

**Memorandum of common provisions  
Restrictive covenants in a plan  
Section 91A Transfer of Land Act 1958**

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This memorandum contains provisions which are intended for inclusion in plans under the Subdivision Act 1988 to be subsequently lodged for registration.

**Operative words including words to bind the burdened land and words of annexation must not be included.**

Provisions to apply to the plan:

**Burdened land:** As set out in plan of subdivision PS844184E.

**Benefited land:** As set out in plan of subdivision PS844184E.

**Covenants: PRELIMINARIES**

**A** This MCP provides details of the approved building envelopes for PS844184E. This MCP will no longer apply to any lot or lots on PS844184E which are re-subdivided or consolidated post registration of PS844184E.

**PROVISIONS**

Any building requiring a building permit to be constructed on a lot to which this MCP applies must be sited within the approved building envelope subject to the restrictions on PS844184E.

**Notes on this MCP**

- 1 Part 1. Requirements for Lots over 300m<sup>2</sup>**
  - 1.1** The building envelopes herein for lots over 300m<sup>2</sup> apply to minimum setbacks and the matters set out in this MCP. For matters not covered in this MCP the Building Regulations Part 5 including 74(3) apply.
  - 1.2** The registered proprietor or proprietors for the time being must not erect or cause or permit to be erected or remain on the Lot any type of front fence or side fence forward of the front facade of the dwelling to be constructed on the Lot.

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1. The provisions are to be numbered consecutively from number 1.
2. Further pages may be added but each page should be consecutively numbered.
3. To be used for the inclusion of provisions in plans.

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- 1.3 The registered proprietor or proprietors for the time being must not erect or cause or permit to be erected or remain on the lot a dwelling (excluding garages, verandahs and balconies) with a floor area of less than 110m<sup>2</sup> (except for multi dwelling developments approved by the City of Melton or its successors).
- 1.4 The registered proprietor or proprietors for the time being must not cause or permit to be erected or remain on the lot a garage set back less than 5 metres from the lot frontage.
- 1.5 The registered proprietor or proprietors for the time being must not construct a roof (other than a garden shed) visible from a road and with a pitch of less than 22 degrees.

**2 Part 2. Requirements for Lots under 300m<sup>2</sup>**

**2.1 Maximum street setback**

The front wall of a new Class 1a Building must be set back no more than 1.5 metres than the street setback specified in Table 1.

**2.2 Minimum street setbacks and articulation**

In this standard, street does not include lane, footway, alley or right of way.

- 2.2.1 Unless shown on the building envelope plans in this MCP, walls of a building must be setback from front and side street alignments the distances specified in Table 1.

**Table 1 Street setbacks**

Designation of the allotment in the subdivision permit	Minimum setback from front street alignment	Minimum setback from side street alignment, where the lot is on a corner
Type A	4.0 metres for a building facing a declared road  1.5 metres for a building facing a street where there is a recreation reserve on the other side of the street and opposite the allotment  3.0 metres in any other case	1.5 metres
Type B	4.0 metres for a building facing a declared road  1.5 metres in any other case	1 metre

A front street setback may be to a reserve if the dwelling is rear-loaded.

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2.2.2 Walls of a building must be articulated in accordance with Table 2.

**Table 2 Articulation at front and side street**

<b>Minimum articulation at front Street Alignment</b>	<b>Minimum articulation at side Street Alignment</b>
No less than 25 per cent of the area of the front façade of a building must be setback at least an additional 300mm	If a wall is more than 10.0 metres in length, 10 per cent of the area of the wall must be setback at least an additional 300mm

For the purposes of this standard, the area of the front façade means the area of the walls of the building facing the front street and measured from a two-dimensional elevation and excludes any roof area and the area of garage and carports doors / opening.

2.2.3 The entrance (to a door or opening) of any garage or carport, that is accessed from the front street alignment (not a lane), must be setback:

- a. no less than 5.0 metres from the front street alignment; or
- b. no less than 2.0 metres from the side street alignment.

2.2.4 The following may encroach into the setback distance required by standard 2.2.1 by no more than 1.5 metres –

- a. eaves, fascia and gutters; and
  - b. decks, steps or landings less than 800mm in height;
- provided these encroachments do not project over a street alignment.

