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: A lot or lots as set out in the plan.

Benefited land: A lot or lots as set out in the plan.

Covenants: **1. DEFINITIONS**

1.1 A reference to **Design Guidelines** means the Wedge Road Design Guidelines, a copy of which a copy of which can be obtained from the Wedge Road Design Review Panel by request to email mike@urbtech.com.au or by post to Urbtech Pty Ltd, 1304/20 Rakai Way, Docklands Victoria 3008 or from Frankston City Council, PO Box 490, Frankston VIC 3199.

1.2 A reference to **Developer** means Wedge Road Development Pty Ltd ACN 646 488 100.

1.3 A reference to **Envelope Diagram** means the building envelope diagram contained in the clause 2.3 of this Memorandum of Common Provisions.

1.4 A reference to **Responsible Authority** means Frankston City Council.

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2. COVENANTS:

2.1 Restrictive Covenants

2.1.1 The registered proprietor of the Burdened Land, without the prior written consent of the Developer, shall not:

2.1.1.1 build a dwelling on the Burdened Land unless copies of building plans, elevations, site plans, landscaping plans and a schedule of colours and materials (**Construction Plans**), have been submitted to the transferor or its delegated agent and the Developer or its delegated agent has given its written approval to the Construction Plans prior to the commencement of any building works;

2.1.1.2 subdivide the Burdened Land;

2.1.1.3 carry out on the Burdened Land any site-works, excavation, filling or construct any fencing or retaining walls or to remove, interfere with or compromise or do anything on the Burdened Land that may tend to interfere with or compromise:

2.1.1.3.1 any batter or retaining wall on the Burdened Land; or

2.1.1.3.2 any batter or retaining wall on the adjoining or neighbouring land;

2.1.1.4 erect or allow to be erected any improvements on or in the Burdened Land other than those improvements permitted pursuant to the terms of the Design Guidelines;

2.1.1.5 erect or allow others to erect a "for sale" sign on the land prior to the completion of the dwelling upon the Land;

2.1.1.6 remove or in any way alter any fence that has been constructed in compliance with these covenants or the Design Guidelines on the Burdened Land or in any way interfere with or attempt to change or modify the colour of such fence; and

2.1.1.7 the restrictions described under covenant 2.1.1 shall expire 10 years from the date of registration of the plan by the registrar of titles.

2.2 Building Envelopes

2.2.1 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.

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2.2.2 Any building on Lot 801 to Lot 817 (inclusive) and Lot 820 to Lot 822 (inclusive) within subdivision plan PS923365L must be contained within the building envelopes shown on the attached plan and defined by the associated setbacks and written notes contained therein.

2.2.3 The matters which are restricted by the building envelopes are:

2.2.3.1 this MCP applies to burdened lots in Restriction No.1 on PS923365L (Plan of Subdivision) as approved under Frankston City Council Planning Permit No. 400/2021/P;

2.2.3.2 except with the written consent of the Responsible Authority, the registered proprietor or proprietors for the time being of any Burdened Land to which this restriction applies must not:

2.2.3.2.1 construct or allow to be constructed or remain on the lot any dwelling or garage outside the building envelope shown hatched in the diagram overleaf (excluding allowable projecting building elements that project outside the building envelopes as contained in Part 5 Regulations; 74(3), 79(3) & 79(4) of the Building Regulations 2018);

2.2.3.2.2 construct any dwelling or garage on a side boundary of a lot unless the dwelling or garage is set back a minimum of 1 metre from the other side boundary of the lot; or

2.2.3.2.3 construct a building which, notwithstanding the extent of the building envelope, fails to otherwise meet the requirements of Part 5 of the Building Regulations 2018;

2.2.4 except with the written consent of the Responsible Authority, the registered proprietor or proprietors for the time being of any Burdened Land to which this restriction applies must comply with the following:

2.2.4.1 the side wall of any wall above the ground level of a dwelling on a corner lot must not be constructed:

2.2.4.1.1 less than 900mm from the external façade of the ground level wall that faces a side street; or

2.2.4.1.2 with less than 30% glazing for the area of the wall and the remainder of the wall must be constructed in contrasting material finishes to that of the ground floor wall; and

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2.2.4.2 any garage on the Burdened Land must not be constructed less than 5.4 metres from the road alignment at the front of the lot.

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2.3 Diagrams and plan



Expiry: As set out in the plan.

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