

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: The land being transferred.

Benefited land: All Lots on the Plan other than the Burdened Land.

Covenants:

Definitions (if any):

Developer means the developer of the land, Emu Creek Holdings Pty Ltd, whilst it is the registered proprietor of a Lot on the Plan that is Benefited land.

Fence has the meaning given to it in Part 4 of the Building Regulations.

Imagine Estate Fencing Guidelines means the guidelines prepared by the Developer, as amended from time to time.

Lot means a lot on the Plan.

MCP means this memorandum of common provisions.

Plan means the relevant plan of subdivision for a particular Lot which incorporates this MCP.

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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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Covenants:

The registered proprietor of the Burdened land, their executors administrators and assigns must not without the written consent of the Developer with such consent only able to be obtained whilst the Developer is a registered proprietor of a lot that is Benefited Land:-

1. Erect on the Burdened land or cause to be erected or allow to remain erected on the Burdened Land:
 - a. Any more than one private dwelling house (which expression shall include a display home, a house, apartment, unit or flat);
 - b. Any dwelling house, garage, shed, outbuilding or fence using other than new materials;
 - c. Any building or other structure which is constructed wholly or partly of galvanized iron cladding or aluminium cladding;
 - d. Any dwelling house which has a floor area of:
 - i. less than 160 square metres where the Burdened land has an area of 700 square metres or greater; or
 - ii. less than 140 square metres where the Burdened land has an area of 500 square metres or greater but less than 700 square metres; and
 - iii. less than 120 square metres where the Burdened land has an area of 400 square metres or greater but less than 500 square metres; andFloor area is calculated by including the outer walls but excluding the area of carports, garages, terraces, pergolas or verandahs;
 - e. Any detached garage, shed or outbuilding having an area of:
 - i. more than 20 square metres or a height exceeding 4 metres where the Burdened land has an area of 500 square metres or less; or
 - ii. more than 40 square metres or a height exceeding 4 metres where the Burdened land has an area of 500 square metres or greater but less than 750 square metres;
 - f. Subject to clause 3.c any Fence unless the fence complies with the Imagine Estate Fencing Guidelines as amended from time to time.
2. Undertake a site cut on the Burdened Land unless the dwelling site plans have been approved by the North Central Catchment Management Authority or its successor.
3. In respect of Lot 3213 erect on the Burdened land or cause to be erected or allow to remain erected on the Burdened Land:
 - a. Any dwelling house which has a front façade which faces any direction except towards Dukes Lane;
 - b. Any outbuildings between the dwelling house front façade and Dukes Lane; and

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- c. Any front Fence unless it is visually transparent and does not exceed 1.2m in height from the natural ground level.
4. Subdivide the Burdened land.
5. Use the Burdened land for any trade, industry, or commerce save and except for a display home.
6. Allow any rubbish including site excavations and building materials to accumulate on the Burdened land or adjacent land (unless neatly stored in a suitable sized industrial bin or skip) or allow excessive growth of grass or weeds upon it.

Interpretation

In this MCP, unless the contrary intention appears:

1. a reference to a person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
2. a reference to any document is to that document as varied, novated, ratified or replaced from time to time;
3. a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it;
4. words importing the singular include the plural (and vice versa), and words indicating a gender include every other gender;
5. where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and
6. the word "includes" in any form is not a word of limitation.

Expiry: 10 years from the date of registration of the Plan