2.2.5 At least one of the following design features must be provided to the front of the building and may encroach into the setbacks required by standard 2.2.1 –

- a. a porch, verandah or pergola that–
  - i. is open on at least 2 sides;
  - ii. has a width that does not exceed 80 per cent of the frontage of the allotment or 4m, whichever is the greater; and
  - iii. projects at least 800mm and no more than 1.5 metres forward of the front wall (inclusive of the eave);

or
- b. a balcony on the second storey or above, that –
  - iv. for any part of the balcony that is forward of the front wall, has a width that does not exceed 80 per cent of the frontage of the allotment or 4.0 metres, whichever is the greater; and
  - v. projects at least 300mm and no more than 1.0 metre forward of the front wall, if the balcony is roofed; or

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- vi. projects at least 800mm and no more than 1.5 metres forward of the front wall, if the balcony is not roofed;  
or
- c. fin/s or sunhood/s having a minimum combined dimension of 3.1 metres which must project at least 300mm and not more than 1.0 metre forward of the front wall to which it is attached.

**2.3 Building Height**

2.3.1 The height and/or storeys of a building must not exceed those specified in the zone, inclusive of any schedule. If no height specified:

- a. the building height must not exceed 11 metres; and
- b. the building must contain no more than 3 storeys at any point.

The reference to zone in this standard includes an applied zone.

**2.4 Site Coverage**

2.4.1 The site area covered by buildings must not exceed the area specified in Table 3.

**Table 3 Site coverage**

<b>Designation of the allotment in the subdivision permit</b>	<b>Site coverage</b>
Type A	90 per cent The percentage may be calculated as the average of allotments that have simultaneously approved/lodged attached dwellings
Type B	100 per cent

When calculating site coverage under standard 2.4.1, eaves, fascia and gutters not exceeding 600mm in total width, unroofed swimming pools, unroofed terraces, unroofed patios, unroofed decks and pergolas may be disregarded.

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**2.5 Permeability**

2.5.1 The site area covered by permeable surfaces must be at least the area specified in Table 4.

**Table 4 Permeability**

Designation of the allotment in the subdivision permit	Permeable surfaces
Type A	10 per cent The percentage may be calculated as the average of allotments that have simultaneously approved/lodged attached dwellings
Type B	No minimum permeable surface specified

**2.6 Car parking**

2.6.1 Provision must be made for the number of car parking space(s) specified in Table 5.

**Table 5 Car parking**

Designation of the allotment	Minimum number of car parking spaces in the subdivision permit
Type A	1 car parking space if the building has two or less bedrooms 2 car parking spaces if the building has 3 or more bedrooms
Type B	1 car parking space

2.6.2 The car parking space(s) required under standard 2.6.1 must be accessible from a public street or lane or right of way, however, if the allotment has a frontage width of less than 6.0m access to the car parking space(s) must only be from the rear of the allotment.

2.6.3 If 1 car parking space is required under standard 2.6.1 it must be at least 6.0 metres long and 3.5 metres wide.

2.6.4 If 2 car parking spaces are required under standard 2.6.1 –

- a. one space must be at least 6.0 metres long and 3.5 metres wide; and
- b. the second space must be at least 4.9 metres long and 2.6 metres wide.

2.6.5 The minimum ceiling height to a garage, carport or car parking space is 2.1 metres.

2.6.6 Despite standard 2.6.4, if the 2 required car parking spaces adjoin each other in a garage or carport or in a space constrained by walls, the double space may be 5.5 metres in width.

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- 2.6.7 If the car parking space(s) required under standard 2.6.1 is in a garage or carport and the door(s) or opening(s) to the garage or carport faces the front street –
- a. the width of the door(s) or opening(s) must not exceed 50 per cent of the width of the frontage of the allotment; or
  - b. the area of the door(s) or opening(s) must not exceed 30 per cent of the area of the front façade of the building.

For the purposes of this standard, the area of the front façade of the building means the area of the walls of the building facing the front street, measured from a two-dimensional elevation and excluding any roof area.

**2.7 Side and rear setbacks**

Standard 2.7 does not apply to a wall of a building or a carport that complies with standard 2.8.

- 2.7.1 Unless shown on the building envelope plans in this MCP, a building must be set back from a side or rear boundary not less than the distance specified in Table 6.

