

# 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 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

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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.

91ATLA

Page 1 of 9

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

Land Use Victoria contact details: see <a href="http://www.delwp.vic.gov.au/property>Contact us

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1988

- Setback
- 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 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.

#### **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 1988**

### **Covenants: Preliminary**

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

### **Approved Building Envelopes**

Any building on Lots 2201 to 2243 (inclusive) within subdivision plan PS 819166Y 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 set back from the main street frontage by the minimum distance indicated. Garages must be located or set back behind the front façade of the dwelling.

Unless noted on the plan, the minimum front setback on a splayed or curved corner between two street frontages is on an arc connecting the front street setback line to the side street setback line commencing at the points that are perpendicular to the points where the street alignment commences to arc.

Garages must be constructed within the Building Envelope and sited a minimum of 5 metres from the front street boundary

Setbacks for single garages for lots less than 12.5 metres, terrace and duplex style lots are nominated on the building envelopes.

##### **1.2 Building height Building Regulations 2018 Part 5 – Siting, Regulation 75 Whittlesea 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 Schedule. 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.

##### **1.3 Site coverage Building Regulations 2018 Part 5 – Siting, Regulation 76 Whittlesea Planning Scheme Clause 54.03-3**

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1988

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

### 1.4 Side and rear setbacks

**Building Regulations 2018 Part 5 – Siting, Regulation 79**

**Whittlesea Planning Scheme Clause 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**

**Whittlesea 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 setbacks 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.
- Average height of a wall in the BBZ is restricted to 3.2 metres, and an 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 only

### ***Encroachments***

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

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1988

- 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 and verandahs to a maximum height of 4 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  
Whittlesea 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  
Whittlesea Planning Scheme Clause 54.04-4**

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

Building Regulation 82 is superseded by this MCP.

### 1.8 Overshadowing of recreational private open space

**Building Regulations 2018 Part 5 – Siting, Regulation 83  
Whittlesea Planning Scheme Clause 54.04-5**

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

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1988

Building Regulation 83 is superseded by this MCP.

### 1.9 Overlooking

**Building Regulations 2018 Part 5 – Siting, Regulation 84  
Whittlesea 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  
Whittlesea Planning Scheme Clause 54.04-6**

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

Building Regulation 85 is superseded by this MCP.

### ***Building regulations***

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

### ***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.

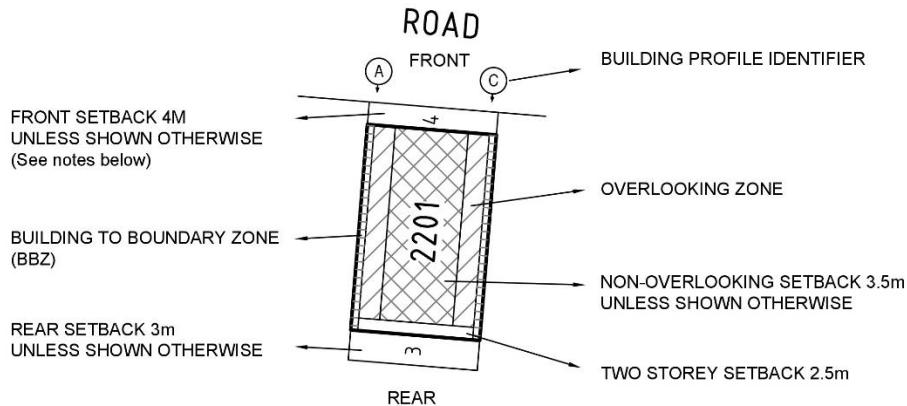
# Memorandum of common provisions

## Section 91A Transfer of Land Act 1988

### 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.
- 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 or less 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 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.
- Garages may be setback either 5.0m or more or 3.9m or less behind the front street boundary.
- Garages setback between 5.0m and 3.9m behind the front street boundary are not permitted.
- 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  
Note: Garages must be setback a minimum of 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

