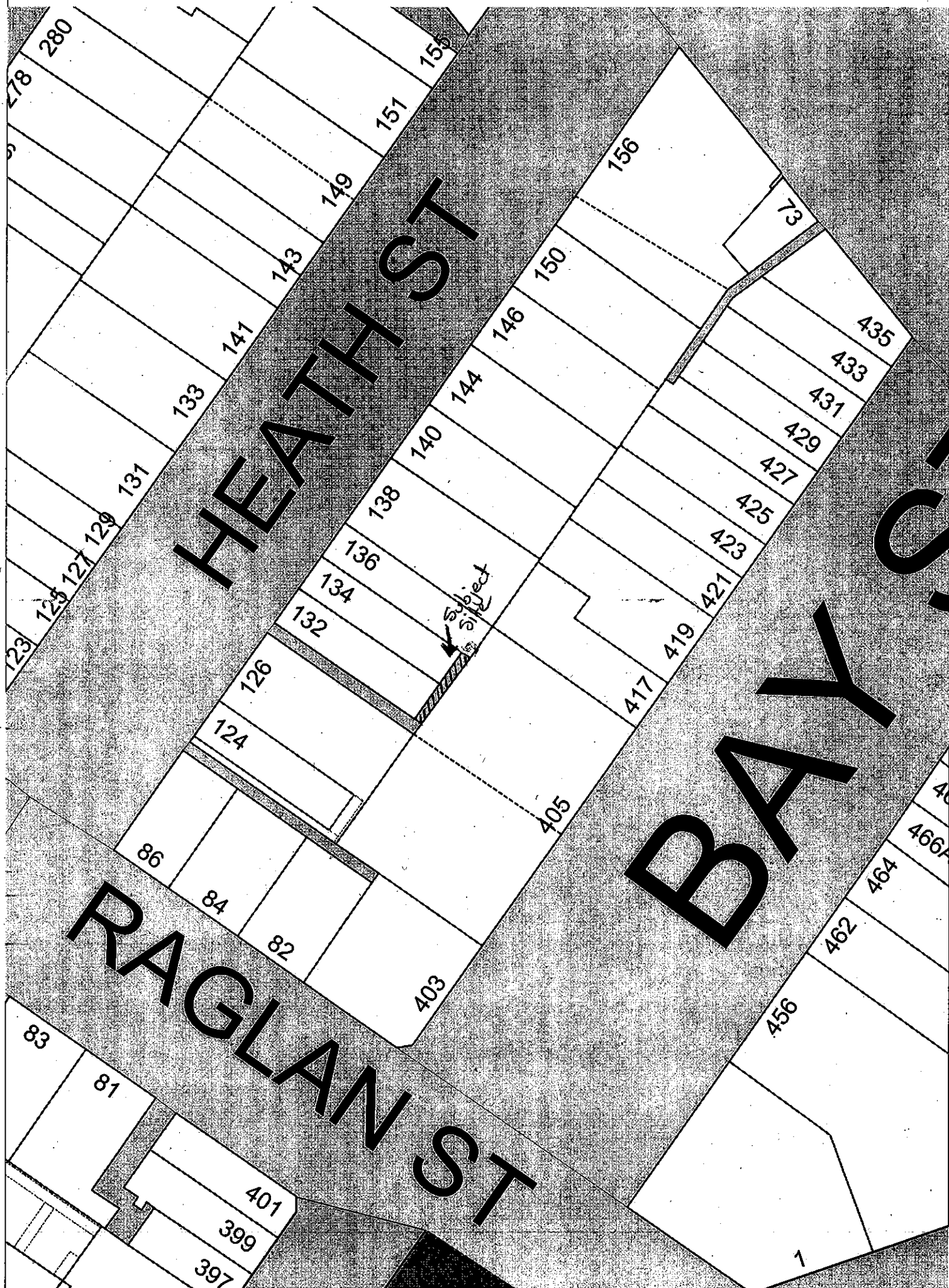
