

## NOTICE OF AN APPLICATION FOR A PLANNING PERMIT

The land affected by the application is located at:	<b>127-137 Merrivale Dr WARRNAMBOOL VIC 3280</b>
The application is for a permit to:	<b>Section 23 (Removal of Restriction)</b>
The applicant for the permit is:	<b>Mr Philip Davis C/o Smith Land Surveyors Pty Ltd</b>
The application reference number is:	<b>PP2024-0155</b>
You may look at the application and any documents that support the application at the office of the responsible authority:	<b>Warrnambool Civic Centre 25 Liebig Street WARRNAMBOOL 3280</b> <b>Or online at:</b> <a href="https://www.warrnambool.vic.gov.au/advertised-planning-applications">https://www.warrnambool.vic.gov.au/advertised-planning-applications</a>
For further reference please contact:	<b>Planning Support</b> <b>Telephone: 03 5559 4800</b> <b>Email: <a href="mailto:planning@warrnambool.vic.gov.au">planning@warrnambool.vic.gov.au</a></b>

This can be done during office hours and is free of charge.

Any person who may be affected by the granting of the permit may object or make other submissions to the Responsible Authority (Warrnambool City Council).

**An objection must** \* **be made to the Responsible Authority in writing**  
\* **include the reasons for the objection, and**  
\* **state how the objector would be affected.**

The responsible authority must make a copy of every objection available at its office for any person to inspect during office hours free of charge until the end of the period during which an application may be made for review of a decision on the application.

If you object, the Responsible Authority will tell you its decision.

Objections/Submissions are accepted by:

- post to Town Planning Office, Warrnambool City Council, PO Box 198 Warrnambool 3280
- in person at the Warrnambool Civic Centre, 25 Liebig Street, Warrnambool
- submitting an 'Objection to grant a Planning Permit' form available from [www.warrnambool.vic.gov.au](http://www.warrnambool.vic.gov.au) Click on *Property – Planning Permits - Objection to grant a Planning Permit form*
- email to [planning@warrnambool.vic.gov.au](mailto:planning@warrnambool.vic.gov.au)

The Responsible Authority will not decide on the application before:	<b>21 October 2024</b>
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# ADVERTISED

## Application for Planning Permit and Certification

Supplied by [REDACTED]  
Submitted Date 22/08/2024

### Application Details

Application Type Planning Permit and Certification under the Subdivision Act  
Version 1  
Applicant Reference Number 2024-0378POR  
Responsible Authority Name Warrnambool City Council  
Responsible Authority Reference Number(s) (Not Supplied)  
SPEAR Reference Number S235787T

### The Land

Primary Parcel 127 MERRIVALE DRIVE, WARRNAMBOOL  
VIC 3280  
Volume 5957/Folio 255  
SPI 11~70\PP5841  
CPN 129909  
**Zone:** 32.08 General Residential  
37.03 Urban Floodway

### The Proposal

Subdivision Act (1988) Dealing Type Section 23 (Removal of Restriction)  
Land Used The land has been used or developed for more than two years  
Plan Number (Not Supplied)  
Number of lots 1  
Proposal Description Removal of Restriction  
Estimated cost of the development for which a permit is required \$ 0

### Existing Conditions

Existing Conditions Description Existing Dwelling  
Title Information - Does the proposal breach an encumbrance on Title? Encumbrances on title, such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope do not apply.

### Applicant Contact

Applicant Contact [REDACTED]  
Smith Land Surveyors  
142A Fyans Street, South Geelong, VIC, 3220  
Business Phone: 03 5222 1234  
Email: [ashley@smithls.com.au](mailto:ashley@smithls.com.au)

### Applicant

Applicant (Applicant details as per Applicant Contact)

Owner

Owner

1777 Main Street, Washington, DC, 20004  
300

# ADVERTISED

**Declaration**

I, [REDACTED], declare that the owner (if not myself) has been notified about this application.

I, [REDACTED], declare that all the information supplied is true.

I, [REDACTED], apply to have the attached plan of subdivision / consolidation certified under the Subdivision Act 1988 and to have advice of street numbers allocated.

