

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

AA8912

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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.

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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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Page 1 of 5

THE BACK OF THIS FORM MUST NOT BE USED

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

AA8912

Covenants:

DEFINITIONS

In this memorandum, unless the context otherwise requires:

Building means any permanent or semi-permanent structure on a lot and includes a dwelling.

Building Design Guidelines means the *Kingston Coast Building Information & Design Guidelines* as revised from time to time by the Design Assessment Panel. A copy of the current version can be obtained from the Design Assessment Panel.

Burdened land means a lot identified in the Plan as burdened by a restriction described in this MCP.

Corner Lot means a lot:

- contiguous with:
 - two intersecting streets; or
 - a street whose curvature provides the characteristics of a corner allotment; or
- deemed by the Design Assessment Panel to be a corner lot.

Design Assessment Panel means the Kingston Coast Design Assessment Panel described in the Building Design Guidelines.

Dwelling has the same meaning as set out in the Land Use Terms of the planning scheme that applies to the land in the Plan but excluding outbuildings, carport/garage, outdoor rooms/alfresco, porches, and verandas.

ground level is deemed to be the finished surface level following completion of engineering works associated with the subdivision.

Lifestyle Lot means a Lot with a land area of 800 m² or greater on the Plan, with a minimum dwelling size of no less than 200 m².

Lot has the same meaning as in the *Subdivision Act 1988* (Vic), being a lot created by the Plan and if permitted, includes any lot created by further subdivision

Multi dwelling site means Lots 617 and 646 on the Plan.

MCP means this Memorandum of Common Provisions.

Plan means plan of subdivision PS805408E.

Primary frontage means for each Lot, unless otherwise determined by the Design Assessment Panel or specifically stipulated in this MCP, the shortest boundary of that lot which abuts a street.

Public land means any land under the care or management of a Public Land Manager as that expression is defined in the General Terms of the planning scheme that applies to the land in the Plan.

Rear boundary means the Lot boundary which is opposite the Primary frontage, or the appropriate Lot boundary as determined by the Design Assessment Panel.

Residential Lot means a Lot with a land area between 381 m² and 799 m² on the Plan, with a minimum dwelling size of no less than 135 m².

Secondary frontage means the boundary of a Lot (other than the Primary frontage) which abuts a street.

Setback means the required distance between the relevant boundary and the building line as outlined in the Building Design Guidelines, unless otherwise noted in this MCP. A setback of up to 150 millimetres from the lot boundary is deemed to be on the boundary.

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

AA8912

Side boundary means the boundary of a Lot connecting the Primary frontage to the rear boundary. Where that Lot is a Corner Lot, the side boundary includes the boundary along the Secondary frontage.

Townhouse Lot means any Lot with a land area of 380 m² or less on the Plan, with a minimum dwelling size of no less than 115 m².

COVENANTS:

Restriction A1 – Development of a Lot

The registered proprietor or proprietors for the time being of the burdened land must not:

1. further subdivide the lot; and
2. construct more than one dwelling on any single lot.

Restriction A2 – Minimum dwelling floor area – Residential Lot

The registered proprietor or proprietors for the time being of the burdened land must not construct on any single lot a dwelling with a floor area less than 135 m².

Restriction A3 – Minimum dwelling floor area – Townhouse Lot

The registered proprietor or proprietors for the time being of the burdened land must not construct on any single lot a dwelling with a floor area less than 115 m².

Restriction A4 – Minimum dwelling floor area – subdivided Multi dwelling sites

The registered proprietor or proprietors for the time being of the burdened land must not construct:

3. on the burdened land, a dwelling with a floor area less than 135 m²;
4. on any Lot created by subdivision of the burdened land, a dwelling with a floor area less than 115 m².

Restriction A5 – Minimum dwelling floor area – Lifestyle Lot

This Restriction A5 is omitted from this MCP.

