

**Memorandum of common provisions**  
**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 instruments and plans to be subsequently lodged for registration.

Provisions:

**PRELIMINARY**

- A. This MCP (Version 4) provides the information necessary to interpret the approved building envelopes.
- B. This MCP includes:
  - i. Any varied design parameters from the Building Regulations.
  - ii. Matters not covered by the Building Regulations.
- C. Any matter not addressed in this MCP will still need to be addressed as required by the Building Regulations.
- D. This MCP is retained by the Registrar of Titles pursuant to section 91(A) of the Transfer of Land Act.

**PROVISIONS**

- A. Lots identified as Type A or Type B on the building envelope plan are lots to which the Small Lot Housing Code applies.
- B. Any building requiring a building permit to be constructed on a lot to which this MCP applies must be sited within the approved building envelope.
- C. This MCP will specify any encroachments allowed outside the approved building envelope.

**1. TEXT OF RESTRICTIONS**

**1.1. Minimum street setbacks (refer regulation 74)**

- 1.1.1. The following may encroach a maximum of 2.5 metres into the minimum front boundary setback:
  - a) Balconies, verandahs, open porches, covered walkways and porticos
- 1.1.2. The following may encroach a maximum of 0.6 metres into the minimum front boundary setback:
  - a) Eaves, facias and gutters.

35271702A

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 instruments and plans.

91ATLA

Page 1 of 10

**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

- 1.1.3. A garage opening on a lot must not occupy more than 40 per cent of the width of the front boundary.
  - 1.1.4. A garage on a lot must be setback at least 5.5 metres from the front boundary of the lot, except for the following:
    - a) Where a front boundary setback of 3 metres is specified on the building envelope plan, a garage must be setback at least 5 metres from the front boundary of the lot.
    - b) Where an alternative garage setback of less than 3 metres or greater than 5 metres is approved by the Responsible Authority.
  - 1.1.5. A garage on a lot must be setback at least 1 metre behind the front wall of the dwelling.
- 1.2. Side and rear Setbacks (refer regulation 79)**
- 1.2.1. The following may encroach a maximum of 0.6 metres into the minimum side and rear setbacks:
    - a) Balconies, verandahs, open porches, covered walkways, porticos, eaves, facias and gutters.
  - 1.2.2. Side and rear setbacks for building elements (such as walls and roof coverings) must comply with the requirements specified in the height and setback profiles. The setback profile identifier codes are noted on the building envelope plans.
  - 1.2.3. If a lot is shown with the profile identifier codes A and B on opposite side boundaries, the codes can be interchanged.
  - 1.2.4. In addition to the allowable encroachments in the Building Regulations, the following can encroach into the minimum side and rear setback specified by the relevant setback profile identifier code:
    - a) Outbuildings not exceeding 3.6 metres in height.
- 1.3. Walls on boundaries (refer regulation 80)**
- 1.3.1. Construction within 200mm of a boundary is only permitted where the setback profiles identified in the building envelope plans indicate a building area on the boundary.
  - 1.3.2. For lots to which the Small Lot Housing Code applies, a wall constructed on a side or rear boundary of a lot can extend a maximum total length of:
    - a) 60% of the total length of the side boundary; or
    - b) The length of any simultaneously constructed abutting wall, whichever is the greater.
- 1.4. Solar access to existing north-facing habitable room windows (refer regulation 82)**
- 1.4.1. Reference to an existing north-facing habitable room window refers to ground floor windows only.
  - 1.4.2. Any proposed north-facing habitable room window at ground level in a proposed dwelling on a lot must be clear to the sky and setback more than 3 metres from the

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

north boundary of that lot if it is to be considered, once constructed, as an 'existing' north-facing habitable room window for the purposes of regulation 82.

### 1.5. Overshadowing of recreational private open space (refer regulation 83)

- 1.5.1. If sunlight to the recreational private open space of an existing dwelling is reduced, at least 75 per cent, or 25 square metres with a minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of 5 hours of sunlight between 9 am and 3 pm on 22 September.
- 1.5.2. The 75 per cent, or 25 square metres minimum area, can be measured at different locations during the day.

### 1.6. Overlooking (refer regulation 84)

- 1.6.1. The requirements of regulation 84 apply to any habitable room window, balcony, terrace, deck or patio of a dwelling on a lot within the specified overlooking control area (as identified in the relevant setback profile codes shown on the building envelope plan), that has a direct view into an adjoining lot.

### 1.7. Lot Layout

- 1.7.1. The following additional clauses apply to all lots;
  - a) Only one dwelling may be constructed on the lot.

