

Planning Report



Planning Permit Application – Covenant Removal

Wadawurrung Country

80 & 82 Princes Highway and 101 Sparks Road, North Geelong

Prepared for Trenic Constructions

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Acknowledgement of Country

We pay our respects to the Traditional Custodians of Country throughout Australia, their Elders and ancestors, recognising their rich heritage and enduring connection to Country and acknowledging the ongoing sovereignty of all Aboriginal and Torres Strait Islander Nations.

We recognise the profound connection to land, waters, sky and community of the First Nations peoples, with continuing cultures that are among the oldest in human history. We recognise that they are skilled land shapers and place makers, with a deep and rich knowledge of this land which they have cared for, protected and balanced for millennia.

Our Country, 2022

88 x 119 cm Acrylic on canvas

Original artwork by

Alfred Carter

Gunaikurnai

Overview

Background

Applicant	Trenic Constructions
Address	80 Princes Highway, Norlane 82 Princes Highway, Norlane 101 Sparks Road, Norlane
Lot Description	Lot 1 on Title Plan 538702D (80 Princes Highway) Lot 1 on Title Plan 431428S (82 Princes Highway) Lot 563 on Plan of Subdivision O11342 (101 Sparks Road)

Relevant Planning Provisions

Municipal Planning Strategy	Clause 02.03-1 - Settlement Clause 02.03-6 - Housing
Planning Policy Framework	Clause 11.01-1S - Settlement Clause 11.01-1L-01 - Settlement – Greater Geelong Clause 16.01-1S - Housing supply Clause 16.01-1R - Infill housing – Geelong G21 Clause 16.01-2S - Housing affordability
Zone	General Residential Zone – Schedule 1 (GRZ1)
Overlays	N/A
Particular Provisions	Clause 52.02 – Easement, Restrictions and Reserves
General Provisions	Clause 65 – Decision Guidelines

Permit Application Details

Description of Proposal	Removal of Covenant 127875
Permit Requirement	Pursuant to Clause 52.02, a permit is required before a person proceeds under Section 23 of the Subdivision Act to remove a restriction.

Quality Assurance

Planning Report

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Wadawurrung Country
80 & 82 Princes Highway and 101 Sparks Road, Norlane

Project Number
325-0146-00-P-01

Revisions

No.	Date	Description	Prepared By	Reviewed By	Project Principal
00	17/11/2025	Planning Permit Application	MH	MZ	SL

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1 Introduction

1.1 Purpose

This report has been prepared on behalf of Trenic Constructions to support an application to remove the restrictive covenant contained in instrument of transfer 1272875 ('the covenant') from three properties:

- 80 Princes Highway, Norlane (Lot 1 on Title Plan 538702D - formerly Lot 561 on Plan of Subdivision LP11342)
- 82 Princes Highway, Norlane (Lot 1 on Title Plan 431428S formerly Lot 562 on Plan of Subdivision LP11342)
- 101 Sparks Road, Norlane (Lot 563 on Plan of Subdivision 11342)

The covenant prohibits the development of the land for more than one dwelling (among other things). Specifically, covenant 1272875 is dated 28 June 1926 and reads:

The transferees and proprietors of Lots 561, 562 and 563 on Plan of Subdivision 11342 must not at any time:

- a. Erect or construct or allow to be erected or constructed on any lot hereby transferred any building other than one dwelling house with usual outbuildings and fences to cost no less than five hundred pounds.*
- b. Excavate on or in the said Lots hereby transferred or remove or permit to be removed any soil or other material therefrom except where necessary for building construction or the laying out of a garden.*
- c. Carry on or permit to be carried on upon the Lots hereby transferred any trade or business nor erect nor permit to be erected or remain erected any sign hoarding or other erection used or intended to be used for advertisement.*

This conflicts with a current planning application for the construction of a second dwelling and two lot subdivision at one of the affected properties - 82 Princes Highway, Norlane (PP-327-2024).

Pursuant to Section 47 of the Planning and Environment Act 1987 (the 'Act'), an application for a permit to remove a registered restrictive covenant must be accompanied by (inter alia):

- *Information clearly identifying each allotment or lot benefited by the registered restrictive covenant; and*
- *Any other information that is required by the regulations.*

A list of beneficiaries is has been enclosed as part of this application.

An assessment against the relevant decision guidelines of Clause 65 has been provided at Section 5 of this report, with particular consideration for the relevant matters set out at Section 60 of the Planning and Environment Act, 1987 (the 'Act').