**Authorised by  
Organisation**

[REDACTED]  
Smith Land Surveyors

1 August 2024

# ADVERTISED

Smith  
LAND SURVEYORS



Smith Land Surveyors  
142A Fyans Street  
South Geelong VIC 3220

Warrnambool City Council  
25 Liebig Street  
Warrnambool VIC 3280

**137 Merrivale Drive, Warrnambool**

Dear Warrnambool City Council,

**Re: Application for Removal of Restriction on Crown Grant – [137 Merrivale Drive, Warrnambool]**

I am writing to lodge an application for the removal of a restriction that is currently placed on the Crown Grant for the above-mentioned property. The restriction in question limits the property to a single dwelling, which the landowner seeks to amend to allow for the construction of multiple dwellings.

Under Section 23 of The Subdivision Act 1988, Council possesses the authority to remove such restrictions. I submit this request for your consideration, supported by the following points that highlight the broader benefits to the community:

**Addressing Housing Shortage**

Victoria is currently experiencing a significant housing shortage, which has impacted many residents seeking affordable housing options. By allowing the construction of multiple dwellings on the property, we can make a meaningful contribution to alleviating this shortage within the Warrnambool region. Increasing the housing supply is essential to accommodate the growing population and to ensure that more residents have access to quality housing.

**Optimal Land Use**

The subject property is ideally situated for residential development. Allowing the construction of additional dwellings would maximize the efficient use of the land, aligning with contemporary urban planning principles. It would contribute to the local economy by providing more housing options and potentially attracting new residents to the area.

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## **Community Benefits**

Removing the restriction will not only benefit the landowner but also the wider community. More housing options can enhance the diversity of the local housing market, offering various living arrangements to suit different needs. This flexibility is crucial for creating a vibrant and inclusive community.

## **Compliance with Local Planning Objectives**

The proposed development aligns with Warrnambool City Council's strategic planning objectives to promote sustainable growth and development within the municipality. By supporting this application, the Council can further its goals of fostering well-planned, sustainable communities.

I appreciate your time in considering this request, please feel free to contact me if you require any further information or clarification.

Yours sincerely,

Managing Director / Licensed Surveyor  
**Smith Land Surveyors Pty Ltd**

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**ADVERTISED**

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 05957 FOLIO 255

Security no : 124116667133B  
Produced 16/07/2024 01:58 PM

CROWN GRANT

LAND DESCRIPTION

Crown Allotment 11 Section 70 Township of Warrnambool Parish of Wangoom.

REGISTERED PROPRIETOR

Estate Fee Simple  
Sole Proprietor

[REDACTED] of 127-137 MERRIVALE DRIVE WARRNAMBOOL VIC 3280  
AY046627Q 29/05/2024

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AY046628N 29/05/2024  
NATIONAL AUSTRALIA BANK LTD

Any crown grant reservations exceptions conditions limitations and powers noted on the plan or imaged folio set out under DIAGRAM LOCATION below. For details of any other encumbrances see the plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE TP690295L FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER		STATUS	DATE
AX962821T	REMOVE X64 DECLARATION	Registered	03/05/2024
AY046627Q (E)	TRANSFER	Registered	29/05/2024
AY046628N (E)	MORTGAGE	Registered	29/05/2024