**Table 6 Side and rear setbacks**

<b>Building height at any point</b>	<b>Minimum setback from side or rear boundary</b>	<b>Minimum setback from a lane</b>
3.6 metres or less	1.0 metre	0 metres
More than 3.6 metres but not more than 6.9 metres	1.0 metre plus 0.3 metres for every metre of height over 3.6 metres	0 metres
More than 6.9 metres	2.0 metres plus 1.0 metre for every metre of height over 6.9 metres	2.0 metres plus 1.0 metre for every metre of height over 6.9 metres

- 2.7.2 The following may encroach into the setback distance required by Table 7 by not more than 500mm (this standard does not apply to setback from lane) –

- a. porches and verandahs;
- b. masonry chimneys;
- c. sunblinds and sunhoods;
- d. flues and pipes;
- e. domestic fuel tanks and water tanks; and
- f. heating and cooling equipment and other services.

- 2.7.3 Eaves, fascias and gutters may encroach into the setback distance required by Table 6 by not more than 600mm (this standard does not apply to setback from lane).

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- 2.7.4 The following may encroach into the setback distance required by Table 6 (this standard does not apply to setback from lane) –
- a. landings with an area of not more than 2 square metres and less than 1.0 metre high;
  - b. unroofed stairways and ramps;
  - c. pergolas;
  - d. shade sails; and
  - e. decks less than 800mm above natural ground level.

**2.8 Walls on boundaries**

The maximum height of a wall on or within 0.2 metres of a side or rear boundary, or a carport on or within 1.0m of a side or rear boundary (not a lane), must not exceed 3.6 metres unless:

- a. it abuts an existing building on the adjoining allotments or will abut a simultaneously approved building on the boundary; and
- b. the height difference between the existing adjoining building or the simultaneously approved building or carport does not exceed 3.6 metres.
- c. notwithstanding standard 2.8.a the length difference between the existing or simultaneously approved building must not exceed a total of 2.0 metres, and the additional length must not cast additional shadow on a light court in accordance with Standard 2.11.

- 2.8.1 There is no maximum wall on boundary length, provided the other Standards are satisfied.

**2.9 Daylight to existing habitable room windows**

- 2.9.1 The application is exempt from the requirements of the *Building Regulations 2018*.

**2.10 Solar access to existing north-facing windows**

- 2.10.1 The application is exempt from the requirements of the *Building Regulations 2018*.

**2.11 Overshadowing of secluded private open space**

- 2.11.1 A building must not reduce the sunlight to any secluded private open space of an existing building on an adjoining allotment to less than 6 square metres, with a minimum dimension of 2.0 metres.

For the purposes of calculating the area of direct sunlight at this standard, the length of shadow cast is calculated by multiplying the height of building and/or fence by 0.9 when the sun is true north.

**2.12 Overlooking**

- 2.12.1 A window in a habitable room, where the floor level of the room is more than 2.5m above natural ground level and the window faces (at an angle less than 45°)

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secluded private open space or habitable room windows of an existing dwelling within a horizontal distance of 4.5 metres, the window must either –

- a. have a sill height at least 1.7 metres above floor level; or
- b. have fixed obscure glazing in any part of the window below 1.7 metres above floor level.

In this standard, a window facing a habitable room window means a window within 1.5 m from the edge of the other habitable room window.

- 2.12.2 A raised open space that faces secluded private open space or habitable room windows of an existing dwelling within a horizontal distance of 4.5 metres, must be screened to a height of at least 1.7m above the floor level and be no more than 25 per cent transparent.

**2.13 Daylight to habitable room windows**

- 2.13.1 Each required habitable room window of a building on an allotment must face –

- a. an outdoor space or light court with a minimum area of 3 square metres and a minimum dimension of 1.0 metre clear to the sky, not including land on an adjoining allotment; or
- b. a verandah provided it is open for at least one third of its perimeter; or
- c. a carport provided it has two or more open sides and is open for at least one third of its perimeter

For the purposes of this standard, a side of a carport or verandah will be open if the roof covering of the carport or verandah is not less than 500mm from another building on the allotment or the adjoining allotment boundary.

**2.14 Private open space**

- 2.14.1 If a dwelling on an allotment has three or more bedrooms it must have –

- a. at least 24 square metres of private open space at the side or rear of the building with a minimum dimension of 3.0 metres; or
- b. at least 24 square metres provided in 2 or more parcels, provided that –
  - i. each parcel is at least 12 square metres; and
  - ii. at least 1 parcel has a minimum dimension of 3.0 metres; or
- c. a balcony or roof-top area of at least 12 square metres of private open space with a minimum dimension of 3.0 metres.