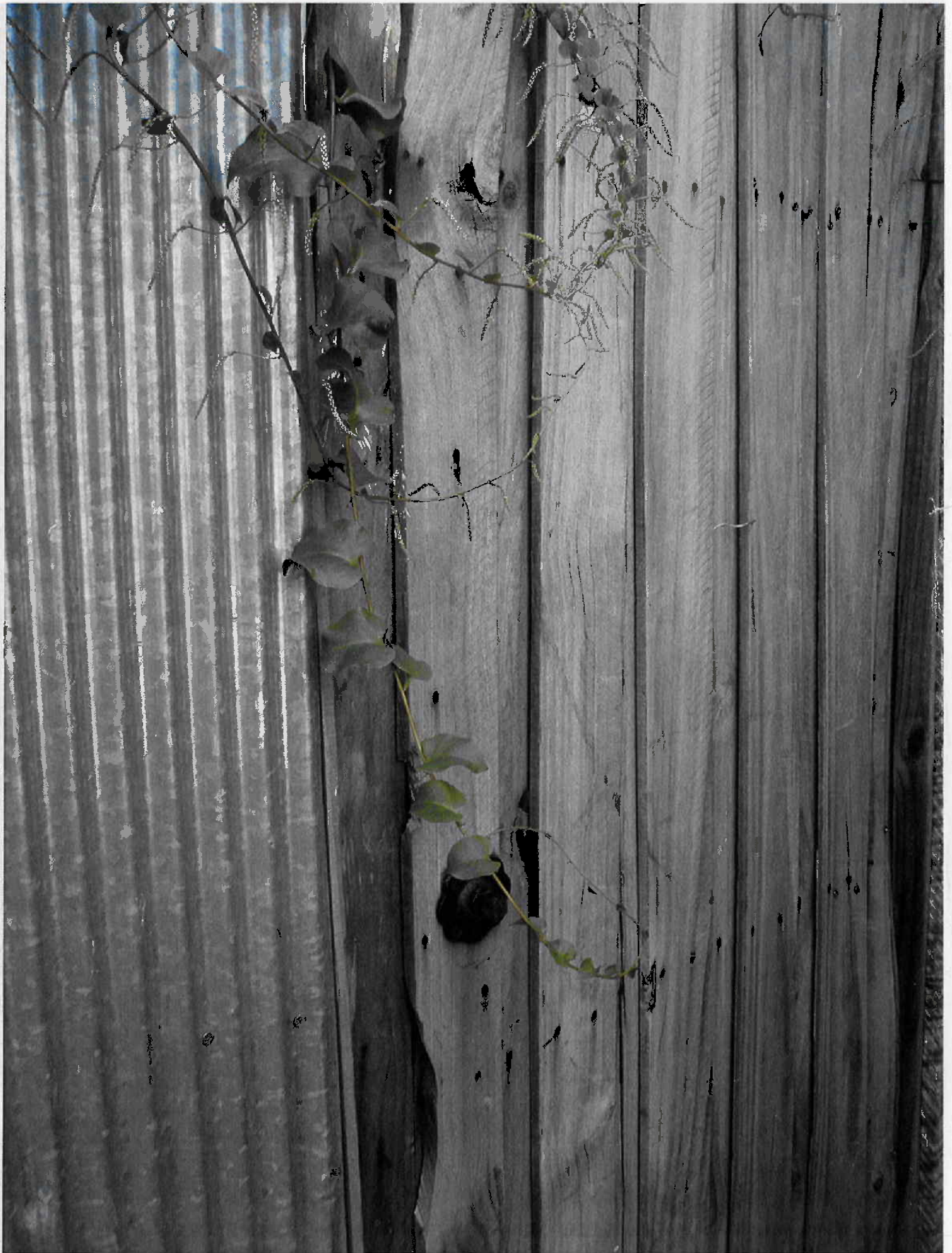
