

Memorandum of Common Provisions

Section 91 Transfer of Land Act 1958

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This memorandum contains provisions which are intended for inclusion in instruments and plans to be subsequently lodged for registration.

Provisions

KINCHINGTON ESTATE STAGE 1 RESTRICTIVE COVENANTS

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The transferees for themselves, their successors, assigns and transferees, the registered proprietor or proprietors for the time being of the land hereby transferred ("the land") and of every part thereof hereby covenant(s) with the transferor its successors, assigns and transferees and as a separate covenant, covenant with the registered proprietor or proprietors for the time being of every lot and of every road or street shown on Plan of Subdivision No. PS705742Y lodged in the Office of Titles, whether transferred by the transferor before or after the transfer of the land to the intent that the burden of these covenants shall run with and bind the land and every part thereof and that the benefit of these covenants shall be annexed to and run with each and every lot and road or street shown on the said Plan of Subdivision (other than the land) whether transferred by the transferor before or after the transfer of the land as part of and for the purpose of effectuating a general building scheme affecting the whole of the lots and roads or streets shown on the said Plan of Subdivision, as follows namely:

1. Architectural & Landscape Design Guidelines

- 1.1 No structure shall be erected or permitted to be erected on the lot unless the proposed plans, specifications and design of that building: -
 - 1.1.1 describes clearly the form, size, layout, materials, colour and proposed siting of the building on the lot (including provision for the orientation of any dwelling) and
 - 1.1.2 have been previously submitted to and approved in writing by: -
 - 1.1.2.1 the Transferor or its nominee, provided that such approval is not unreasonably withheld, and
 - 1.1.2.2 The City of Wodonga (as the relevant Planning Authority), where applicable.

- 1.2 Lots 1, 22, 23, 32 and 50 are designated as multiple dwelling lots and may each be further subdivided into two lots.

Clause 1.2 may be varied at the sole discretion of the Transferor.

- 1.3 No building may be erected or permitted to remain on the lot, except a single, private, residential dwelling. Lots 1, 22, 23, 32 and 50 are permitted to be developed as multiple dwelling lots.

Clause 1.3 may be varied at the sole discretion of the Transferor.

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- 1.4 No building may be erected or permitted to remain on the lot, unless it is constructed entirely of new materials and not from pre-existing or formerly occupied residential buildings or structures, whether in whole or in part, and moved onto the lot from a former location.
- 1.5 No building may be erected or permitted to remain on the lot, except one single occupancy dwelling which has a minimum floor area of 160sqm (meaning the internal habitable area, excluding the floor area of garages, verandas, eaves and any outbuildings), except the following lots which are permitted to have:
- 1.5.1 Lot 1, 22, 23, 32 and 50 - multiple dwelling house with a minimum floor area (as defined above) of 100sqm.
 - 1.5.2 Lot 51 - single dwelling house with a minimum floor area (as defined above) of 140sqm.
 - 1.5.3 Lot 52 - single dwelling house with a minimum floor area (as defined above) of 110sqm.
- 1.6 The external walls of any building must not be constructed of any materials other than brick, stone, cement, coloured or painted concrete brick or clay, providing that timber or metal of a non-reflective nature, may be used in external walls as infill panels provided that it does not exceed 50% of the total area of the external walls, unless otherwise approved by the Transferor in its absolute and unfettered discretion.
- 1.7 No building erected on the lot may be roofed or clad with any material having a metallic lustre or appearance or a highly reflective surface.
- 1.8 All rooms in the main residence must have a ceiling height of not less than 2.4 metres above the finished floor level.
- 1.9 No garage may be erected or permitted to remain on the lot, unless:
- 1.9.1 Such garage is attached to the house and built with the same colour and type of material as the main residence.
 - 1.9.2 Such garage must be situated at least 500mm behind the front building line of the main residence.
 - 1.9.3 Such garage must be fully enclosed and able to accommodate at least two cars.
 - 1.9.4 All garage doors must be a panel or sectional opening door, and not a roller door.
- Should a secondary garage be required it must be set back from the primary garage and attached to the main residence. Garages on battle axe blocks may be exempted from being attached to the house subject to receipt of approval from the Transferor.
- 1.10 No outbuilding, other than a garden shed, which has a floor area no greater than three metres by three metres (9sqm) may be erected or permitted to remain on the lot. Such garden shed must be built of the same colours and materials as the perimeter fence, being Colourbond, colour "Grey Ridge" or "Woodland Grey". If a larger shed is required, approval in writing must be sought from the Transferor.
- 1.11 Buildings on a lot, except lots 1, 22, 23, 32 and 50, must not be erected or permitted to remain unless they have the following minimum setbacks:
- 1.11.1 Front building line - Set back from the title boundary of the main street frontage - 4.5 metres.
 - 1.11.2 Set back from the rear boundary abutting another residential lot - 2.0 metres.
 - 1.11.3 Set back from the side boundary abutting another residential lot - 1.0 metre.
- 1.12 The owner of any lot shall not be able to make any claim for contribution toward the erection or maintenance of any dividing fence if the adjoining lot is owned by the Transferor or abuts reserves and/or reserve areas.
- 1.13 No fence shall be erected forward of the main residence's front building line.

