of the <i>Consular Fees Act 1955</i> of the Commonwealth.	Australian Consular Officer
5.	An Australian Diplomatic Officer within the meaning of the <i>Consular Fees Act 1955</i> of the Commonwealth.	Australian Diplomatic Officer
6.	A bailiff appointed under the <i>Civil Judgments Enforcement Act 2004</i> .	Bailiff
7.	A person appointed to be in charge of the head office or any branch office of an authorised deposit-taking institution carrying on business in the State under the <i>Banking Act 1959</i> of the Commonwealth.	Bank manager
8.	A member of Chartered Secretaries Australia Limited (ACN 008 615 950).	Chartered secretary
9.	A pharmaceutical chemist within the meaning of the <i>Pharmacy Act 1964</i> .	Chemist
10.	A chiropractor within the meaning of the <i>Chiropractors Act 1964</i> .	Chiropractor
11.	A person registered as an auditor or a liquidator under the <i>Corporations Act 2001</i> of the Commonwealth.	Company auditor or liquidator
12.	A judge, master, magistrate, registrar or clerk, or the chief executive officer, of any court of the State or the Commonwealth.	Court officer
13.	A member of the Australian Defence Force who is — <ul style="list-style-type: none"> an officer within the meaning of the <i>Defence Force Discipline Act 1982</i> of the Commonwealth; a non-commissioned officer within the meaning of that Act with 5 or more years of continuous service; or a warrant officer within the meaning of that Act. 	Defence force officer

Item	Formal description	Informal description
14.	A dentist within the meaning of the <i>Dental Act 1939</i> .	Dentist
15.	A medical practitioner within the meaning of the <i>Medical Act 1894</i> .	Doctor
16.	A member of the Institution of Engineers, Australia, other than at the grade of student.	Engineer
17.	The secretary of an organisation of employees or employers that is registered under one of the following Acts — <ul style="list-style-type: none"> • <i>Industrial Relations Act 1979</i>; • <i>Workplace Relations Act 1996</i> of the Commonwealth. 	Industrial organisation secretary
18.	A member of the National Insurance Brokers Association of Australia (ACN 006 093 849).	Insurance broker
19.	A Justice of the Peace.	Justice of the Peace
20.	A legal practitioner within the meaning of the <i>Legal Practice Act 2003</i> .	Lawyer
21.	The chief executive officer or deputy chief executive officer of a local government.	Local government CEO or deputy CEO
22.	A member of the council of a local government within the meaning of the <i>Local Government Act 1995</i> .	Local government councillor
23.	A member of the Australasian Institute of Chartered Loss Adjusters (ACN 074 804 167).	Loss adjuster
24.	An authorised celebrant within the meaning of the <i>Marriage Act 1961</i> of the Commonwealth.	Marriage celebrant
25.	A member of either House of Parliament of the State or of the Commonwealth.	Member of Parliament
26.	A minister of religion registered under Part IV Division 1 of the <i>Marriage Act 1961</i> of the Commonwealth.	Minister of religion
27.	A nurse within the meaning of the <i>Nurses Act 1992</i> .	Nurse
28.	A registered optometrist within the meaning of the <i>Optometrists Act 1940</i> .	Optometrist
29.	A registered patent attorney under the <i>Patents Act 1990</i> of the Commonwealth.	Patent attorney
30.	A physiotherapist within the meaning of the <i>Physiotherapists Act 1950</i> .	Physiotherapist
31.	A podiatrist within the meaning of the <i>Podiatrists Registration Act 1984</i> .	Podiatrist
32.	A police officer.	Police officer
33.	The person in charge of an office established by, or conducted by an agent of, Australia Post within the meaning of the <i>Australian Postal Corporation Act 1989</i> of the Commonwealth.	Post office manager
34.	A registered psychologist within the meaning of the <i>Psychologists Registration Act 1976</i> .	Psychologist
35.	A public notary within the meaning of the <i>Public Notaries Act 1979</i> .	Public notary
36.	An officer of the Commonwealth public service.	Public servant (Commonwealth)
37.	A person who is employed under the <i>Public Sector Management Act 1994</i> Part 3.	Public servant (State)
38.	The holder of a licence under the <i>Real Estate and Business Agents Act 1978</i> .	Real estate agent
39.	The holder of a licence under the <i>Settlement Agents Act 1981</i> .	Settlement agent
40.	The Sheriff of Western Australia and any deputy sheriff appointed by the Sheriff of Western Australia.	Sheriff or deputy sheriff
41.	A licensed surveyor within the meaning of the <i>Licensed Surveyors Act 1909</i> .	Surveyor
42.	A person employed as a member of the teaching staff within the meaning of the <i>School Education Act 1999</i> or as a teacher of a non-government school within the meaning of that Act.	Teacher
43.	A member, registrar or clerk, or the chief executive officer, of any tribunal of the State or the Commonwealth.	Tribunal officer
44.	A registered veterinary surgeon within the meaning of the <i>Veterinary Surgeons Act 1960</i> .	Veterinary surgeon