### 1.8. Design Approval

- 1.8.1. The design of any building or structure to be constructed on a lot must:
  - a) Comply with the Junction at Botanic Ridge Design Guidelines; and
  - b) Comply with the Residential Design Controls at Section 3.2.3 of the Botanic Ridge Precinct Structure Plan
  - c) Be constructed with dual plumbing for recycled water supply for toilet flushing and garden watering use if it is to become available.
  - d) Except for lots subject to the Small Lot Housing Code, receive approval of all plans and specifications by Junction at Botanic Ridge Design Assessment Panel via the Design approval portal at [www.ngdd.com.au](http://www.ngdd.com.au) prior to a building permit being procured for any such building or structure.

### 1.9. Permission to construct contrary to these MCPs and any Building Envelope

- 1.9.1. The requirements of these MCPs may be varied with the consent of the Responsible Authority and when:
  - a) Where consent of the Responsible Authority is required by the Scheme
  - b) A planning permit is issued affecting the lot
  - c) Required by operation of the law.

### 1.10. Driveways

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

- 1.10.1. A driveway must be fully constructed prior to occupancy of any dwelling constructed on the lot.
- 1.10.2. Relocation of a driveway crossover or, the addition of a driveway crossover to a corner lot, is permitted with the written approval of Design Assessment Panel and Casey City Council. Relocated crossovers must be constructed at the lot owners expense to the specification of Casey City Council and be of the same finish as that originally provided by SIG Group.

## 2. Notes on this MCP

### 2.1. Conflicting Annotation

- 2.1.1. In the case of a conflicting annotation between the building envelope plan and this MCP text, the MCP text supersedes the plan.

### 2.2. Natural Ground Level

- 2.2.1. Ground level after engineering works associated with the subdivision is to be regarded as natural ground level.

### 2.3. Easements

- 2.3.1. Buildings must not cover registered easements unless approved by the relevant authority.

### 2.4. Edge Lots

- 2.4.1. Edge lots are those lots that are part of the same certified plan of subdivision but share one or more common boundaries with or otherwise adjoin a lot that is not part of the same certified plan of subdivision.
- 2.4.2. Regulation 71 applies to an edge lot regardless of Section 1 of this MCP.

### 2.5. Expiry

- 2.5.1. A building envelope will cease to apply to any building on the lot affected by the building envelope after the issue of a certificate of occupancy for the whole of a dwelling on the land.

## 3. General Definitions

- 3.1. **Approved building envelope** means the building envelope for a particular lot contained in the building envelope plan which is attached to this MCP and has the same meaning as in regulation 71 of the Regulations.
- 3.2. **Building** has the same meaning as in the Building Act
- 3.3. **Building Act** means the act of the Victorian Parliament known as the Building Act 1993, and any re-enactment or replacement of that act.
- 3.4. **Building envelope** means an area within each lot where development of a dwelling, shed and garage is allowed subject to the provisions of this MCP.
- 3.5. **Building envelope plan** means the plan which is attached to this MCP showing dwelling setbacks and other related matters.

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

- 3.6. **Building Permit** means a permit in terms of the Building Act.
- 3.7. **Corner lot** means a lot sited at the intersection of two streets (excluding laneways) where those streets form boundaries of the lot
- 3.8. **Dwelling** has the same meaning as in the Scheme;
- 3.9. **Front boundary** means;
  - 3.9.1. In the case of a lot where only one boundary abuts a road, that boundary which abuts the road; or
  - 3.9.2. In the case of a lot where more than one boundary abuts a road, the shortest of the boundaries which abuts a road and where there is a splayed corner on a lot, that part of the boundary which is created by the splay (the corner section) shall be disregarded.
- 3.10. **Front Building Line** means the front façade wall excluding any façade treatment or engaged pier.
- 3.11. **Height** has the same meaning as in the Regulations.
- 3.12. **Lot** has the same meaning as in the Subdivision Act 1988, and any re-enactment or replacement of that act.
- 3.13. **Junction at Botanic Ridge Design Guidelines** means the design guidelines prepared by SIG Group, as amended from time to time.
- 3.14. **MCP** means this memorandum of common provisions
- 3.15. **On the boundary** means a setback of up to 200 millimetres from the property title boundary.
- 3.16. **Plan of subdivision** means the plan of subdivision to which this MCP is incorporated by way of a restrictions on that plan of subdivision.
- 3.17. **Private Open Space** has the same meaning as in the Regulations.
- 3.18. **Regulations** means the Building Regulations 2018 or any subsequent regulations made pursuant to the Building Act.
- 3.19. **Reserve** has the same meaning as in the Subdivision Act 1988, and any re-enactment or replacement of that act.
- 3.20. **Road** means any kind of road, street, lane or other vehicular access way whatsoever and has the same meaning as in the Road Management Act 2004 and any re-enactment or replacement of that act.
- 3.21. **Scheme** means the planning scheme of the local authority responsible for the land contained within the plan of subdivision.
- 3.22. **Secluded Private Open Space** has the same meaning as in the building regulations.
- 3.23. **Setback** has the same meaning as in the Regulations.
- 3.24. **SIG Group** means Sino Integrity Development Junction Village Pty Ltd ACN 637690487 or any associated entity or related body corporate of SIG Group.

