

# Memorandum of common provisions

## Restrictive covenants in a plan

### Section 91A Transfer of Land Act 1958

#### Privacy Collection Statement

The information in this form is collected under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes.

Lodged by	
Name:	
Phone:	
Address:	
Reference:	
Customer code:	

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 the plan of subdivision PS908246F/S21

**Benefited land:** As set out in the plan of subdivision PS908246F/S21

**Covenants:** **General Definitions**

If not defined above, the words below shall have the meaning attributed to them in the document identified.

*In the Building Act 1993:*

- Building
- Lot

In Part 5 of Building Regulations 2018:

- Clear to the sky
- Height
- Private open space
- Recreational private open space
- Raised open space
- Setback

35402012

V3

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.

91ATLA

Page 1 of 11

**THE BACK OF THIS FORM MUST NOT BE USED**

Land Use Victoria contact details: see [www.delwp.vic.gov.au/property](http://www.delwp.vic.gov.au/property)>Contact us

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

- Site Coverage
- Window
- Single Dwelling
- North (true North)

In the Victoria Planning Provisions, 31 October 2002:

- Frontage (Clause 72)
- Dwelling (Clause 74)
- Habitable room (Clause 72)
- Storey (Clause 72)

### ***Additional Definitions***

#### **DAP**

DAP means the Design Assessment Panel appointed by Villawood responsible for approving designs to be in accordance with this MCP.

#### **Front street or Main Street frontage**

Front Street means the street or road that forms the frontage to the relevant lot. Where there is more than one road which abuts a lot or where it may be otherwise unclear, the Front Street may be identified by the letter "F" in the Building Envelope Plan or will be as agreed in writing by the DAP.

#### **MCP**

This Memorandum of Common Provisions.

#### **Natural ground level**

Natural ground level means the ground level after engineering works associated with the subdivision have been completed.

#### **Side boundary**

A boundary of a lot that runs between and connects the street frontage of the lot to the rear boundary of the lot.

#### **Site coverage**

Site coverage includes roofed areas of the dwelling, in addition to roofed terraces, patios, decks and pergolas. Eaves, fascia and gutters not exceeding 600 mm in total width, and unroofed swimming pools, terraces, patios, decks and pergolas should be disregarded.

#### **Standard lot**

A single lot that accommodates a freestanding dwelling detached from adjoining dwellings and of an individual style.

#### **Street**

For the purposes of determining street setbacks, street means any road other than a lane, footway, alley or right of way.

#### **Villawood**

Villawood Properties.

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

### **Covenants:**

#### **Preliminary**

All Provisions of the Building Regulations 2018 not addressed in this Memorandum of Common Provisions (MCP) are as required in the said Building Regulations.

This MCP has been prepared to regulate the siting, form and design of residential development in accordance with the Kimberley Design Guidelines, so as to create a high level of amenity for owners and residents of allotments within the plan of subdivision.

This MCP will no longer apply to any lot or lots on PS908246F/S21 which are re-subdivided or consolidated post registration of PS908246F/S21.

Other than the designation of either Type A or Type B Small Lot Housing Code, this MCP does not apply to lots under 300m<sup>2</sup> in area.

#### **Approved Building Envelopes**

Any building on Lots 232 to 241 (both inclusive) within subdivision plan PS908246F/S21 must be contained within the building envelopes shown on the attached plan and defined by the associated setback profiles and written notes contained therein.

##### **1. Text of restrictions:**

The matters which are restricted by the building envelopes are:

###### **1.1 Minimum street setback**

###### **Building Regulations 2018 Part 5 – Siting, Regulation 74**

The front street setback is designated on the specified Building Envelope for each allotment. All dwellings must be setback from the main street frontage by the minimum distance indicated. Unless accessed from a laneway or sideage, garages must be constructed within the Building Envelope and located or set back 5.5m from the front boundary.

