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 the plan.

Benefited land: As set out in the plan.

Covenants: ***General Definitions***

If not defined elsewhere in this document, 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*:
- Height
- Setback
- Site coverage

In the Victoria Planning Provisions:
- Frontage (Clause 73)
- Dwelling (Clause 73)
- Storey (Clause 73)

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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Covenants:
(continued)

Additional Definitions

Building Envelope
An area within each allotment (defined by particular allotment setbacks) where development of a dwelling is allowed subject to particular provisions of this document, the Planning Permit for the land and the Planning Scheme. Contained within the Building Envelope Plan.

Building Envelope Plan
The plan which is attached to this MCP and which shows the building envelopes, certain setbacks and other related matters for the allotments within the plan of subdivision.

Building Regulations
The regulations as contained within Building Regulations 2018 that apply to and control the built form of dwellings in Victoria.

DAP
DAP means the Design Assessment Panel appointed by Villawood Properties on behalf of the vendor, responsible for approving designs to be in accordance with this MCP.

Design Guidelines
Means the Alamora Design Guidelines as prepared by Villawood and in force at the time of DAP approval. Villawood may amend the Alamora Design Guidelines at its discretion.

Front street or Main Street frontage
Front Street means the street or road that forms the frontage to the lot concerned. Where there is more than one road which adjoins 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.

Plan of Subdivision
The Plan of Subdivision as registered and available at Land Registry, and if unregistered, available in the Contract of Sale.

Responsible Authority
The responsible authority for the Planning Scheme of the municipality, in this case Wyndham City Council.

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.

Small Lot Housing Code
Lots identified as Type A or Type B on the Building Envelope Plans are lots to which the Small Lot Housing Code applies.

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

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Covenants:
(continued)

Villawood
Refers to Villawood Properties, the land developer acting on behalf of the vendor.

Covenants:

Preliminary

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

This MCP cannot be changed or amended unless with the written consent of the Responsible Authority.

Approved Building Envelopes

Any building on Lots 2101 to 2148 (both inclusive) within subdivision plan PS905192T must be contained within the building envelopes, associated profile diagrams and written notes contained therein.

Text of restrictions:

The registered proprietor or proprietors for the time being of a lot on Plan of Subdivision PS905192T, his, her, their or its heirs, executors, administrators and transferees shall not at any time on the said lot or any part or parts thereof:

(i) Build or cause to be built or allow to be built or allow to remain standing more than one private dwelling-house (which expression shall include a house, apartment, unit or flat) prior to 31st December 2036;

(ii) Build or cause to be built or allow to be built or allow to remain built a dwelling-house or any other improvements, or carry out, cause to be carried out or allow to be carried out any building or construction works on the lot prior to 31st December 2036 unless:

(A) copies of building plans, elevations, roof plan, site plan (incorporating set-back from all boundaries, building envelope, existing contours, proposed finished floor levels and site levels, all proposed driveways and paths, details of fences and outbuildings and landscaping) and schedule of external colours and materials ("plans") have been submitted to the Design Assessment Panel, at the address in the Design Guidelines (as amended from time to time); and the plans comply with the Design Guidelines and Building Envelopes that deal with all siting and

(B) other matters that would otherwise be regulated by Part 5 of the Building Regulations 2018 (or any superseding regulation), a copy of which can be obtained from the website at **https://villawoodproperties.com.au/community/alamora;** and

(C) the Design Assessment Panel or such other entity as may be nominated by the Design Assessment Panel from time to time has given its written approval to the plans prior to the commencement of works; and

(D) any building or construction works are carried out in accordance with the approved plans.

(iii) Build or cause to be built or allow to be built or allow to remain any fencing:

(A) along a front street boundary; or

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Covenants:
(continued)

(B) between the front street boundary and the building line; or

(C) upon a side or rear boundary of a lot except a fence:

a. which is constructed of timber palings with exposed posts capped across the top of the palings; and

b. which does not exceed 1.8 metres in height excluding a screen erected to meet the requirements of Part 5 of the Building Regulations 2018 in relation to overlooking.

The foregoing restriction (iii) does not apply:

c. during any period that the lot is being used as a display home,

d. if the lot is identified within the Building Envelope Plan as a lot to which the restriction does not apply, and

e. if the Design Assessment Panel has given its written approval to the fencing to be built.

(iv) Build or cause to be built or allow to be built or allow to remain standing any buildings constructed on a lot containing a building envelope that does not conform to the relevant building envelope as shown in the attached Building Envelope Plan.

(v) Subdivide or cause to subdivide or allow to be subdivided the lot prior to 31st December 2036.