- 2.14.2 If a dwelling on an allotment has two or less bedrooms it must –

- a. have at least 12 square metres of private open space at the side or rear of the building with a minimum dimension of 3.0 metres; or
- b. a balcony or rooftop area that is at least:
  - i. 10 per cent of the total floor area of the building excluding garages and carports; or
  - ii. 6 square metres with a minimum dimension of 2 metres,

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whichever is the greater.

- 2.14.3 If the private open space is provided at the side or rear of the dwelling or as a roof top area, an area of at least 6 square metres, with a minimum dimension of 2.0 metres, must have access to direct sunlight.

For the purposes of calculating the area of direct sunlight at this standard, the length of shadow cast is calculated by multiplying the height of building and/or fence by 0.9 when the sun is true north.

**2.15 Front fence height**

- 2.15.1 A front fence on or within 3m of the street alignment must not exceed the maximum height specified in specified in Table 7.

**Table 7 Front fence height**

<b>Street type</b>	<b>Maximum fence height</b>
A declared road	2.0 metres
Any other street	1.2 metres

- 2.15.2 A front fence, other than a front fence to a declared road, must be at least 15 per cent transparent above 700mm height.

**2.16 Fences setback more than 150mm from side and rear boundaries**

- 2.16.1 A fence that is setback more than 150mm from a side or rear boundary must not exceed 2.5 metres in height and the part of the fence between 2.0 metres and 2.5 metres in height must be at least 25 per cent transparent.

**2.17 Fences on or within 150mm of side or rear boundaries**

- 2.17.1 A fence that is on or within 150mm of a side or rear boundary must not exceed 2.5 metres in height and the part of the fence between 2.0 metres and 2.5 metres in height must be at least 25 per cent transparent.

**2.18 Fences forward of front walls**

- 2.18.1 Any part of a fence that is constructed forward of the front wall of a dwelling must comply with the height and transparency requirements of standards 2.15.1 and 2.15.2.

**2.19 Fences on street alignments**

In this standard street does not include lane, footway, alley or right of way.

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- 2.19.1 Despite standards 2.15.1 and 2.15.2, a fence within 3.0 metres of a point of intersection of street alignments must not exceed a height of 1.0 metre above footpath level.
- 2.19.2 A fence within 1.0 metre of a side street alignment –
- a. must not exceed 2.0 metres in height; and
  - b. may be solid for no more than 65 per cent of its length, the remaining length of the fence must be at least 15 per cent transparent.
- 2.19.3 A fence on a rear street alignment must not exceed 2.0 metres in height above natural ground level.
- 2.19.4 A fence adjacent to and within 1.0 metre of a street alignment or public open space must not contain barbed wire or other sharp protrusions.

**2.20 Fences and daylight to windows in existing building**

The application is exempt from the requirements of the *Building Regulations 2018*.

**2.21 Fences and solar access to existing north-facing habitable room windows**

The application is exempt from the requirements of the *Building Regulations 2018*.

**2.22 Fences and overshadowing of secluded private open space**

The application is exempt from the requirements of the *Building Regulations 2018*.

**3. Part 3. Requirements for All Lots**

- 3.1 The registered proprietor or proprietors for the time being must not use reflective materials for the roof of any building (other than a garden shed) except for panels for the collection of solar energy.
- 3.2 The registered proprietor or proprietors for the time being must not construct or remain constructed any side or rear boundary fencing on the lot other than that constructed of masonry, colourbond or timber.
- 3.3 The registered proprietor or proprietors for the time being must not construct on the lot more than one driveway and crossover without the consent of the Responsible Authority.
- 3.4 The registered proprietor or proprietors for the time being must not place, park or maintain any commercial vehicle with a carrying capacity of one tonne or greater or any caravan, boat or trailer on the land or any part thereof such that the vehicle, caravan or trailer is in a position which is visible from the street abuttal of the lot on which it is placed, parked or maintained.
- 3.5 The registered proprietor or proprietors for the time being must not erect, cause or permit to be erected or remain on the lot any temporary, relocatable buildings or structures including storerooms and garden sheds unless for the use in connection with the building of the dwelling house.

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- 3.6 The registered proprietor or proprietors for the time being must not install external plumbing on the dwelling house, apart from stormwater pipes, which are visible from the road.
- 3.7 The registered proprietor or proprietors for the time being must not erect, cause or permit to be erected or remain on the land any outdoor pool or spa which is visible from the road.
- 3.8 The registered proprietor or proprietors for the time being must not occupy the dwelling without fully constructing the driveway.