###### **1.2 Building height**

###### **Building Regulations 2018 Part 5 – Siting, Regulation 75**

###### **Hume Planning Scheme Clause 54.03-2**

The height of a building must not exceed the maximum building height shown in the profile diagrams specified in the Building Envelope Plan. Maximum building heights between specified points on a setback profile lie on a straight line drawn between the two specified points within a profile. Maximum building heights between profiles lie on a straight line drawn between the closest parts of the two profiles.

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

### 1.3 Site coverage

**Building Regulations 2018 Part 5 – Siting, Regulation 76**  
**Hume Planning Scheme Clause 54.03-3**

Unless otherwise specified in the notations to the Building Envelopes as they apply to particular allotments, buildings must not occupy more than 60 percent of the lot.

### 1.4 Side and rear setbacks

**Building Regulations 2018 Part 5 – Siting, Regulation 79**  
**Hume Planning Scheme 54.04-1**

The side setback is designated on the specified Building Envelope for each allotment. A building must be setback from a side boundary not less than the distances specified in the Profile Diagrams and shown on the Building Envelopes by a setback identifier code. Garages may be built to the side boundary if provided for on the Building Envelope plan and adjacent buildings allow. The measurements are taken from the natural surface levels to the top of the wall.

The side street setback is designated on the specified Building Envelope for each allotment.

A rear wall of a building not exceeding 3.6 metres in height must be set back from the rear boundary a minimum of 3 metres, and a rear wall of a building exceeding 3.6 metres in height must be set back from the rear boundary a minimum of 5.5 metres for standard lots.

The maximum height of a building facing a rear boundary must not exceed the maximum building height allowed by the side envelope profile as shown in the Profile Diagrams, or a height limit for a rear setback as dimensioned on the Building Envelope plan.

### 1.5 Walls on boundaries

**Building Regulations 2018 Part 5 – Siting, Regulation 80**  
**Hume Planning Scheme Clause 54.04-2**

Unless otherwise noted on the Building Envelopes, walls and associated parts of a building within 1.0 metre of a boundary are restricted to areas within a Building to Boundary Zone (BBZ). The BBZ spans the length of the side boundary between the front and rear setback permitted by this Building Envelope. The total length of walls in the BBZ is limited to 60% of the length of the boundary except for terrace style lots where walls are permitted to the extent of the nominated BBZ.

**Within the BBZ, the following apply:**

- Walls within the BBZ are allowed
- Carports and verandahs are not permitted to be built to the boundary
- Overall maximum height of a wall in the BBZ is restricted to 3.6 metres
- Walls less than 1.0 metre from the boundary must be within 200 mm of the boundary
- BBZ is permitted to one side of the lot only

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

### *Encroachments*

Side, Side Street and Rear: The following may encroach into the specified setback distances by not more than 600 mm:

- Porches, eaves, verandahs
- Masonry chimneys
- Screens, but only to the extent needed to protect a neighbouring property from a direct view
- Water tanks
- Heating and cooling equipment and other services

The following may encroach into the specified setback distances:

- Landings with an area of not more than 2 square metres and less than 0.8 metres high from natural ground level
- Unroofed stairways and ramps
- Pergolas
- Shade sails
- Eaves, fascia, gutters

Front: The following may encroach into the specified front street setback distances by no more than 1500 mm: For the purposes of these guidelines, gutters are not a measured item.

- Porches, porticos and verandahs to a maximum height of 4.5 metres
- Decks and uncovered landings of not more than 2 square metres and less than 0.8 metres high from natural ground level
- Eaves

For the purposes of these guidelines gutters are not a measured item.

#### **1.6 Daylight to existing habitable room windows Building Regulations 2018 Part 5 – Siting, Regulation 81 Hume Planning Scheme Clause 54.04-3**

This item is covered within the building envelope plan and profile diagrams.

Building Regulation 81 is superseded by this MCP.