Limitations

This report has considered the following documents:

- *Planning and Environment Act 1987.*
- *Greater Geelong Planning Scheme.*
- *Plan for Victoria 2050.*

2 Site & Surrounds

Site Analysis & Title Particulars

For the purpose of this application, the 'Site' constitutes the properties burdened by the covenant which include:

- 80 Princes Highway, Norlane (Lot 1 on Title Plan 538702D - formerly Lot 561 on Plan of Subdivision LP11342)
- 82 Princes Highway, Norlane (Lot 1 on Title Plan 431428S formerly Lot 562 on Plan of Subdivision LP11342)
- 101 Sparks Road, Norlane (Lot 563 on Plan of Subdivision 11342)

The Site is affected by Covenant 1272875 (dated 28 June 1926) which reads:

The transferees and proprietors of Lots 561, 562 and 563 on Plan of Subdivision 11342 must not at any time:

- Erect or construct or allow to be erected or constructed on any lot hereby transferred any building other than one dwelling house with usual outbuildings and fences to cost no less than five hundred pounds.*
- Excavate on or in the said Lots hereby transferred or remove or permit to be removed any soil or other material therefrom except where necessary for building construction or the laying out of a garden.*
- Carry on or permit to be carried on upon the Lots hereby transferred any trade or business nor erect nor permit to be erected or remain erected any sign hoarding or other erection used or intended to be used for advertisement.*

The details of the three (3) burdened properties that constitute the Site have been detailed in the table below:

Property

80 Princes Highway, Norlane	629.44 square metres Contains an existing detached single storey dwelling A 1.83 metre easement runs along the rear eastern property boundary, with no beneficiary specified on the plan of subdivision
82 Princes Highway, Norlane	629.82 square metres Contains an existing detached single storey dwelling A 1.83 metre easement runs along the rear eastern property boundary, with no beneficiary specified on the plan of subdivision.
101 Sparks Road, Norlane	740.24 square metres Contains an existing detached single storey dwelling

The Site is not impacted by any further encumbering easements, covenants, caveats or restrictions under the Planning and Environment Act 1987 or the Subdivision Act 1988.



Figure 1 Site Aerial Plan

2.2 Site Context

The Site is located within the established suburb of Norlane, which is located approximately 5.16 kilometres north of Geelong CBD. Aside from a small industrial pocket in the southern portion of the suburb, Norlane is largely characterised by low to medium density housing.

A number of properties across the suburb have been subdivided to provide greater housing density in an area that benefits from convenient access to a number of services and proximity to Geelong CBD.

Notable features proximate to the Site include:

- St Thomas Aquinas Primary School (200m)
- Northern Bay College (550m)
- Windsor Park inclusive of North Shore Football & Netball Club (275m)
- Norlane Community Centre (450m)
- Norlane Aquatic Recreation Centre (800m)
- Stead Park inclusive of Hockey Centre, Softball Centre, Bowls Club (1km)
- North Shore Railway Station (1km)
- Local Bus Stop - Route 22, 28 (85m)



Figure 2 Site Context Plan

3 Proposal

The application seeks permission to remove Covenant 1272875 under Section 47 of the Act.

The restrictive covenant prohibits the use and development of the land for the following purposes:

- *Construction of any building on the lot other than one dwelling house with the usual outbuildings and fences.*
- *Excavation and removal of any material from the lot except where necessary for building construction or the laying out of a garden.*
- *Carrying out of any trade or business on the lot or the erection of any sign hoarding or other erection used or intended to be used for advertisement.*

As outlined in Figure 1 above, the following properties are burdened by the restrictive covenant:

- *80 Princes Highway, Norlane (referred to in the Covenant as Lot 561 on LP1 1342)*
- *82 Princes Highway, Norlane (referred to in the Covenant as Lot 562 on LP1 1342)*
- *101 Sparks Road, Norlane (referred to in the Covenant as Lot 563 on LP1 1342)*

No development is proposed under this application.

4 Planning Provisions

4.1 General Residential Zone – Schedule 1 (GRZ1)

The Site is located within the General Residential Zone – Schedule 1 (GRZ1).

The purpose of the GRZ is (emphasis added):

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage development that is responsive to the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

The GRZ does not specify a permit requirement for the removal of a restrictive covenant.



Figure 3 Zone Plan (GRZ1)

4.2 Clause 52.02 – Easements, Restrictions and Reserves

The purpose of Clause 52.02 is to enable the removal and variation of an easement or restrictions to enable a use or development that complies with the planning scheme after the interests of affected people are considered.

A permit is required before a person proceeds under Section 23 of the Subdivision Act 1988 to create, vary or remove an easement or restriction or vary or remove a condition in the nature of an easement in a Crown grant.