## Memorandum of common provisions

### Section 91A Transfer of Land Act 1958

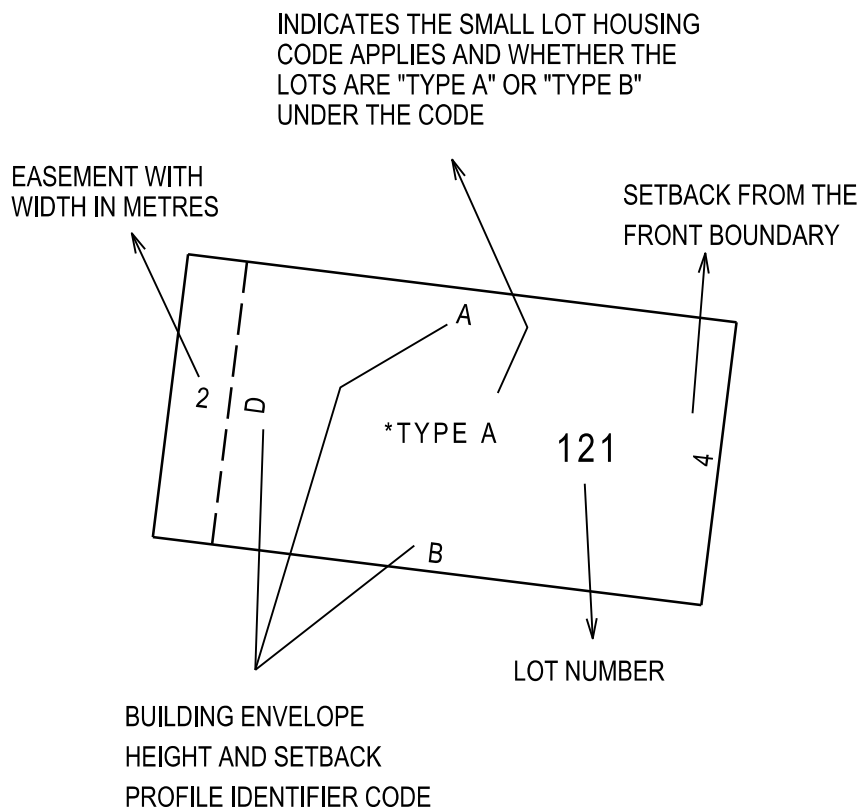
- 3.25. **Side boundary** means a boundary of a lot that runs between and connects the front boundary of the lot to the rear boundary of the lot.
- 3.26. **Small Lot Housing Code** refers to the Small Lot Housing Code incorporated into the Scheme
- 3.27. **Street**, for the purposes of determining street setbacks, means any road other than a footway or carriageway easement.
- 3.28. **Type A** on a building envelope plan denotes that the lot is one to which the provisions of the Small Lot Housing Code relating to Type A allotments applies.
- 3.29. **Type B** on a building envelope plan denotes that the lot is one to which the provisions of the Small Lot Housing Code relating to Type B allotments applies.

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

### 4 Diagrams and Plans

#### 4.1 Diagram illustrating the interpretation of the building envelope and the annotation with respect to all edge lots in this stage development



### NOTATIONS

WHERE A PROFILE WHEN APPLIED COVERS AN EASEMENT, THE PORTION OF THE PROFILE ABOVE THE EASEMENT CANNOT BE CONSIDERED FOR APPROVAL/BUILT UPON. THIS MAY VARY ONLY IN THE CIRCUMSTANCES WHERE BUILDING ON THE EASEMENT RECEIVES PRIOR WRITTEN CONSENT OF THE RELEVANT AUTHORITY.