#### **1.7 Solar access to existing north-facing habitable room windows Building Regulations 2018 Part 5 – Siting, Regulation 82 Hume Planning Scheme Clause 54.04-4**

This item is covered within the building envelope plan and profile diagrams.

Building Regulation 83 is superseded by this MCP.

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

### **1.8 Overshadowing of recreational private open space** **Building Regulations 2018 Part 5 – Siting Regulation 83** **Hume Planning Scheme Clause 54.04-5**

This item is covered within the building envelope plan and profile diagrams.

Building Regulation 83 is superseded by this MCP.

### **1.9 Overlooking** **Building Regulations 2018 Part 5 – Siting Regulation 84** **Hume Planning Scheme Clause 54.04-6**

This item is covered within the building envelope plan and profile diagrams.

Building Regulation 84 is superseded by this MCP.

### **1.10 Daylight to habitable windows** **Building Regulations 2018 Part 5 – Siting Regulation 85** **Hume Planning Scheme Clause 54.05-1**

This item is covered within the building envelope plan and profile diagrams.

Building Regulation 85 is superseded by this MCP.

#### ***Building Regulations***

Building regulations 73, 74, 75, 79, 80, 81, 82, 83, 84 & 85 are superseded by the approved building envelopes.

### **1.11 Double Storey building requirement**

If the relevant lot is indicated on the Building Envelope Plan as having a Double Storey Building Requirement, the dwelling constructed on the lot must be a double storey dwelling.

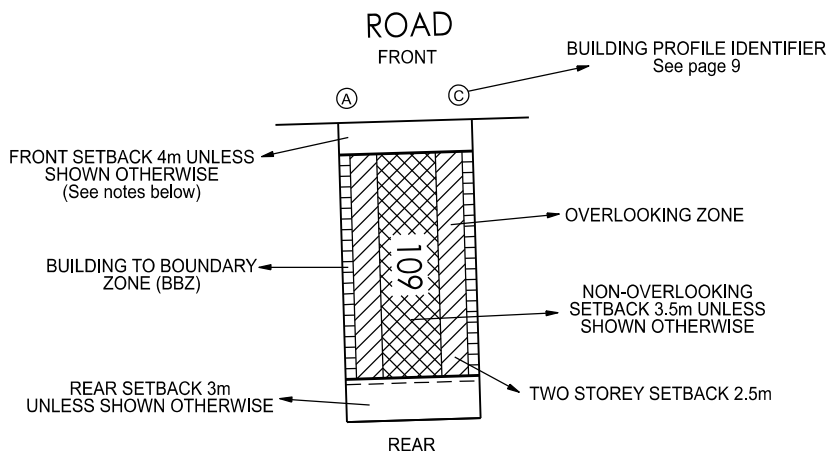
#### ***Notes on Restrictions***

- Ground level after engineering works associated with the subdivision is to be regarded as natural ground level
- In the case of a conflict between the Building Envelope plan or Profile Diagrams and these written notations, the specifications in the written notations prevail
- Buildings must not cover registered easements unless provided for by the easement

**BUILDING ENVELOPE SCHEDULE**

**LEGEND**

EXAMPLE OF TYPICAL BUILDING ENVELOPE SETBACKS




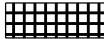


**NOTATIONS:**

- The front and side setbacks are measured to the outermost walls of the buildings,
- With the exception of garages with access from a laneway, garages must be located or setback 5.5m from the primary street frontage subject to any restrictions on the relevant plan of subdivision.
- Walls less than 1.0m from the boundary must be within 200mm of the boundary.
- The setback to a side street boundary for a corner lot is 2.0m unless noted otherwise.
- Two storey setback within the building envelope at the rear of the properties is 2.5m.
- Building to boundary zone to one boundary only unless terrace profile nominated.

**ADDITIONAL NOTATIONS (for Lots mark with \*):**

- Minimum open Space required is 25 square metres with a 3m minimum width.
- Maximum building site coverage of 70% is permitted.