Annexure 1

Lisa Thompson

From: Graneri, Giuseppe <Giuseppe.Graneri@ags.gov.au>
Sent: Friday, 19 February 2021 9:20 AM
To: Trudi Firth
Cc: Fiona Grgich; Lisa Thompson; Slater, Scott
Subject: Duplicate Certificate of Title for Lot 200 (No. 108) Barrack Street, Merredin (AGS 17005696) [SEC=OFFICIAL] [AGSDMS-DMS.FID3249412]
Attachments: Letter to Shire of Merredin - 21.11.2017.pdf
Follow Up Flag: Follow up
Flag Status: Completed

OFFICIAL

Hi Trudi

To assist the Shire in locating the duplicate certificate of title we provide the below information.

After the duplicate was issued to AGS Perth on 7 November 2017:

- a) on 13 November 2017, AGS posted 2 original signed Leases and the duplicate to Mr Steve Bruce (Telstra's agent);
- b) on or around 21 November 2017, Mr Bruce posted a signed lease and the duplicate to the Shire's PO Box (see **attached** letter).

We note that without Mr Bruce recalling his physical file from archives, he can not confirm if he received a signed receipt of the duplicate from the Shire.

We hope this information and dates assist the City in its search for the duplicate. It may be that the duplicate is (hopefully) still with the signed lease?

Please do not hesitate to contact us if we can be of further assistance.

Kind regards

Giuseppe Graneri

Lawyer

Australian Government Solicitor

T 08 9268 1104

giuseppe.graneri@ags.gov.au

Find out more about AGS at <http://www.ags.gov.au>

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**OFFICIAL
OFFICIAL**

From: Trudi Firth [<mailto:tfirth@mcleods.com.au>]
Sent: Wednesday, 17 February 2021 3:36 PM
To: Slater, Scott <Scott.Slater@ags.gov.au>
Cc: Fiona Grgich <fgrgich@mcleods.com.au>; Lisa Thompson <ltompson@mcleods.com.au>
Subject: Duplicate Certificate of Title for Lot 200 (No. 108) Barrack Street, Merredin

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Your ref: 17005696/SS; 16001502

Hi Scott

We act for the Shire of Merredin (**Shire**).

The Shire is having difficulty locating the duplicate Certificate of Title for Lot 200 (No. 108) Barrack Street, Merredin.

Landgate issuing records note that the duplicate was last issued to AGS on 7 November 2017, following registration of leases in favour of Telstra.

We would be grateful if you could please let us know if AGS have any record of the duplicate title being returned to the Shire, or if it still remains at your office.

To assist you, I **attach** a recent title search of Lot 200 and searches of the Telstra leases for easy identification of your file reference.

I look forward to hearing from you.

Kind regards

Trudi

Trudi Firth | Senior Associate
McLeods | Barristers & Solicitors

Stirling Law Chambers | 220 Stirling Highway | CLAREMONT WA 6010

T: (08) 9383 3133 | F: (08) 9383 4935
E: tfirth@mcleods.com.au
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Deighton Pty. Ltd.

ABN39 220 486 601 ACN 009 001 076

P.O. Box 81

NORTH DANDALUP WA 6207

Telephone: (08) 9530 1550

Email: srb@southwest.com.au

21st November, 2017.

Shire of Merredin,
P.O. Box 42,
MERREDIN WA 6415

ATTENTION Ms Vanessa Green

Dear Vanessa,

Re Telstra Corporation Limited – Lease of Land – 108 Barrack St, Merredin, WA

Please find enclosed the final Registered Lease document from Landgate for your records together with the Duplicate Certificate of Title.

We would like to thank you for your assistance in resolving this matter and request that you return the signed receipt for the Certificate of Title so that we may close the file.

Yours sincerely,

.....
Steve R. Bruce
DIRECTOR

DEIGHTON PTY LTD

Enclosure

APPLICATION

DESCRIPTION OF LAND (Note 1)

DESCRIPTION OF LAND (Note 1)	EXTENT	VOLUME	FOLIO
Lot 200 on Deposited Plan 56205	Whole	2668	423

APPLICANT (Note 2)

SHIRE OF MERREDIN of PO Box 42, Merredin, WA 6415

REASON FOR APPLICATION (Note 3)

THE APPLICANT HEREBY APPLIES for the issue of a replacement duplicate edition of the Certificate as the current duplicate Certificate of Title has been lost or destroyed.