OVERLOOKING CONTROL AREA  
(refer 'overlooking' in MCP)

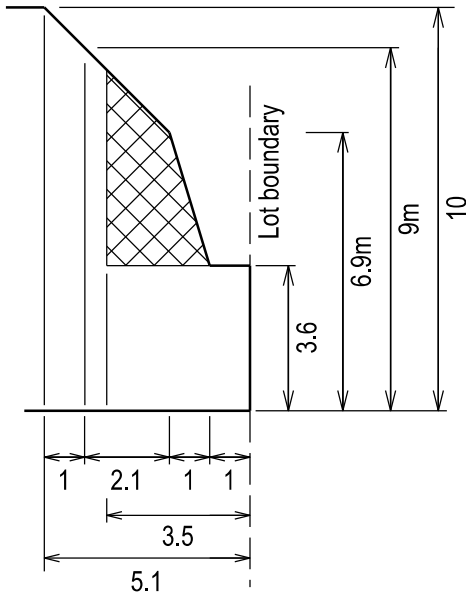
ALL DIMENSIONS ARE IN METRES UNLESS NOTED OTHERWISE

SETBACKS SHOWN THUS D(3) MUST APPLY THE RELEVANT PROFILE AND BOUNDARY SETBACKS AS DEPICTED. NO BUILDING IS ALLOWED WITHIN THE NOTED SETBACK DISTANCE.

WHERE A NUMBER IS SHOWN INSTEAD OF A SETBACK PROFILE IDENTIFIER CODE, THAT NUMBER REPRESENTS THE SETBACK DISTANCE TO THE BUILDING ENVELOPE.

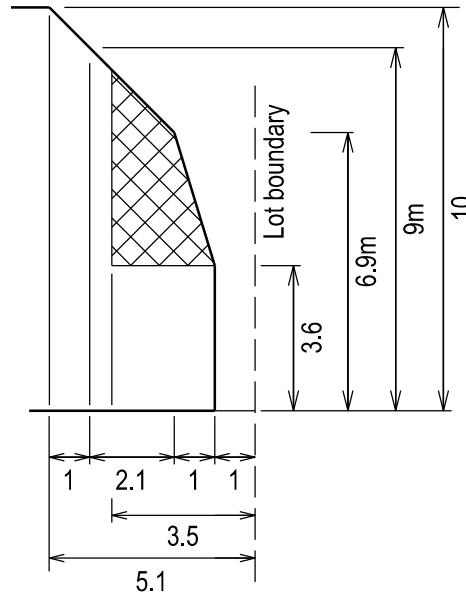
**Memorandum of common provisions**  
**Section 91A Transfer of Land Act 1958**

**4.2 Building height & setback profiles referenced in the building envelope plan**



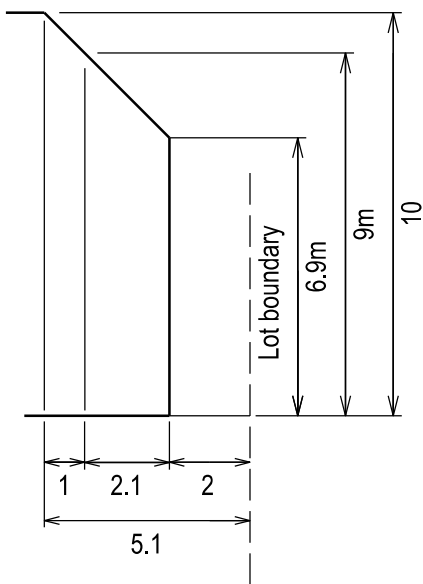
*Side boundary shared with the side or rear boundary of a residential lot in the same development stage*

**PROFILE (A)**



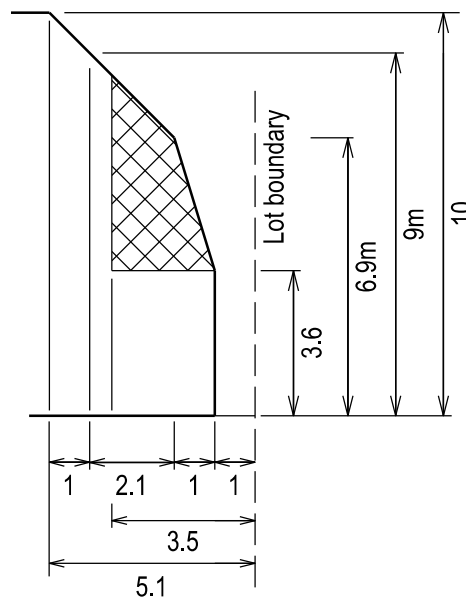
*Side boundary shared with the side or rear boundary of a residential lot in the same development stage*