**Refer "Diagrams and Plans" in this document for further definitions.**

-  Single Storey Building envelope
-  Building to Boundary Zone
-  Overlooking Zone - Habitable room windows or raised open spaces are a source of overlooking
-  Non-Overlooking Zone - Habitable room windows or raised open spaces are not a source of overlooking
- \*** Double Storey Building Requirement

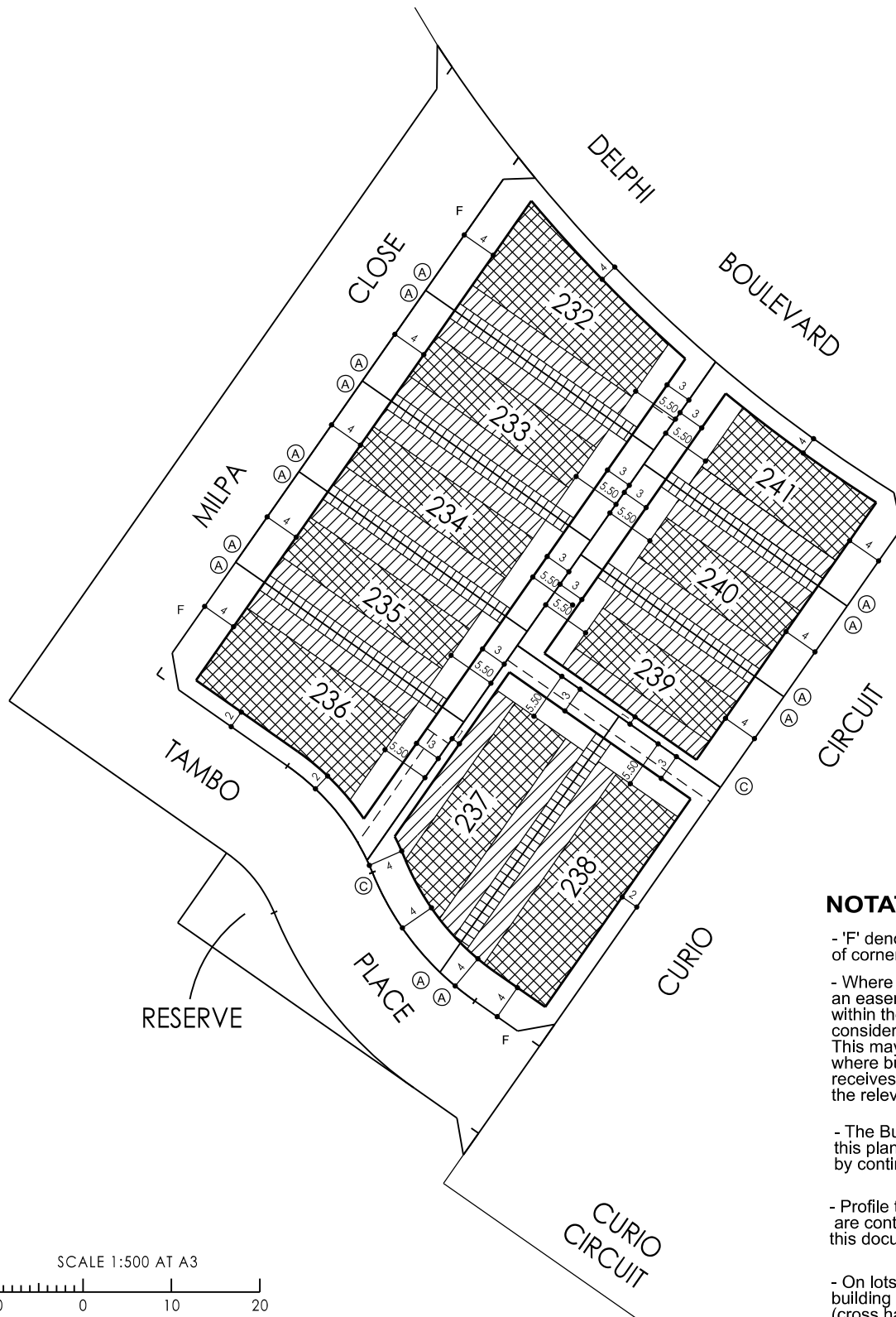
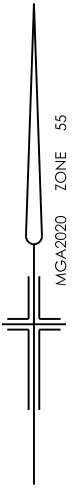
The registered proprietor or proprietors of the lot are required to build in accordance with the approved building envelopes shown hereon and in accordance with the "Profile Diagrams" in this document.