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

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

Street Address: 127-137 MERRIVALE DRIVE WARRNAMBOOL VIC 3280

ADMINISTRATIVE NOTICES

NIL

eCT Control 16089P NATIONAL AUSTRALIA BANK LTD  
Effective from 29/05/2024

DOCUMENT END

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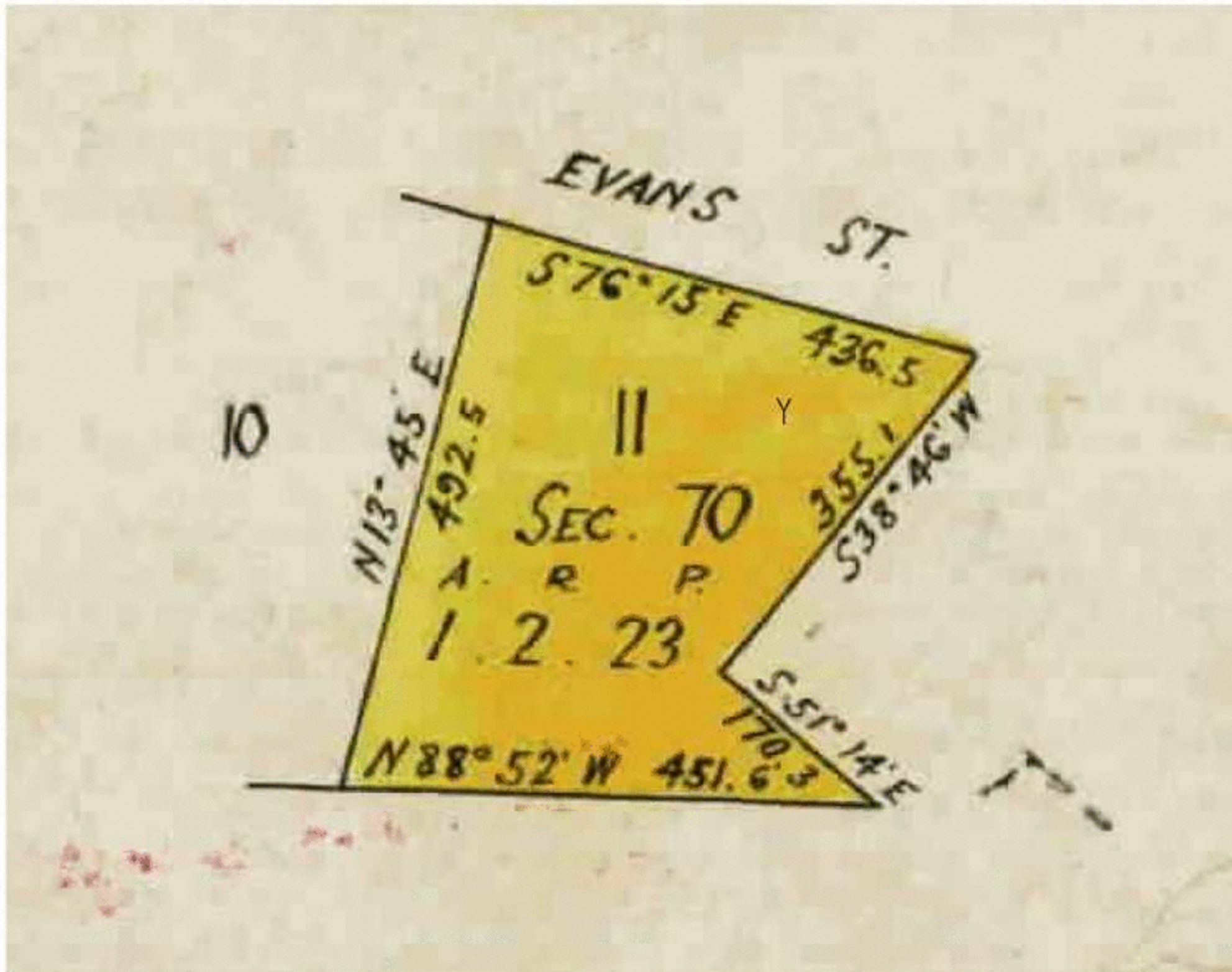
**ADVERTISED**

<b>TITLE PLAN</b>	<b>EDITION 1</b>	<b>TP 690295L</b>
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<p><b>Location of Land</b></p> <p>Parish: CITY OF WARRNAMBOOL PARISH OF WANGOOM</p> <p>Township:</p> <p>Section: 70</p> <p>Crown Allotment: 11</p> <p>Crown Portion:</p> <p>Last Plan Reference:</p> <p>Derived From: VOL 5957 FOL 255</p> <p>Depth Limitation: 50 FEET</p>	<p style="text-align: center;"><b>Notations</b></p> <p>SUBJECT TO THE RESERVATIONS EXCEPTIONS CONDITIONS AND POWERS CONTAINED IN CROWN GRANT VOL. 5957 FOL. 255 AND NOTED ON SHEET 2 OF THIS PLAN</p> <p>ANY REFERENCE TO MAP IN THE TEXT MEANS THE DIAGRAM SHOWN ON THIS TITLE PLAN</p>
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<p style="text-align: center;"><b>Description of Land / Easement Information</b></p>	<p>THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY, LAND VICTORIA, FOR TITLE DIAGRAM PURPOSES AS PART OF THE LAND TITLES AUTOMATION PROJECT</p> <p>COMPILED: 16/11/2000</p> <p>VERIFIED: MP</p>
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**COLOUR CODE**  
Y=YELLOW