Dated this

day of

Year 2021

SIGNATURE OF APPLICANT/S (Note 4)

The COMMON SEAL of the SHIRE OF)
MERREDIN was hereunto affixed in the)
presence of:

PRESIDENT_____
(Print Full Name)_____
CHIEF EXECUTIVE OFFICER_____
(Print Full Name)

INSTRUCTIONS

1. If insufficient space in any section, additional Sheet Form B1, should be used with appropriate headings. The boxed sections should only contain the words "see page....."
2. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by the parties.
3. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initiated by the persons signing this document and their witnesses.

NOTES

1. **DESCRIPTION OF LAND**
Lot and Diagram/Plan/Strata/Survey-Strata Plan number or Location name and number to be stated.
Extent - Whole, part or balance of the land comprised in the Certificate of Title to be stated.
The Volume and Folio or Crown Lease number to be stated.
2. **APPLICANT**
State full name of the Applicant/Applicants and the address/ addresses to which future notices can be sent.
3. **REASON FOR APPLICATION**
The request to amend the register to be clearly stated. When referring to the land use the words, "land above described".
4. **APPLICANTS EXECUTION**
A separate attestation is required for every person signing this document. Each signature should be separately witnessed by an Adult Person. The full name, address and occupation of the witness must be stated.



EXAMINED

OFFICE USE ONLY

APPLICATION

LODGED BY McLeods Barristers & Solicitors

ADDRESS 220 Stirling Highway
CLAREMONT WA 6010

PHONE No. 9383 3133

FAX No. 9383 4935

REFERENCE No. TF:MERR:43220

ISSUING BOX No. 346K

PREPARED BY McLeods Barristers & Solicitors

ADDRESS 220 Stirling Highway
CLAREMONT WA 6010

PHONE No. 9383 3133 FAX No. 9383 4935

INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY

TITLES, LEASES, DECLARATIONS ETC LODGED HERewith

1. _____	Received Items
2. _____	Nos.
3. _____	
4. _____	
5. _____	Receiving Clerk
6. _____	

Registered pursuant to the provisions of the *TRANSFER OF LAND ACT 1893* as amended on the day and time shown above and particulars entered in the Register.

IDENTIFIER'S CERTIFICATE
Shire of Merredin – Acting Chief Executive Officer

I, Ashleigh Brice, care of the Shire of Merredin, corner of King & Barrack Streets, Merredin, Western Australia hereby certify that:

- (a) This identification relates to Mark Dacombe, Chief Executive Officer of care of the Shire of Merredin, corner of King & Barrack Streets, Merredin, Western Australia.
- (b) The identification was carried out on March 2021 in Merredin, Western Australia.
- (c) The identification documents as listed below were produced to me and appear to be genuine originals.
- (d) The person being identified appears to have similar facial characteristics as the person in the photographs included in the original identity documents referred to in item (c) above.
- (e) The Verification of Identity has been conducted in accordance with the Western Australian Commissioner of Titles and Registrar of Titles Joint Practice for Verification of Identity.

Dated this day .

Identifier's Signature:

Contact Telephone Number: (08) 9041 1611

List of identification documents produced (see item (c) above):

Description of Identity documents to be stated and copy of Passport and Drivers Licence to be attached to Certificate.

1. Australian Passport
2. Driver's Licence

IDENTIFIER'S CERTIFICATE Shire of Merredin – Shire President

I, Ashleigh Brice, care of the Shire of Merredin, corner of King & Barrack Streets, Merredin, Western Australia hereby certify that:

- (a) This identification relates to Julie Rae Flockart, President, of care of the Shire of Merredin, corner of King & Barrack Streets, Merredin, Western Australia.
- (b) The identification was carried out on March 2021 in Merredin, Western Australia.
- (c) The identification documents as listed below were produced to me and appear to be genuine originals.
- (d) The person being identified appears to have similar facial characteristics as the person in the photographs included in the original identity documents referred to in item (c) above.
- (e) The Verification of Identity has been conducted in accordance with the Western Australian Commissioner of Titles and Registrar of Titles Joint Practice for Verification of Identity.

Dated this day .

Identifier's Signature:

Contact Telephone Number: (08) 9041 1611

List of identification documents produced (see item (c) above):

Description of Identity documents to be stated and copy of Passport and Drivers Licence to be attached to Certificate.

1. Australian Passport
2. Driver's Licence