This plan forms part of the "Kimberley Design Guideline". Please refer to these Guidelines for further information.



Breese Pitt Dixon Pty Ltd  
 1/19 Cato Street  
 Hawthorn East Vic 3123  
 Ph: 8823 2300 Fax: 8823 2310  
 www.bpd.com.au info@bpd.com.au  
 10255/2A, SURVEYORS VERSION A

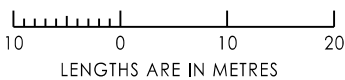
**Memorandum of common provisions**  
**Section 91A Transfer of Land Act 1958**



**NOTATIONS**

- 'F' denotes primary street frontage of corner lots
- Where a profile when applied covers an easement, the portion of the profile within the easement cannot be considered for approval / built upon. This may vary in the circumstances where building on the easement receives prior written consent by the relevant authority.
- The Building Envelopes on this plan are shown enclosed by continuous think lines.
- Profile types (A) (B) (C) (D) & (T) are contained in "Profile Diagrams" in this documents.
- On lots where more than one building to boundary zone (cross hatched on this plan) is shown a building constructed on the said lot must only be constructed within one of the building to boundary zones. (I.e. building may not be constructed from boundary to boundary)

SCALE 1:500 AT A3



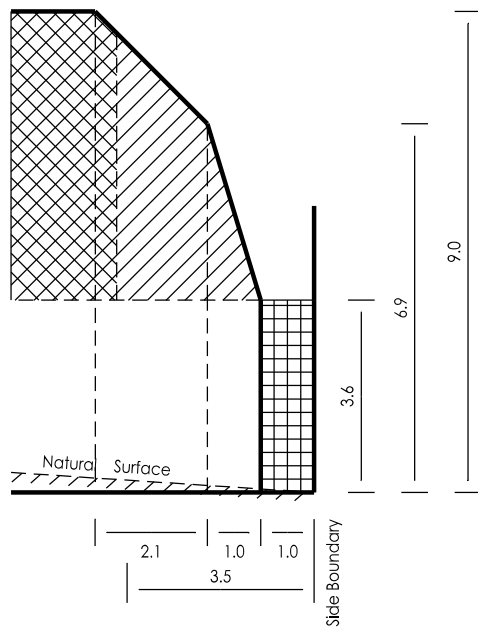
**Breese Pitt Dixon Pty Ltd**  
 1/19 Cato Street  
 Hawthorn East Vic 3123  
 Ph: 8823 2300 Fax: 8823 2310  
 www.bpd.com.au info@bpd.com.au  
 10255/2A, SURVEYORS VERSION A