**ADVERTISED**

TITLE PLAN

TP 690295L

LAND DESCRIPTION INCLUDING RESERVATIONS EXCEPTIONS  
 CONDITIONS AND POWERS SHOWN ON THE CROWN GRANT

containing *one acre four roods and twenty three perches more or less being allotment eleven of section seventy in the City of Warrnambool Parish of Wangoom County of Victoria* **All THAT PIECE OF LAND** in the said State

delineated with the measurements and abutments thereof in the map drawn in the margin of these presents and therein colored yellow PROVIDED nevertheless that the grantee shall be entitled to sink wells for water and to the use and enjoyment of any wells or springs of water upon or within the boundaries of the said land for any and for all purposes as though he held the land without limitation as to depth EXCEPTING nevertheless unto Us Our heirs and successors all gold and silver and minerals as defined in the *Mines Act 1928* in upon or under or within the boundaries of the land hereby granted AND ALSO reserving to Us Our heirs and successors free liberty and authority for Us Our heirs and successors and Our and their licensees agents and servants at any time or times hereafter to enter upon the said land and to search and mine therein for gold silver and minerals as aforesaid and to extract and remove therefrom any such gold silver and minerals and to search for and work dispose of and carry away the said gold silver and minerals lying in upon or under the land hereby granted and for the purposes aforesaid to sink shafts make drives erect machinery and to carry on any works and do any other things which may be necessary or usual in mining and with all other incidents that are necessary to be used for the getting of the said gold silver and minerals and the working of all mines seams lodes and deposits containing such gold silver and minerals in upon or under the land hereby granted

PROVIDED NEVERTHELESS that the land hereby granted shall not be maintained or used as a site for more than one residence and not more than one building for business purposes. AND PROVIDED FURTHER that the said land is and shall be subject to be resumed for mining purposes under Section 168 of the *Land Act 1928*. AND PROVIDED ALSO that the said land is and shall be subject to the right of any person being the holder of a miner's right or of a mining lease or mineral lease under the *Mines Act 1928* or any corresponding previous enactment to enter therein and to mine for gold silver or minerals within the meaning of the said Act and to erect and occupy mining plant or machinery thereon in the same manner and under the same conditions and provisions as those to which such person would for the time being be entitled to mine for gold and silver in and upon Crown lands. PROVIDED that compensation shall be paid to the said

GRANTEE

his heirs executors administrators assigns or transferees by such person for surface damage to be done to such land by reason of mining thereon such compensation to be determined as provided for the time being by law and the payment thereof to be a condition precedent to such right of entry.

LENGTHS ARE IN LINKS

Metres = 0.3048 x Feet  
 Metres = 0.201168 x Links

Sheet 2 of 2 sheets



*Consultant for:*  
SEMI & LOCAL GOVERNMENT  
SURVEYORS  
PLANNERS  
VALUERS  
SOLICITORS  
ESTATE AGENTS

*Searchers of:*  
T.L.A. TITLES  
GENERAL LAW  
CROWN LANDS  
SURVEY INFORMATION  
CORPORATE AFFAIRS  
ELECTORAL ROLLS

29/09/2024

**TO WHOM IT MAY CONCERN**

**RE PROPERTY: 127-137 MERRIVALE DRIVE, WARRNAMBOOL**

My name is Peter O'Loughlin, I am a Partner of the firm Feigl & Newell Pty Ltd, Title Searchers.

The reservations, exceptions, conditions, limitations and powers set out in Crown Grant Volume 5957 Folio 255 are solely between the Grantee (burdened) and the Crown (beneficiary) and are to run with the land.

Please advise if any further information is required.