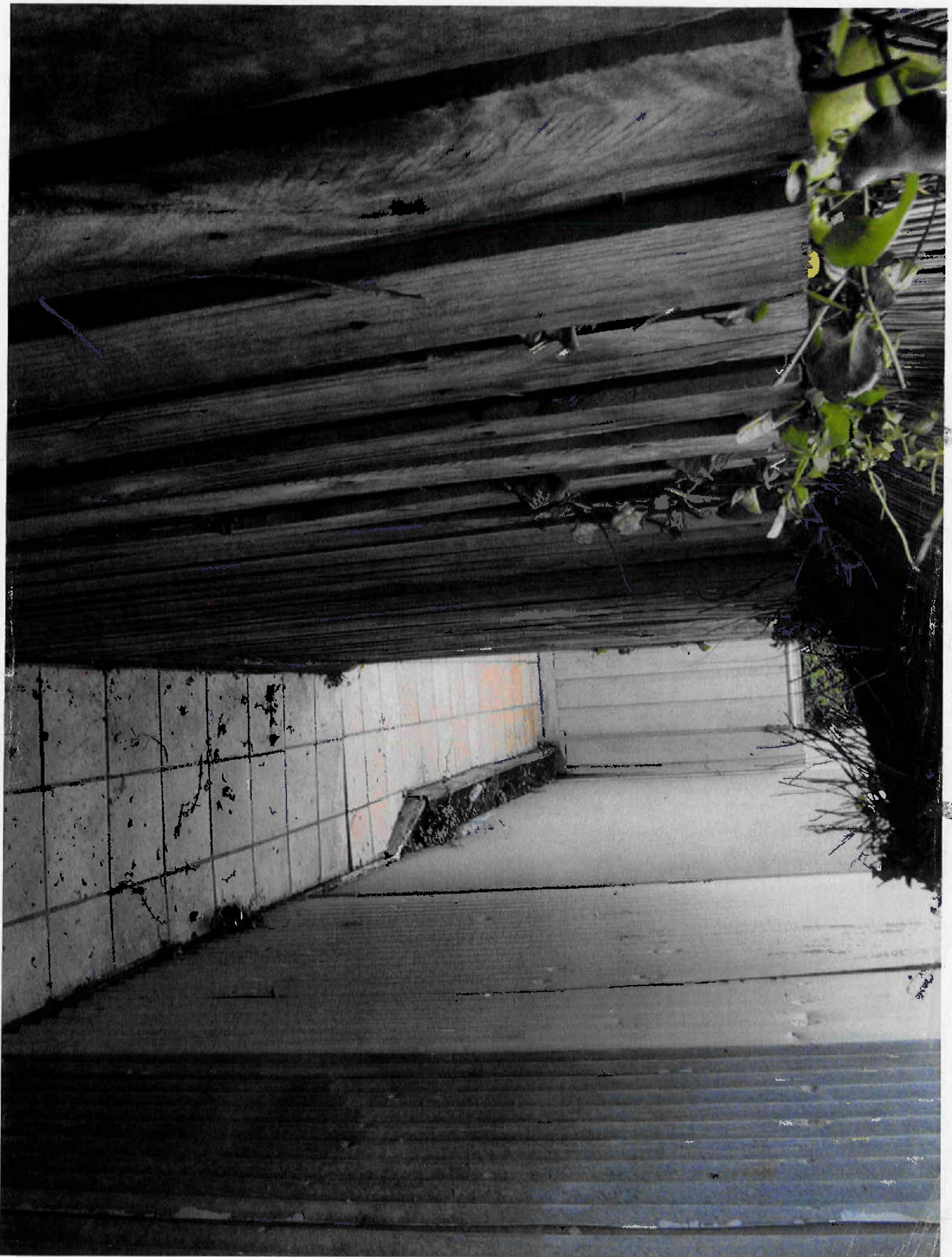