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- 1.14 Side and rear fences must not be erected or permitted to remain on a lot unless:
- 1.14.1 Such fence has a height of 1.8 metres.
 - 1.14.2 Such fence is constructed of a non-reflective metal infill panel known as Colourbond colour "Grey Ridge" or "Woodland Grey".
 - 1.14.3 Such fence has a level finish with no protruding caps.
 - 1.14.4 Such fence is of an identical colour and finish on both sides.
- 1.15 Fences connecting to the main residence and running parallel to the main street frontage, must be built of the same colours and materials as the perimeter fence, being Colorbond, colour "Grey Ridge" or "Woodland Grey".
- 1.16 The following restrictions apply to all corner allotments, except lots 1, 22, 23, 32 and 50 and prevail to the extent of any inconsistencies herein:
- 1.16.1 Buildings and fencing must not be erected or permitted to remain unless they have the following minimum setbacks from the title boundary:
 - 1.16.1.1 Main street frontage - 4.5 metres
 - 1.16.1.2 Secondary frontage - 3.0 metres
 - 1.16.2 No building may be erected or permitted to remain on the lot, unless it has a primary and secondary façade.
 - 1.16.3 The owner of a lot must not allow fencing to be erected or permitted to remain in front of either the primary or secondary building façade unless:
 - 1.16.1.1 plans, specifications and designs of the fence have been previously submitted to and approved by the Transferor;
 - 1.16.1.2 Such fence is constructed in front of only one façade;
 - 1.16.1.3 Such fence is constructed with a combination of brick pillars and infill fencing in slats;
 - 1.16.1.4 Such fence is set back at least one metre from the title boundary;
 - 1.16.1.5 Such bricks pillars are a minimum of 1.5 bricks square (standard house brick) in diameter from top to bottom with either a flat finish or capped pier on top;
 - 1.16.1.6 Such brick pillars are spaced between 2 to 3 metres apart and match the colour of the dwelling;
 - 1.16.1.7 Such slats must be the same colour as the perimeter fence, being Colorbond colour "Grey Ridge" or "Woodland Grey".
 - 1.16.1.8 Such fence has a base constructed of either a minimum 3 bricks (standard house brick) which match the colour of the dwelling or alternatively a 300mm base constructed using concrete sheet, painted to match the colour of the slats; and
 - 1.16.1.9 Such fence is not less than 1.2 metres high and not more than 1.8 metres high.
- 1.17 The following restrictions apply to lot 1 and if further subdivided, shall also apply to those newly subdivided lots which were formerly lot 1, and shall prevail to the extent of any inconsistencies with other restrictions herein:
- 1.17.1 No building may be erected or permitted to remain on the lot unless:
 - 1.17.1.1 for a lot fronting Hampshire Boulevard - set back from the main street frontage - at least 3 metres.
 - 1.17.1.2 for a lot fronting Firmstone Road- set from the main street frontage - at least 2 metres.
 - 1.17.1.3 set back from the side and rear boundary - 0 metres. A new wall constructed on or within 200 mm of a side or rear boundary must not abut the boundary of an adjoining lot for a length of more than 12 metres or exceed the height of 3.6 metres above natural ground level.
 - 1.17.2 The following may encroach into the specified main street frontage setback by not more than 500mm:
 - 1.17.2.1 Porticos, porches, verandahs and alfrescos

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- 1.17.2.2 Eaves, fascia and gutters
- 1.17.2.3 Sunblinds
- 1.17.2.4 Steps or landings

Clauses 1.17 may be varied at the sole discretion of the Transferor.