**4 Part 4. General Definitions**

- 4.1 **Approved building envelope** means the building envelope for a particular lot contained in the plan of subdivision as detailed in this MCP.
- 4.2 **Building envelope** means an area within each lot where development of a dwelling, shed and garage is allowed subject to the provisions of this MCP.
- 4.3 **Building envelope plan** means the plan which is contained herein showing dwelling setbacks and other related matters.
- 4.4 **Allotment** means land that can be disposed of separately under section 8A of the *Sale of Land Act 1962* without being subdivided.
- 4.5 **Bedroom** includes any habitable room with a floor area greater than 6 square metres, that is enclosed on all sides and contains a window.
- 4.6 **Carport** is an open style car parking structure which –
  - a. has 2 or more of its side open, and
  - b. is open for at least 1/3 of its perimeter; a side of a carport may be taken as open if the roof covering is not less than 500mm from another building on the allotment or the adjoining allotment boundary.
- 4.7 **Class 1a** is a single dwelling being –
  - a. a detached house; or
  - b. one in a group of two or more attached dwellings, each being a building, separated by a fire resisting wall, including a row house, terrace house, town house, villa unit, or the like.
- 4.8 **Clear to the sky** means an unroofed area or an area roofed with a material that transmits at least 90 per cent of light.
- 4.9 **Declared road** means a freeway or an arterial road, both within the meaning of the *Road Management Act 2004*.
- 4.10 **Existing building & existing wall** in relation to an adjoining allotment means any part of a building or wall –
  - a. for which there is an 'occupancy permit', that has been given to the relevant council; or

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- b. for which there is a 'certificate of final inspection', that has been given to the relevant council.

**4.11 Fence** includes a screen or structure similar to a fence.

**4.12 Front street alignment** means the street which the front of the dwelling faces.

**4.13 Front wall** means the wall most forward of the building towards the front street alignment.

**4.14 Habitable room** means a room used for normal domestic activities, and –

- a. includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, playroom, family room, home theatre and sunroom; but
- b. excludes a bathroom, laundry, toilet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods.

**4.15 Height** in relation to –

- a. a building (other than a wall or fence) at any point, means the vertical distance between natural ground level and the top of the roof covering; and
- b. a wall at any point, means the vertical distance between the natural ground level at the base of the wall and the point at which the outer wall intersects the plane of the top of the roof covering, or the top of a parapet, whichever is higher; and
- c. a fence means the vertical distance between natural ground level at the base of the fence and the top of the fence at any point along the fence.

Chimneys, flues, service pipes and solar panels are not included when measuring heights.

**4.16 Natural ground level** means the level of the ground at the time the lot is created. Natural ground level is taken as being a line across the allotment that connects any two points, either within the allotment or on adjoining allotments.

**4.17 Pergola** means an open structure that is unroofed but may have a covering of open weave permeable material.

**4.18 Private open space** means –

- a. an unroofed area of land; or
- b. a deck, terrace, patio, balcony, pergola, verandah, gazebo, swimming pool or spa

**4.19 Raised open space** means a landing with an area of more than 2 square metres, a balcony, a terrace, a deck or a patio that has a floor level more than 800mm above natural ground level.

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- 4.20 Rear-loaded** means a dwelling which has vehicle access via a rear laneway and no vehicle access at a street frontage.
- 4.21 Required habitable room window** is a window required in accordance with *National Building Code of Australia Volume Two* that provides the minimum amount of light or ventilation to a habitable room.
- 4.22 Secluded private open space** means any part of private open space on an allotment –
- a. which is –
    - i. at the side or rear of an existing dwelling on the allotment; or
    - ii. is a balcony area; or iii. is a rooftop area; and
  - b. which is primarily intended for outdoor recreation activities.
- 4.23 Setback** from a boundary or building means a horizontal distance measured from that boundary or building.
- 4.24 Side street alignment** means, for an allotment with more than one street frontage, any other street (not lane) that is not the front street
- 4.25 Simultaneously approved** means buildings that have obtained their building permits on the same day, or an application for building permits have been applied for at the same time.
- 4.26 Site coverage** in relation to an allotment means that part of the allotment which is covered by buildings, expressed as a percentage of the area of the allotment.
- 4.27 Storey** means that part of a building between floor levels. If there is no floor above, it is the part between the floor level and ceiling. It may include an attic, basement, built over car parking area, and mezzanine.
- 4.28 Street** includes a road, highway, carriageway, lane, footway, square, court, alley and right of way (unless specified otherwise).
- 4.29 Street alignment** means the line between a street and an allotment.
- 4.30 Wall on boundary** means –
- a. buildings on or within 200mm of a side or rear boundary of an allotment; and
  - b. carports constructed on or within 1.0 metre of a side or rear boundary of an allotment and which is open on the side facing the boundary or boundaries.