Restriction A6 – Compliance with Building Design Guidelines

1. The registered proprietor or proprietors for the time being of the burdened land must not:
 - 1.1. construct or allow to be constructed or allow to remain on any lot any Building:
 - 1.1.1. that is not in accordance with the Building Design Guidelines unless otherwise approved by the Design Assessment Panel;
 - 1.1.2. without obtaining written approval of the design for that Building from the Design Assessment Panel, which approval must be obtained even if the design for that Building complies with the Building Design Guidelines; and
 - 1.1.3. any building which is more than 9 metres above the ground level (excluding any television antenna, chimney or flue) or an extension to a dwelling where the extension is more than 9 metre above ground level (excluding any television antenna, chimney or flue).
 - 1.2. construct or allow to be constructed:
 - 1.2.1. a dwelling unless 30% of the external walls excluding windows are constructed of brick, brick veneer, stone, render or masonry like material;

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

AA8912

- 1.2.2. the roof of any building, garage door or outbuilding of galvanised iron or other reflective material; and
 - 1.2.3. a driveway unless constructed of coloured concrete, exposed aggregate concrete, stencilled or stamped coloured concrete or brick pavers.
 - 1.3. store or site or permit to be stored or sited on any lot any caravan or boat or any commercial vehicle having a registered carrying capacity of more than one tonne unless within an approved building or screened from view from any road reserve by a structure that is in line with or behind the most forward line of the building abutting any road reserve.
 - 1.4. occupy any dwelling without a driveway and fences on the side and rear boundaries.
2. The Design Assessment Panel in its absolute discretion may approve a dwelling that does not strictly comply with clause 1.2.1 of this Restriction A6.

Restriction A7 – Boundary Fencing

The registered proprietor or proprietors for the time being of the burdened land must not:

1. construct or allow to be constructed any fencing:
 - 1.1. along a primary frontage; or
 - 1.2. on a side or rear boundary of a lot unless the fence:
 - 1.2.1. is constructed of lapped timber palings with a timber capping;
 - 1.2.2. subject to clause 1.2.3, is a height not less than 1.8 metres and not greater than 2.0 metres;
 - 1.2.3. tapers down to 1 metre in height at the primary frontage for the distance of the required setback from the primary frontage; and
 - 1.2.4. is built on the boundary and within acceptable tolerances as prescribed by Victorian law.
 - 1.3. on the side boundary of a Corner Lot unless the fence commences a minimum of 10 metres back from the primary frontage;
 - 1.4. on a side or rear boundary of a lot abutting public land unless the fence:
 - 1.4.1. is visually permeable on the boundary abutting the public land; and
 - 1.4.2. maximises passive surveillance of the public land both at ground level and upper level/s as appropriate.
2. occupy any dwelling on a lot without a driveway and fences on the side and rear boundaries

Restriction A8 – Residential Lot setbacks

1. The registered proprietor or proprietors for the time being of the burdened land must not construct or allow to be constructed a building (excluding any entry porch, verandah, balcony or pergola) on the burdened land unless the building line facing the primary frontage is sited at least 4.5 metres but no more than 6.5 metres from the primary frontage.
2. The Design Assessment Panel may in its sole discretion approve a dwelling that does not comply with this Restriction A8.

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

Restriction A9 – Multi dwelling site setbacks

1. The registered proprietor or proprietors for the time being of any Lot derived from a subdivision the burdened land must not:
 - 1.1. construct or allow to be constructed a building (excluding any entry porch, verandah, balcony or pergola) on any lot derived from the further subdivision of the burdened land unless the building line facing the primary frontage is setback at least 3.5 metres but no more than 6.5 metres from the primary frontage.
 - 1.2. A garage unless the garage is set back a minimum of 4.0 metres from the primary frontage.
2. The Design Assessment Panel may in its sole discretion approve a dwelling that does not comply with this Restriction A9.

Restriction A10 – Townhouse Lot setbacks

1. The registered proprietor or proprietors for the time being of the burdened land must not construct or allow to be constructed:
 - 1.1. a building (excluding any entry porch, verandah, balcony or pergola) on the lot unless the building line facing the primary frontage is sited at least 3.0 metres but no more than 6.5 metres from the primary frontage;
 - 1.2. a garage unless the garage is set back a minimum of 4.0 metres from the primary frontage.
2. The Design Assessment Panel may in its sole discretion approve a dwelling that does not comply with this Restriction A10.

Restriction A11 – Lifestyle Lot setbacks

This Restriction A11 is omitted from this MCP

Restriction A12 – Corner Lot setbacks

1. The registered proprietor or proprietors for the time being of the burdened land must not construct or allow to be constructed a building (excluding any entry porch, verandah, balcony or pergola) unless the secondary frontage is setback at least 2.0 metres from the side boundary.
2. The Design Assessment Panel may in its sole discretion approve a dwelling that does not comply with this Restriction A12.

Expiry:

Restrictions A1, A2, A3, A4, A5, A8, A9, A10 and A12 will cease to have effect on 1 January 2042.

Restrictions A6 and A7 will cease to have effect on 1 January 2032.