**PROFILE (B)**



*Side boundary abutting a street or public open space*

**PROFILE (C)**



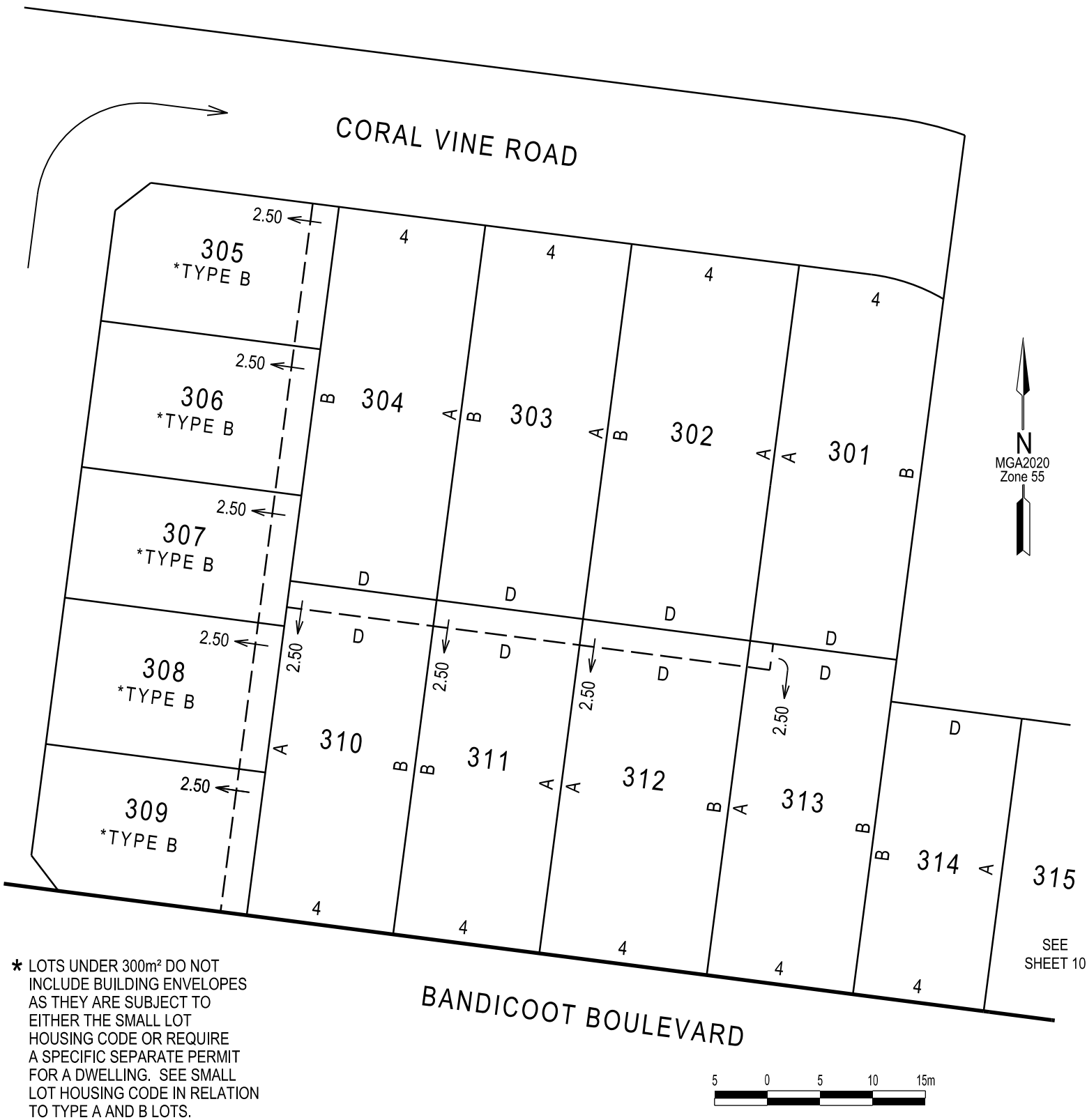
*Rear boundary adjoining the rear or side boundary of a residential lot*

**PROFILE (D)**



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

4.3 **Building envelope plan including height and setback profile identifier code**



\* LOTS UNDER 300m<sup>2</sup> DO NOT INCLUDE BUILDING ENVELOPES AS THEY ARE SUBJECT TO EITHER THE SMALL LOT HOUSING CODE OR REQUIRE A SPECIFIC SEPARATE PERMIT FOR A DWELLING. SEE SMALL LOT HOUSING CODE IN RELATION TO TYPE A AND B LOTS.

SEE SHEET 10

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