Notes on Restrictions

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.

Expiry: As set out in the plan.

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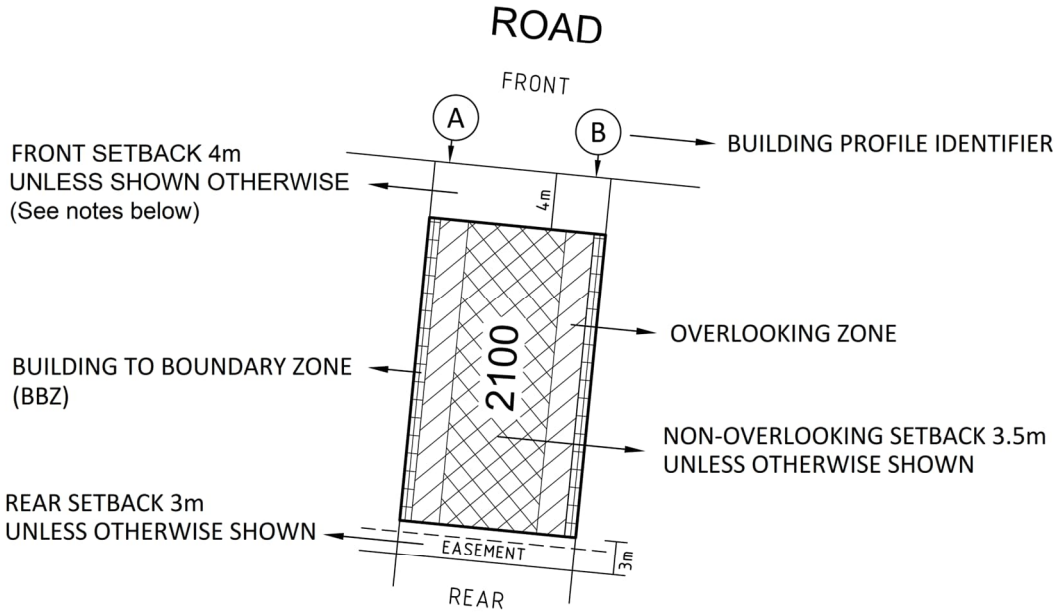
Diagrams and plans:

BUILDING ENVELOPE PLAN

LEGEND

EXAMPLE OF TYPICAL BUILDING ENVELOPE SETBACKS



NOTATIONS

- The front and side setbacks are measured to the outermost walls of the buildings.
- Garages must be setback a minimum of 5.0m from the front street boundary unless otherwise noted.
- Walls less than 1.0m from the boundary must be within 200mm of the boundary.
- Building to Boundary Zone to one boundary only unless terrace profile nominated.

ADDITIONAL NOTATIONS (for Lots marked with *):

- With the exception of garages with access from a laneway, garages must be located or setback behind the front facade of the home.

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

Single Storey Building Envelope
Note: Garages must be setback a minimum 5m from main street frontage

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

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NOTATIONS

- 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 thick lines.
- Profile type (A) is contained in "Profile Diagram" in this document.
- TYPE A denotes Small Lot Housing Code Type A.

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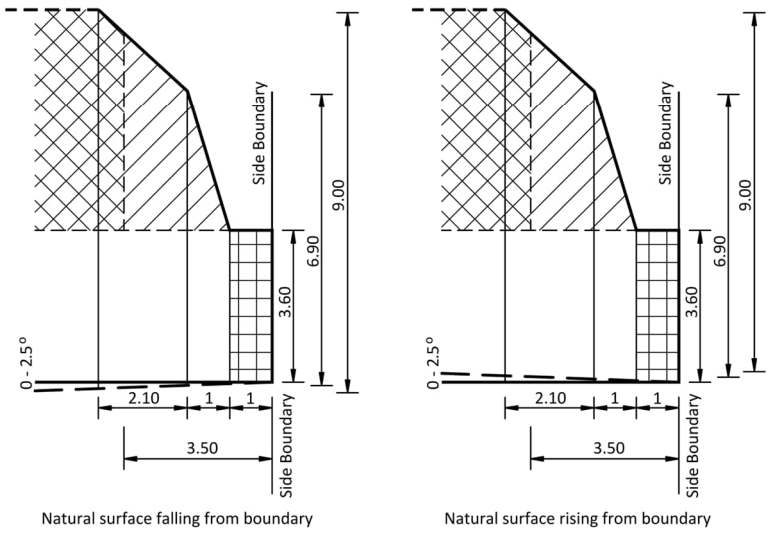
PROFILE DIAGRAM

A



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