- 1.18 The following restrictions apply to lot 22 and if further subdivided, shall also apply to those newly subdivided lots which were formerly lot 22, and shall prevail to the extent of any inconsistencies with other restrictions herein:

1.18.1 No building may be erected or permitted to remain on the lot unless:

- 1.18.1.1 for a lot fronting Hampshire Boulevard - set back from the main street frontage - at least 3 metres.
- 1.18.1.2 for a lot fronting Chatham Road- set from the main street frontage - at least 2 metres
- 1.18.1.3 set back from the side and rear boundary - 0 metres. A new wall constructed on or within 200 mm of a side or rear boundary must not abut the boundary of an adjoining lot for a length of more than 12 metres or exceed the height of 3.6 metres above natural ground level.

1.18.2 The following may encroach into the specified main street frontage setback by not more than 500mm:

- 1.18.2.1 Porticos, porches, verandahs and alfrescos
- 1.18.2.2 Eaves, fascia and gutters
- 1.18.2.3 Sunblinds
- 1.18.2.4 Steps or landings

Clauses 1.18 may be varied at the sole discretion of the Transferor.

- 1.19 The following restrictions apply to lot 23 and if further subdivided, shall also apply to those newly subdivided lots which were formerly lot 23, and shall prevail to the extent of any inconsistencies with other restrictions herein:

1.19.1 No building may be erected or permitted to remain on the lot unless:

- 1.19.1.1 for a lot fronting Easton Lane - set back from the main street frontage - at least 3 metres.
- 1.19.1.2 for a lot fronting Chatham Road - set from the main street frontage - at least 2 metres
- 1.19.1.3 set back from the side and rear boundary - 0 metres. A new wall constructed on or within 200 mm of a side or rear boundary must not abut the boundary of an adjoining lot for a length of more than 12 metres or exceed the height of 3.6 metres above natural ground level.

1.19.2 The following may encroach into the specified main street frontage setback by not more than 500mm:

- 1.19.2.1 Porticos, porches, verandahs and alfrescos
- 1.19.2.2 Eaves, fascia and gutters
- 1.19.2.3 Sunblinds
- 1.19.2.4 Steps or landings

Clauses 1.19 may be varied at the sole discretion of the Transferor.

- 1.20 The following restrictions apply to lot 32 and if further subdivided, shall also apply to those newly subdivided lots which were formerly lot 32, and shall prevail to the extent of any inconsistencies with other restrictions herein:

1.20.1 No building may be erected or permitted to remain on the lot unless:

- 1.20.1.1 for a lot fronting Hampshire Boulevard - set back from the main street frontage - at least 2 metres.

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- 1.20.1.2 for a lot fronting Chatham Road - set from the main street frontage - at least 3 metres.
- 1.20.1.3 set back from the side and rear boundary - 0 metres. A new wall constructed on or within 200 mm of a side or rear boundary must not abut the boundary of an adjoining lot for a length of more than 12 metres or exceed the height of 3.6 metres above natural ground level.
- 1.20.2 The following may encroach into the specified main street frontage setback by not more than 500mm:
 - 1.20.2.1 Porticos, porches, verandahs and alfrescos
 - 1.20.2.2 Eaves, fascia and gutters
 - 1.20.2.3 Sunblinds
 - 1.20.2.4 Steps or landings

Clauses 1.20 may be varied at the sole discretion of the Transferor.