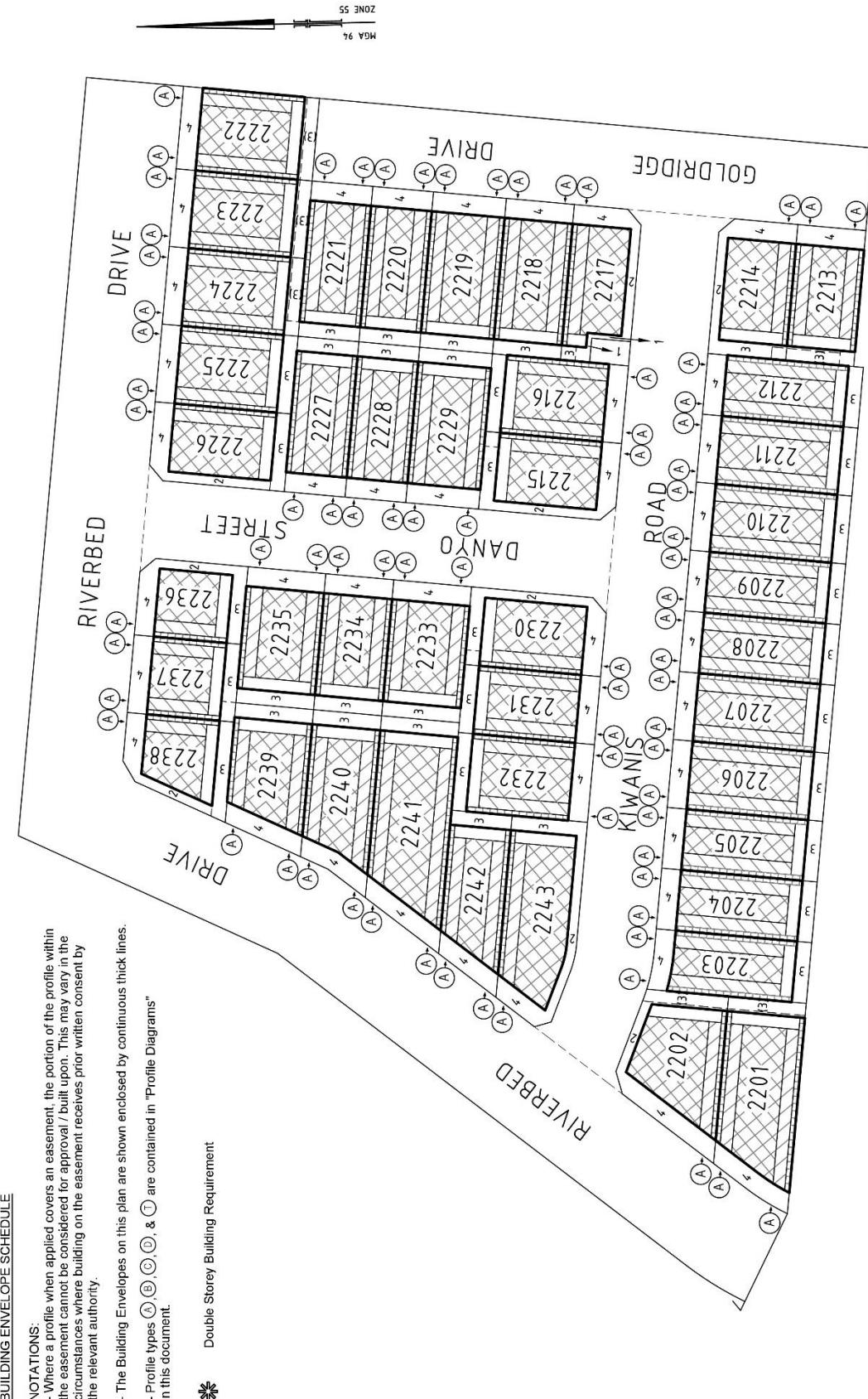
Double Storey Building Requirement

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

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

# Memorandum of common provisions

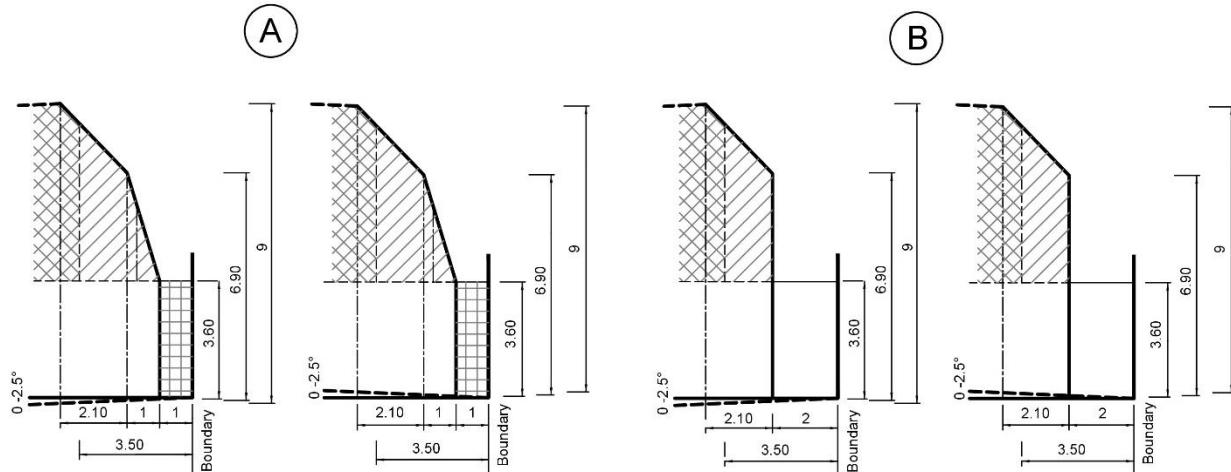
## Section 91A Transfer of Land Act 1988



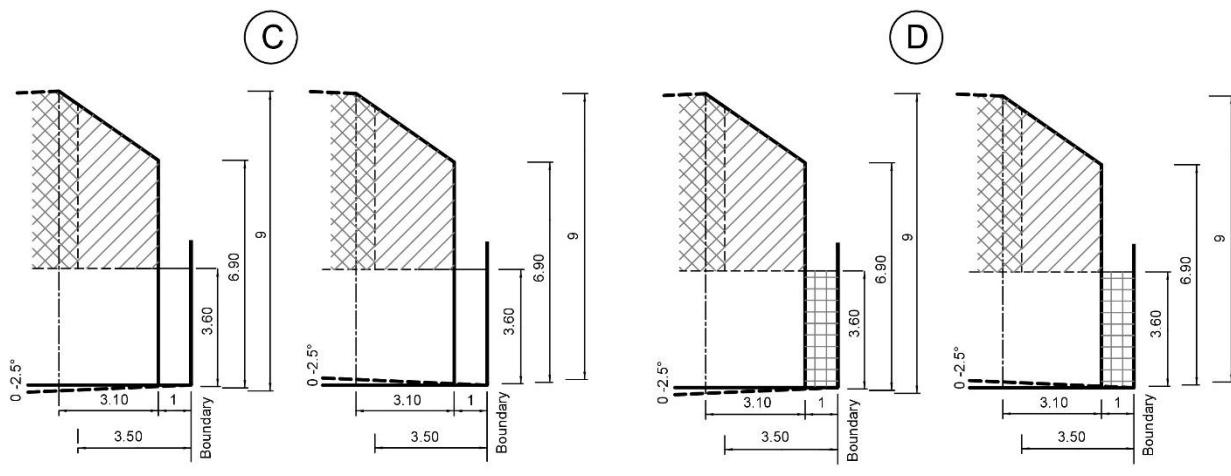
## **Memorandum of common provisions**

## **Section 91A Transfer of Land Act 1988**

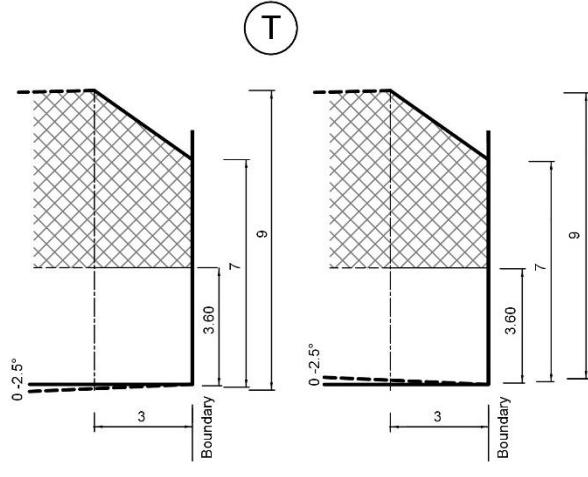
## PROFILE DIAGRAMS



Natural surface falling from boundary      Natural surface rising from boundary      Natural surface falling from boundary      Natural surface rising from boundary



Natural surface falling from boundary      Natural surface rising from boundary      Natural surface falling from boundary      Natural surface rising from boundary



Natural surface falling  
from side boundary

Natural surface rising  
from side boundary