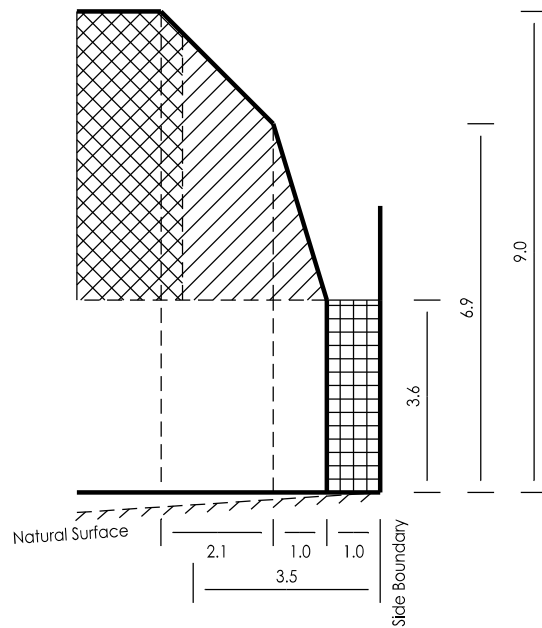
**Memorandum of common provisions**  
**Section 91A Transfer of Land Act 1958**

PROFILE DIAGRAMS

(A)

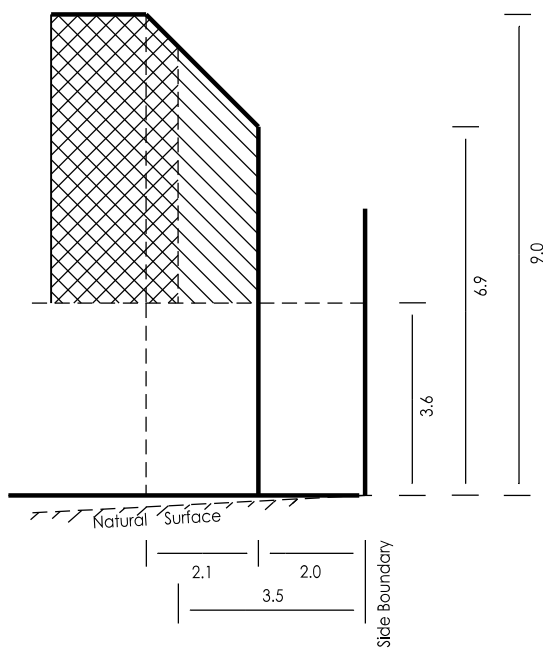


Natural Surface rising from side boundary

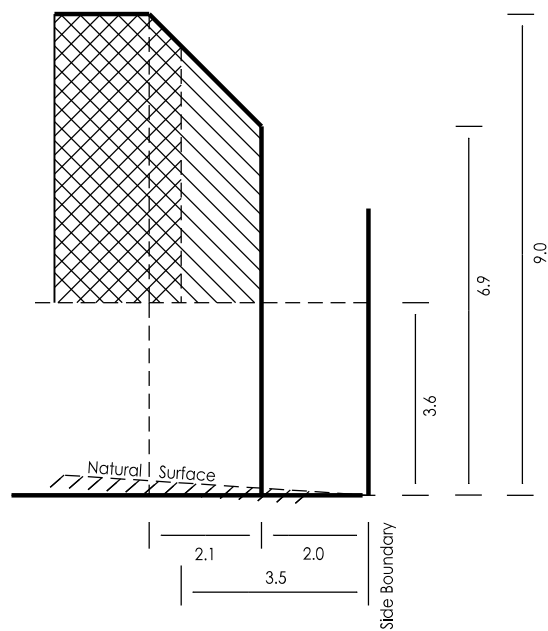


Natural Surface falling from side boundary

(B)