Yours faithfully,



Peter O'Loughlin

**Office:** Suite 812, Level 8, 530 Little Collins Street, Melbourne, 3000.

**Postal Address:** Box 2343, G.P.O. Melbourne, 3001.

**Telephone:** 9629 3011, 9620 7022 **Fax:** 9649 7833

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

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VOLUME 05957 FOLIO 255

Security no : 124116667133B  
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### CROWN GRANT

#### LAND DESCRIPTION

Crown Allotment 11 Section 70 Township of Warrnambool Parish of Wangoom.

#### REGISTERED PROPRIETOR

Estate Fee Simple  
Sole Proprietor

[REDACTED] of 127-137 MERRIVALE DRIVE WARRNAMBOOL VIC 3280  
AY046627Q 29/05/2024

#### ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AY046628N 29/05/2024  
NATIONAL AUSTRALIA BANK LTD

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

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

Street Address: 127-137 MERRIVALE DRIVE WARRNAMBOOL VIC 3280

#### ADMINISTRATIVE NOTICES

NIL

eCT Control 16089P NATIONAL AUSTRALIA BANK LTD  
Effective from 29/05/2024

DOCUMENT END

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# ADVERTISED

TITLE PLAN		TP 630295L
<p><b>LAND DESCRIPTION INCLUDING RESERVATIONS EXCEPTIONS CONDITIONS AND POWERS SHOWN ON THE CROWN GRANT</b></p>		
<p style="text-align: right;">III THAT PIECE OF LAND in the said State</p> <p>containing <i>one acre four roods and twenty three perches more or less being allotment eleven of section seventy in the City of Wannambool Parish of Wangoom County of Wilkes</i></p> <hr/> <p>delimited with the measurements and abutments thereof in the map drawn in the margin of these presents and therein colored yellow PROVIDED nevertheless that the grantees shall be entitled to sink wells for water and to the use and enjoyment of any wells or springs of water upon or within the boundaries of the said land for any and for all purposes as though he held the land without limitation as to depth EXCEPTIVE nevertheless unto Us Our heirs and successors all gold and silver and minerals as defined in the <i>Mines Act 1928</i> in upon or under or within the boundaries of the land hereby granted AND ALSO reserving to Us Our heirs and successors free liberty and authority for Us Our heirs and successors and Our and their licensees agents and servants at any time or times hereafter to enter upon the said land and to search and mine therein for gold silver and minerals as aforesaid and to extract and remove therefrom any such gold silver and minerals and to search for and work dispose of and carry away the said gold silver and minerals lying in upon or under the land hereby granted and for the purposes aforesaid to sink shafts make drives erect machinery and to carry on any works and do any other things which may be necessary or usual in mining and with all other incidents that are necessary to be used for the getting of the said gold silver and minerals and the working of all mines seams lodes and deposits containing such gold silver and minerals in upon or under the land hereby granted</p> <hr/> <p>PROVIDED NEVERTHELESS that the land hereby granted shall not be maintained or used as a site for more than one residence and not more than one building for business purposes. AND PROVIDED FURTHER that the said land is and shall be subject to be resumed for mining purposes under Section 168 of the <i>Land Act 1928</i>. AND PROVIDED ALSO that the said land is and shall be subject to the right of any person being the holder of a miner's right or of a mining lease or mineral lease under the <i>Mines Act 1928</i> or any corresponding previous enactment to enter therein and to mine for gold silver or minerals within the meaning of the said Act and to erect and occupy mining plant or machinery thereon in the same manner and under the same conditions and provisions as those to which such person would for the time being be entitled to mine for gold and silver in and upon Crown lands. PROVIDED that compensation shall be paid to the said</p> <p style="text-align: center;"><u>GRANTEE</u></p> <hr/> <p>his heirs executors administrators assigns or transferees by such person for surface damage to be done to such land by reason of mining thereon such compensation to be determined as provided for the time being by law and the payment thereof to be a condition precedent to such right of entry.</p>		
LENGTHS ARE IN LINKS	Metres = 0.3048 x Feet Metres = 0.201168 x Links.	Sheet 2 of 2 sheets