- 1.21 The following restrictions apply to lot 50 and if further subdivided, shall also apply to those newly subdivided lots which were formerly lot 50, and shall prevail to the extent of any inconsistencies with other restrictions herein:
 - 1.21.1 No building may be erected or permitted to remain on the lot unless:
 - 1.21.1.1 for a lot fronting Southgate Drive - set back from the main street frontage - at least 2 metres.
 - 1.21.1.2 for a lot fronting Cromwell Road - set from the main street frontage - at least 3 metres.
 - 1.21.1.3 set back from the side and rear boundary - 0 metres. A new wall constructed on or within 200 mm of a side or rear boundary must not abut the boundary of an adjoining lot for a length of more than 12 metres or exceed the height of 3.6 metres above natural ground level.
 - 1.21.2 The following may encroach into the specified main street frontage setback by not more than 500mm:
 - 1.21.2.1 Porticos, porches, verandahs and alfrescos
 - 1.21.2.2 Eaves, fascia and gutters
 - 1.21.2.3 Sunblinds
 - 1.21.2.4 Steps or landings

Clauses 1.21 may be varied at the sole discretion of the Transferor.

- 1.22 The following restrictions apply to lot 51 and prevail to the extent of any inconsistencies with other restrictions herein:
 - 1.22.1 Building and fencing must be set back at least 3 metres from Southgate Drive.
- 1.23 Letterboxes must be constructed of materials consistent with that of the main residence.
- 1.24 The owner of a lot, except with the written consent of the Transferor, must commence construction of a dwelling within twenty-four (24) months of the date of settlement.
- 1.25 The owner of a lot, except with the written consent of the Transferor, must landscape the area of the lot facing a street, reserve or park within seven (7) months of receiving a certificate of occupancy.

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2. Maintenance of lot prior to construction of residence and during the construction period

For any period of time during which an owners lot remains vacant, the owner must maintain the lot in a clean and tidy condition, and:

- 2.1 Not allow any vegetation on the Lot to exceed a height of 10 centimetres.
- 2.2 Not park or allow others to park any cars, trailers, caravans, or such similar items on the Lot.
- 2.3 During the construction period, the owner will keep the site tidy and clear of rubbish and must make good any damage caused to the surrounding public land, land owned by the Transferor or infrastructure, by the owner or its contractors.

3. Use of lot after construction of residence

- 3.1 Owners and occupiers, but excluding the Transferor, must:
 - 3.1.1 House vehicles in a garage or driveway on the owner or occupiers lot, and
 - 3.1.2 Garage or otherwise screen from public view, all boats, trailers, caravans or such similar items.
- 3.2 Owners or occupiers must keep all garbage and recycling bins on their lot secure and screened using either screen fences or landscaping or a combination of both so as not to be visible from other lots, or from the street frontage.
- 3.3 The owner or occupier of a lot must not, except with the prior written consent of the Transferor, allow the following to be visible from the street frontage:
 - 3.3.1 Any television, radio or other aerial, antenna, satellite dish or tower or any other transmitting or receiving device, or
 - 3.3.2 Any energy conservation equipment,
 - 3.3.3 Air conditioners and/or evaporative coolers,
 - 3.3.4 Water systems,
 - 3.3.5 Rainwater tanks,
 - 3.3.6 Any clotheslines or hoist (or hang any washing, towels, bedding, clothing or other articles or a similar nature from any clothesline, hoist or railing),
 - 3.3.7 Swimming pool and/or sauna related heating equipment, and
 - 3.3.8 Solar hot water tanks.

Only solar power panels which are required in connection with items 3.3.2 and 3.3.8 may be erected on the front roof line if necessary.

Definitions

Main street frontage

The street frontage that allows the most direct access to the front door.

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.

Front Building Line

Means the front wall of any room of the dwelling, but excluding an entry way up to 2.0 metres in width. For the purposes of this definition, nib walls, porticos, verandahs and other architectural features are not defined as a wall.

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Facade

Means a wall of a building running parallel or mostly there to the street boundary and comprising a design element of floor to ceiling or full length windows to all habitable rooms.

Primary Facade

Means that facade which is located parallel to the street boundary which Council defines as the street address of the land.

Secondary Facade

Means that facade on a corner lot which is located parallel to a side street (i.e. not the street address for the land).

Battle Axe Block

Means a block of land behind another, with access from the street through a narrow drive.

And this Covenant shall appear on the Certificate of Title for the land and shall run with the land. Such covenant shall expire and be of no further force or effect after 1st October 2027.

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