Natural Surface falling from side boundary



Natural Surface rising from side boundary

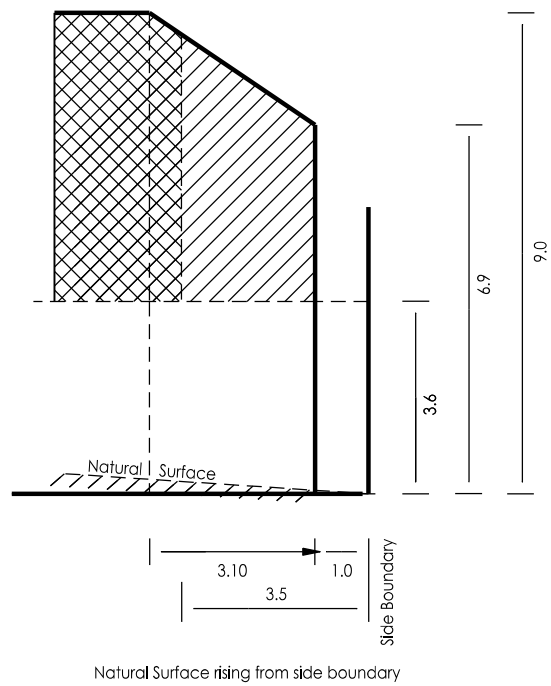
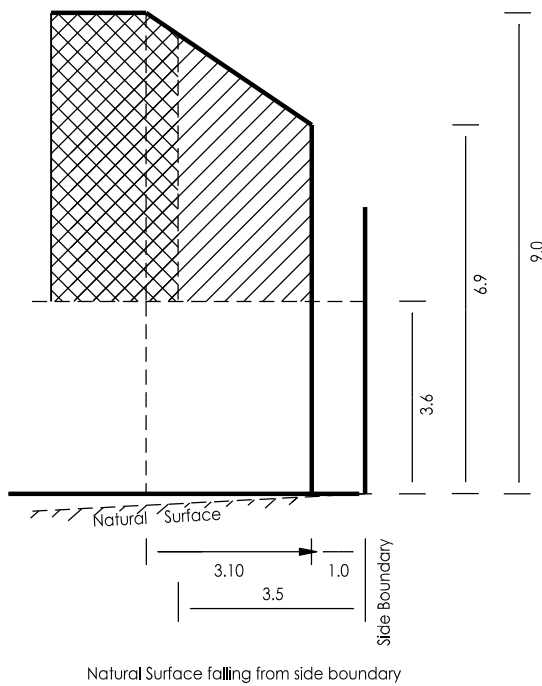


Breese Pitt Dixon Pty Ltd  
 1/19 Cato Street  
 Hawthorn East Vic 3123  
 Ph: 8823 2300 Fax: 8823 2310  
 www.bpd.com.au info@bpd.com.au  
 10255/2A, SURVEYORS VERSION A

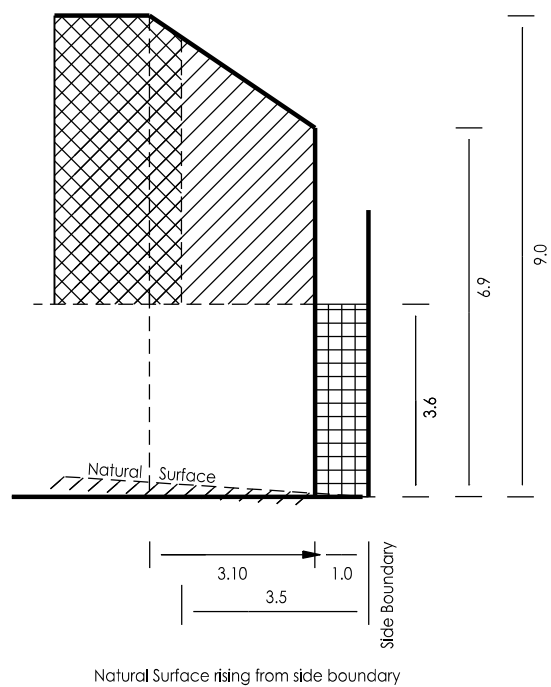
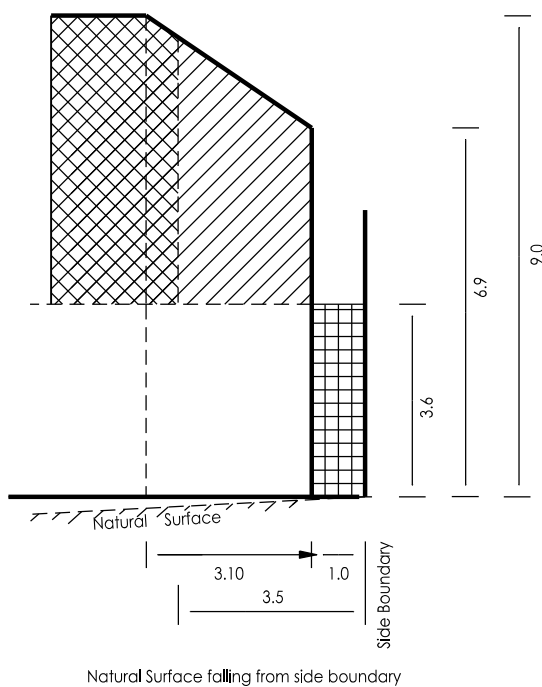
**Memorandum of common provisions**  
**Section 91A Transfer of Land Act 1958**