City of Port Phillip







RENNICK

&

GAYNOR
Solicitors

Our Ref. DLM:
Enquiries to: Dan Minogue
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Direct Tel: 9861 7730
Your Ref. 2540/134-01
Toula Kotsabouikis

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Camberwell Vic. 3124
Tel: (03) 9813 1911
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DX 12406 Camberwell

CITY OF PORT PHILLIP
DATE RECEIVED
- 8 OCT 2008
RECEIVED TO: T. Kotsabouikis
FILE No: 2540/134
RECORD No: 6717/08

Property Advisor
Property Management & Valuations
City of Port Phillip
Private Bag 3
ST KILDA VIC 3182

6 October 2008

Dear Sir,

**Road Discontinuation – Right of Way rear 132 & 134 Heath St, Port Melbourne
("The Road")**

Our Client: T H Sam Pty Ltd

Our Client's Property: 405 Bay Street, Port Melbourne

We act for T H Sam Pty Ltd of 56 Milton Parade, Malvern and have been handed your letter of 18 September 2008 with the Proposed Road Discontinuance Notice with the attached Plan showing The Road as hatched. Our Client's Property abuts the southern boundary of The Road.

We note that R2415 and R2421 (the latter being The Road) were created as Road R-1 on registration of LP 33815 in 1956. On registration of this Lodged Plan, Road R-1 became a public highway arising from the appropriation of land and its subsequent dedication to the public.

Adverse Possession

Your letter of 18 September 2008 advises that the owners of 134 Heath Street ("the 134 Owners") have established an adverse possession claim but Council has not given our client a copy of either of the following documentation ("the Documentation") :-

- (a) the relevant Officer's report to Council; and/or
- (b) the documentation relied upon for this statement.

Before Council considers as to whether or not to close The Road, Council should pursue procedural fairness and make available to us a copy of the Documentation upon which the 134 Owners rely for this claim.

Despite the strength or otherwise of the adverse possession claim, Council is not the arbiter on adverse possession claims, this being the domain of the Registrar of Titles under Section 60 of the Transfer of Land Act and, subsequently, the Supreme Court where the Titles Office is not satisfied with the evidence provided in support of the Application for the Vesting Order.

COPY FAXED
6/10/08

We request a copy of the Documentation upon which Council's Officer has relied in forming his/her view that:-

- (i) the 134 Owners have established an adverse possession claim; and/or
- (ii) The Road should be closed and sold.

Local Government Act

We **enclose** a copy of part of one page of the Plans submitted by our client to Council for a Planning Permit for the development of Our Client's Property ("**The Proposed Development**"). The Road was created for foot traffic for the benefit of all adjoining properties in 1956. In The Road remaining on title, Our Client's Property is one of the adjoining properties to have the benefit of The Road which benefit is now required for The Proposed Development.

One of the objectives of Council in considering as to whether or not to close The Road is to achieve the best outcome for the local community. We argue that, because there are only two outcomes, the best outcome is achieved by The Road not being closed as The Road is required for egress (especially in an emergency) from Shop 3 as shown on the enclosed Plan.

Request of Council

Our client seeks that:-

- A. a copy of the Documentation
- B. Council now makes a resolution not to close The Road, in the knowledge that, if the 134 Owners wish to pursue their claim for adverse possession, they can do so under *Section 60 of the Transfer of Land Act* enabling our client to challenge the claim in the Supreme Court if it so chooses.
- C. If Council is not prepared to make the resolution not to close The Road, Council delay considering the closure of The Road until our client has had the opportunity to review and consider all available documentation on The Road closure (including the Documentation). This will give our client procedural fairness and enable it to put a detailed submission on its position on the closure of The Road).

We await your response.

Yours faithfully

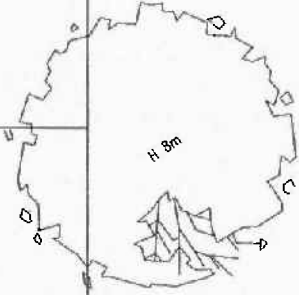
RENNICK & GAYNOR



Site Statistics

Site: 604.37Sqm

Verandah: 106.53Sqm



HEIGHT OF WALL 3.95m

HEIGHT OF WALL 4.65m

SINGLE STOREY DWELLING

BUILDING HEIGHT 4m

SINGLE STOREY DWELLING

BUILDING HEIGHT 5m

SINGLE STOREY DWELLING

BUILDING HEIGHT 5m

= The Road.



STORAGE

STORAGE

SHOP 2: 103 SQM.

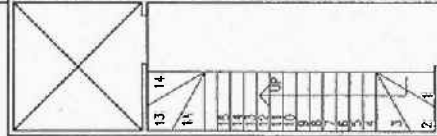
SHOP 3: 106 SQM.

SHOP 3: 92 SQM.

STORAGE

STORAGE

RAMP



2 STOREY DWELLING

BUILDING FACADE HEIGHT 8m

2 STOREY DWELLING

BUILDING FACADE HEIGHT 8m

2 STOREY DWELLING

BUILDING FACADE HEIGHT 8m

CROSS OVER