# ADVERTISED

WARRNAMBOOL  
Subdivision Act 1988

## APPLICATION FOR CERTIFICATION

### PART A

To: Warrnambool City Council (PO Box 198, Warrnambool, VIC 3280)  
We: Smith Land Surveyors (142A Fyans Street, South Geelong VIC 3220, ph 03 5222 1234)

apply to have the attached

- PLAN OF REMOVAL OF RESTRICTION

certified under the **Subdivision Act 1988** and to have advice of street numbers allocated

**Situation of land:** 127-137 MERRIVALE DRIVE WARRNAMBOOL VIC 3280

**Name and address of registered proprietor of land or owner:**  
PHILIP RICHARD DAVIS of 127-137 MERRIVALE DRIVE WARRNAMBOOL VIC 3280

**Name and address of applicant:**  
Smith Land Surveyors (142A Fyans Street, South Geelong VIC 3220, ph 03 5222 1234)

Does the attached plan do anything requiring the unanimous resolution of the members of the owners corporation under Division 3 of Part 5 of the Subdivision Act 1988 or an order of the Victorian Civil and Administrative Tribunal under Section 34D of the Subdivision Act 1988? **YES / NO**

If 'YES', have the members of the affected owners corporation passed a unanimous resolution to proceed with the alterations shown on the attached plan? **YES / NO**

If 'NO', has the Victorian Civil and Administrative Tribunal made an order under section 34D of the Subdivision Act 1988? **YES / NO**

Signed *Emma Grant* (EMMA GRANT, Applicant)

I consent to the applicant submitting this plan to the Council for certification.

Signed: *Philip Davis* (PHILIP RICHARD DAVIS, Owner)

**PART B (Old Law Land):** Not applicable

**PART C (Acquiring Authority):** Not applicable



# PLAN OF REMOVAL OF RESTRICTION

(Section 23 Subdivision Act 1988)

EDITION 1

# ADVERTISED

## Location of Land

Parish: WANGOOM

Township: WARRNAMBOOL

Section: 70

Crown Allotment: 11

Crown Portion: -

### Title References

C/T VOL 05957 FOL 255

Last Plan Reference: LAND IN TP 690295L

Postal Address: 127-137 MERRIVALE DRIVE  
(at time of subdivision) WARRNAMBOOL 3280

MGA Co-ordinates: E: 627 370 Zone 54  
(of approx centre of land N: 5 751 060 GDA 2020  
in plan)

Council Name: Warrnambool City Council

SPEAR Reference Number: S235787T

## Notations

Upon registration of this plan the following restriction is to be removed:

### Restriction Reference:

Reservations Exceptions Conditions and Powers contained in Crown Grant VOL 5957 FOL 255 and noted on Sheet 2 of TP 690295L.

### Burdened Land:

Land in TP 690295L

### Benefited Land:

-

### Removal:

Removal of the Reservations Exceptions Conditions and Powers contained in Crown Grant VOL 5957 FOL 255 and noted on Sheet 2 of TP 690295L.  
relating to Land in TP 690295L;

To remove the words shown within paragraph 2 of Reservations Exceptions Conditions and Powers contained in Crown Grant VOL 5957 FOL 255 and noted on Sheet 2 of TP 690295L being "more than one residence and".

### Grounds for Removal:

Planning Permit Number -



**Smith Land Surveyors Pty Ltd**  
Office - 142a Fyans Street, South Geelong, Vic, 3220  
P (03) 5222 1234 F (03) 5223 3141  
E survey@smiths.com.au  
W www.smithlandsurveyors.com.au  
ABN 72 142 046 964

SURVEYORS FILE REF: 2024-0378POR

LICENSED SURVEYOR ..... Glenn Graham Smith .....

VERSION: 1

ORIGINAL SHEET  
SIZE: A3

SHEET 1 OF 1

# PLAN OF REMOVAL OF RESTRICTION

(Section 23 Subdivision Act 1988)

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# ADVERTISED

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Planning Permit Number -



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E survey@smiths.com.au  
W www.smithlandsurveyors.com.au  
ABN 72 142 046 964

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LICENSED SURVEYOR ..... Glenn Graham Smith .....

VERSION: 1

ORIGINAL SHEET  
SIZE: A3

SHEET 1 OF 1