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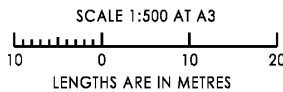
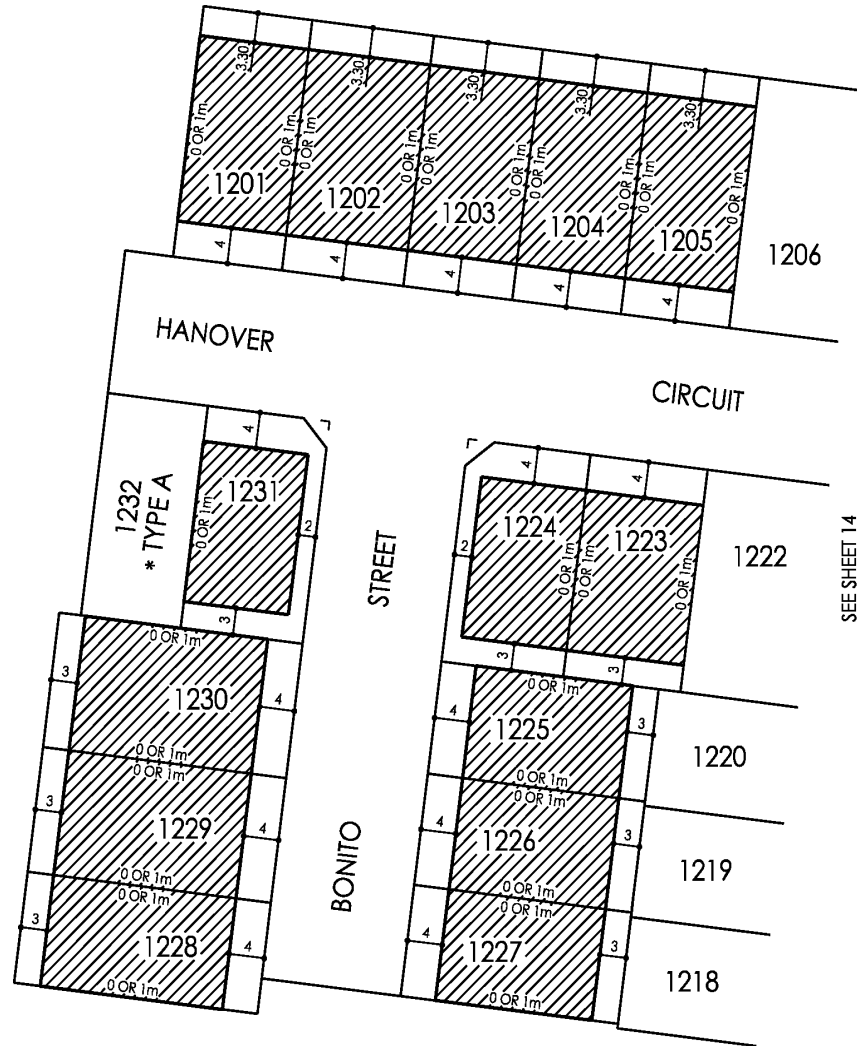
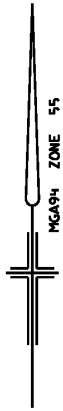
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BUILDING ENVELOPE DIAGRAM**



Breese Pitt Dixon Pty Ltd  
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**LEGEND :**

- BUILDING ENVELOPE BOUNDARY
- BUILDING ENVELOPE ZONE

91ATLA

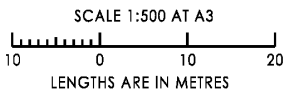
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**Memorandum of common provisions  
Restrictive covenants in a plan  
Section 91A Transfer of Land Act 1958  
BUILDING ENVELOPE DIAGRAM**

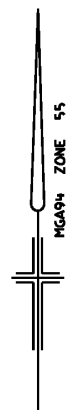
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