The Schedule to Clause 52.02 sets out details of covenants that have been varied or removed, including the removal of two single dwelling covenants:

- 64 Princes Highway, Norlane (Lot 1 on Title Plan 429809S) – removal of a restrictive covenant contained in Instrument 1693582.

- 4-8 Spruhan Avenue, Norlane (Lots 348 and 349 on Plan of Subdivision 11342) – removal of restrictive covenants contained in Instrument 1641285 and Instrument 1445490.

For applications made under Clause 52.02, the responsible authority must consider the decision guidelines of Clause 65 as well as the interests of affected people.

A list of covenant beneficiaries is included at Appendix A.

5 Planning Policy

5.1 Municipal Planning Strategy (MPS)

Clause 02.02 – Strategic Directions

Strategic directions are the high-level policy intentions for Council that provide the basis for matters that are implemented through more detailed policy or planning controls.

The following strategic directions are relevant to the site and proposal:

- Clause 02.03-1 - Settlement states that a combination of greenfield and infill development will deliver housing for Geelong's growing population, with the share provided by infill expected to increase over time. The strategic directions outlined for Corio and Norlane are to:
 - Support urban renewal to encourage an increase in the resident population.
 - Encourage the diversification of housing types.
- Clause 02.03-6 – Housing states that there is a need to provide for a range of housing types in both established and developing communities in order to meet housing demand. The strategic directions outlined are to:
 - Facilitate infill development to increase its housing supply contribution.
 - Ensure housing diversity is achieved in established and growth area communities.
 - Increase the level of affordable and social housing in Greater Geelong.

5.2 Planning Policy Framework (PPF)

Clause 11 – Settlement

Clause 11 states that planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

- Clause 11.01-1S - Settlement seeks to facilitate infill development to increase its housing supply contribution. Relevant strategies to manage the ensure the delivery of 2.24 million homes across Victoria by 2051 include:
 - Promoting and capitalising on opportunities for urban renewal and infill development.
 - Limiting urban sprawl and directing growth into existing settlements.
- Clause 11.01-1L-01 - Settlement – Greater Geelong seeks to direct the majority of future housing needs to urban Geelong (urban infill, Armstrong Creek and the Northern and Western Geelong Growth Areas).

Clause 16 – Housing

- Clause 16.01-1S - Housing supply seeks to facilitate well-located, integrated and diverse housing that meets community needs. Strategies include encouraging higher density housing development on sites that are well located in relation to jobs, services and public transport.
- Clause 16.01-1R - Infill housing – Geelong G21- seeks to facilitate infill development in Central Geelong and West Fyans and around activity areas within urban Geelong and district towns.
- Clause 16.01-2S - Housing affordability seeks to deliver affordable housing in areas with good access to opportunities and services. This will be achieved in part by ensuring that housing supply continues to be sufficient to meet demand.

6 Planning Assessment

The following section provides an assessment against the relevant decision guidelines of Clause 65.01, including consideration of Section 60(5) of the Act.

6.1 Is the proposal appropriate having regard to the detriment test set out Section 60(5)(a) of the Act?

A responsible authority must consider matters set out in sections 60(2) and (5) of the Act when considering whether it should issue a planning permit to vary or remove a restrictive covenant. Section 60(5) applies to restrictive covenants created before 25 June 1991 and therefore is relevant to this application.

Section 60 (5) of the Act

The responsible authority must not grant a permit which allows the removal or variation of a restriction referred to in subsection (4) unless it is satisfied that—

- a) the owner of any land benefited by the restriction (other than an owner who, before or after the making of the application for the permit but not more than three months before its making, has consented in writing to the grant of the permit) will be unlikely to suffer any detriment of any kind (including any perceived detriment) as a consequence of the removal or variation of the restriction; and
- b) if that owner has objected to the grant of the permit, the objection is vexatious or not made in good faith.

Response

The owners of the land benefitted by the restrictive covenant in question are unlikely to suffer any detriment of any kind as a result of the removal of the covenant. Specifically:

- The removal of the covenant does not change the site characteristics in any way, nor will it automatically result in the construction of an additional dwelling (or dwellings) on the site noting that this is subject to further planning approval. Therefore, the beneficiaries will experience no tangible alteration to amenity as a result of the covenant's removal.
- Any future proposal—single or multiple dwellings—would still be subject to assessment under the zone, overlays, and planning policies. Removal of the covenant does *not* grant automatic permission for additional dwellings.
- The covenant removal simply lifts a legal restriction. It does not predetermine, enable, or guarantee additional dwellings, and any intensification would require a separate permit process.
- Beneficiary landowners retain their full ability to use, enjoy, and develop their land. No rights are reduced or altered by removing the covenant.
- The surrounding area has evolved to include a range of dwelling types and densities. Therefore, retention of the covenant provides no practical benefit to beneficiaries. Its removal simply brings the land into alignment with contemporary planning controls.
- Removing a restrictive covenant (without development attached) has no demonstrated adverse effect on the value of beneficiary properties.