**PROFILE DIAGRAMS**

(C)



(D)

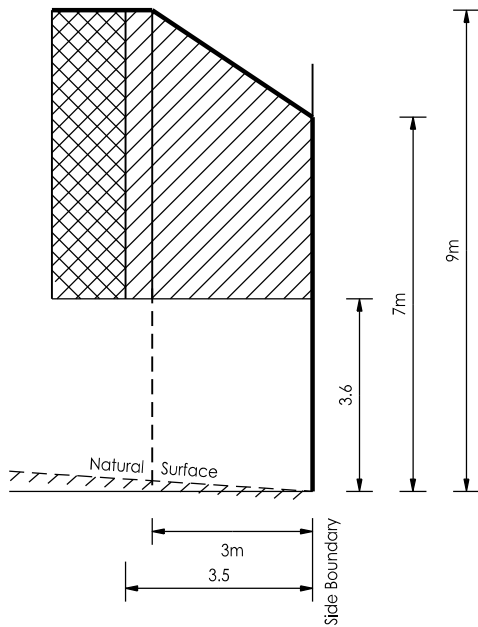


Breese Pitt Dixon Pty Ltd  
 1/19 Cato Street  
 Hawthorn East Vic 3123  
 Ph: 8823 2300 Fax: 8823 2310  
 www.bpd.com.au info@bpd.com.au  
 10255/2A, SURVEYORS VERSION A

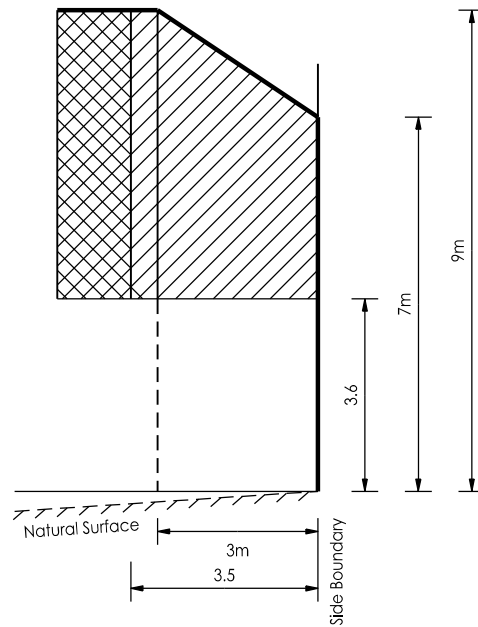
**Memorandum of common provisions**  
**Section 91A Transfer of Land Act 1958**

PROFILE DIAGRAMS

(T)



Natural Surface rising from side boundary



Natural Surface rising from side boundary



Breese Pitt Dixon Pty Ltd  
1/19 Cato Street  
Hawthorn East Vic 3123  
Ph: 8823 2300 Fax: 8823 2310  
www.bpd.com.au info@bpd.com.au  
10255/2A, SURVEYORS VERSION A