Is the proposal consistent with the remaining relevant provisions of Clause 65.01?

The matters set out in section 60 of the Act.

Any significant effects the environment, including the contamination of land, may have on the use or development.

Refer to Section 6.1 above.

Not applicable to this application.

The Municipal Planning Strategy and the Planning Policy Framework.

The removal of the restrictive covenant would align with the relevant policies contained within the MPS and PPF. Removing outdated or overly restrictive covenants supports broader policy objectives by allowing planning schemes—not historical private agreements—to regulate development. Specifically:

- The removal of the restrictive covenant will provide additional opportunities for infill development and the diversification of housing types in established suburbs.
- The unlocking of land for infill development would assist in meeting the State Government's ambition of provision 2.24 million homes across Victoria by 2051.
- The proposal will ultimately facilitate increased density of housing in an area well located in relation to jobs, services and public transport.
- Any efforts to unlock land for further development will assist in combatting housing affordability issues, noting that this is in part achieved through ensuring that housing supply continues to be sufficient to meet demand.

For the reasons outlined above, the proposal directly aligns with Clause 02.03-1, Clause 02.03-6, Clause 11.01-1S, Clause 11.01-1L-01, Clause 16.01-1S, Clause 16.01-1R and Clause 16.01-2S.

The purpose of the zone, overlay or other provision.

The removal of the restrictive covenant would not facilitate any land use or development that would contradict the purpose of the General Residential Zone (GRZ).

The GRZ specifically seeks to encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport. Assuming that any future development of two or more dwellings on a lot appropriately responds to the neighbourhood character of the area, it would be considered to align with the purpose of the zone.

Whilst the covenant also controls the excavation of materials from the site, as well as the establishment of business operations and associated signage, these land uses and activities are and continue to be appropriately controlled under the provisions of Clause 32.08 (GRZ) and Clause 52.05 (Signs). As such, these activities could not occur without approval from Council where the restrictive covenant be removed.

Any matter required to be considered in the zone, overlay or other provision.

There are no matters outlined under the GRZ or any other provision of the Greater Geelong Planning Scheme that would warrant further consideration or be of any consequence to this application.

The orderly planning of the area.

The covenant removal simply lifts a legal restriction. It does not predetermine, enable, or guarantee additional dwellings, and any intensification would require a separate permit process. As such, the proposal in and of itself is no bearing on the orderly planning of the area.

The effect on the environment, human health and amenity of the area.

Not applicable to this application.

The proximity of the land to any public land.

Aside from the Princes Highway, which is located immediately west of the site, the closest public land appears to be Windsor Park (275m north east of site). The proposed removal of the covenant would not be of any obvious consequence to these public landholdings. Any potential impacts would be considered as part of a future development application.

Factors likely to cause or contribute to land degradation, salinity or reduce water quality.

Not applicable to this application.

Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.

Not applicable to this application.

The extent and character of native vegetation and the likelihood of its destruction.

Not applicable to this application.

Whether native vegetation is to be or can be protected, planted or allowed to regenerate.

Not applicable to this application.

The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

Not applicable to this application.

The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

Not applicable to this application.

The impact the use or development will have on the current and future development and operation of the transport system.

Not applicable to this application.

7 Conclusion

The removal of Covenant 1272875 is considered appropriate.

Of the activities currently prohibited under this restriction, the construction of an additional dwelling on the affected lots is the only activity that is likely to be pursued by any of the landowners.

Whilst the removal of this restrictive covenant would ultimately facilitate much needed infill development in a well serviced location, the Responsible Authority must be satisfied that the removal will be of no material or perceived detriment to the beneficiaries of this restriction.

Removing the single-dwelling covenant will not alter the site's physical characteristics or impact the amenity of beneficiaries, nor does it enable additional dwellings without a separate planning permit. Its removal simply lifts an outdated legal restriction, with any future development still subject to full assessment under the zone, overlays, and planning policies. Beneficiary owners retain all existing rights, and the surrounding area already accommodates a mix of dwelling types and densities, meaning the covenant no longer provides any practical benefit. In this context, removing the covenant brings the land into alignment with contemporary planning controls without causing detriment to beneficiaries.

For the reasons outlined in this report, it is respectfully submitted that a permit for the removal for the covenant be granted.

Appendices

Appendix A List of Covenant Beneficiaries

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