

Memorandum of common provisions

Section 91A Transfer of Land Act 1958

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APPROVED PLAN
PLANNING AND ENVIRONMENT ACT 1987
CARDINIA PLANNING SCHEME

Permit No.: T210899
Sheet: 1 of 17
Approved by: Jennifer Chan
CARDINIA SHIRE COUNCIL
Date: Wednesday, 15 February 2023

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:

This Memorandum of Common Provisions (MCP) contains provisions which are intended for inclusion in instruments to be lodged for registration.

1 Preliminary

Dwelling Plans (buildings and works) including plans of any proposed demolition of all or part of a building, for each lot must be endorsed by Satterley as complying with this MCP and being consistent with the Design Guidelines before applying for a building permit. This includes a requirement to obtain Satterley endorsement of any proposed changes to the façade of an existing building where such changes will be visible from streets or other public areas.

Before Satterley will consider endorsing dwelling plans for any lot, dwelling plans must be assessed against the provisions of the approved building envelope / MCP and approved by a building surveyor.

Endorsement by Satterley does not warrant, imply or in any way suggest that the endorsed development plans comply with the *Cardinia Planning Scheme* (the Scheme) or the *Building Regulations 2018* (the Regulations) in force at the time of the endorsement.

The matters addressed in this MCP are those that vary from the provisions in Part 5 of the Regulations and Clause 54 of the Scheme. All provisions not addressed in this MCP are as required in Part 5 of the Regulations and Clause 54 of the Scheme.

This MCP is retained by the Registrar of Titles pursuant to section 91(A) of the Transfer of Land Act.

2 Provisions

Plan of Subdivision PS 908226M includes a notice of restriction enabling approved building envelopes in accordance with regulation 71 in Part 5 of the Building Regulations 2018 or proceeding regulations. The provisions of this MCP are incorporated into the restrictions created by the plan of subdivision.

Any building on lots 3103 to 3108 and 3111 to 3115 within Plan of Subdivision PS 908226M must be contained within the building envelope and comply with written notes contained within this MCP. The

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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 instruments and plans.

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building envelopes are part of Planning Permit T210899 (the Permit), being created as a condition of that Permit. This MCP does not apply to lots 3101, 3102, 3109, 3110 and 3116. The development of these lots will be assessed against the Small Lot Housing Code. Where a dwelling does not comply with the requirements of the Small Lot Housing Code, separate planning approval will be required from Cardinia Shire Council.

Any building to be constructed on lots to which this MCP applies and for which the construction would require a building permit must be sited within the approved building envelope subject to any specific encroachments allowed outside the approved building envelope pursuant to this MCP.

3 Text of restrictions

The matters which are restricted by the approved building envelopes provide for siting and design parameters different from those contained in Part 5 in the Regulations and clause 54 in the Scheme and are as follows.

3.1 Minimum street setbacks (regulation 74 and clause 54.03-1)

A building must be set back from a street alignment in accordance with regulation 74 (Minimum street setbacks) in Part 5 of the Regulations and clause 54.03-1 in the Scheme, except as specified below.

A building on a lot must be set back from a street boundary not less than the distance specified in respect of that boundary on the following relevant building envelope plan.

With the approval and endorsement of Satterley, balconies, verandahs, open porches, covered walkways and porticos that are less than 4.5 metres high may encroach not more than 2.5 metres into the minimum front setback. Façade treatments and / or covered balconies or verandahs on the second storey of a building that is less than 6.6 metres in height may encroach not more than 1.5 metres into the minimum front setback.

The following may encroach not more than 0.6 metre into the front setback shown on the plan.

- Eaves, fascia, gutter that are not more than 0.6 metre in total width;
- Sunblinds;
- Privacy screens, but only to the extent needed to protect a neighbouring property from a direct view.

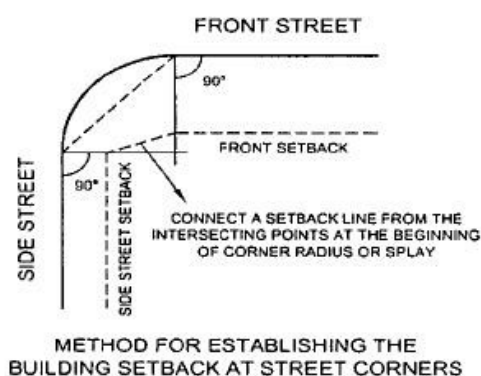


Diagram Splayed and curved street frontages

Unless noted on the plan. The minimum front setback on a splayed or curved street frontage must be taken in an arc connecting the front street setback line to the side street setback line commencing at the points that are perpendicular to the points where the street alignment commences to arc.

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A garage on a lot must be set back not less than 5 metres from the front street boundary of the lot and must be set back not less than 0.5 metre behind the front building line (excluding encroachments) of the dwelling.

3.2 Site coverage (regulation 76 and clause 54.03-3)

The site area covered by buildings on a lot must be in accordance with regulation 76 (Site coverage) in Part 5 of the Regulations and clause 54.03-3 in the Scheme, except as specified below.

Buildings on lots marked with a ' ● ' on the building envelope plan must not occupy more than 70 per cent of the lot.

The area covered by building on a lot does not include eaves, fascia and gutters not exceeding 0.6 metre in total width, and unroofed swimming pools, terraces, patios, decks and pergolas.

3.3 Permeability (regulation 77 and clause 54.03-4)

The minimum area of pervious surfaces on a lot must be in accordance with regulation 77 (Permeability) in Part 5 of the Regulations and clause 54.03-4 in the Scheme, except as specified below.

The area covered by pervious surfaces within the front garden of a lot, except when marked with a ' ● ' on the building envelope plan, must be at least 40 per cent of the area of the front garden.

The area covered by pervious surfaces on lots marked with a ' ● ' on the building envelope plan must be at least 15 per cent of the lot.

3.4 Side and rear setbacks (regulation 79 and clause 54.04-1)

Side and rear setbacks on a lot must be in accordance with regulation 79 (Side and rear setbacks) in Part 5 of the Regulations and clause 54.04-1 in the Scheme, except as specified below.

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 noted below and shown on the plan by the identifier code. On any lot, except a lot with a profile identifier code **SP-A-3** on the building envelope plan or a corner lot, the side boundary profile identifier codes shown on the plan can be interchanged provided that there is a profile identifier code **SP-A-1** on one side boundary and a profile identifier code **SP-B-1** on the opposite side boundary.

The following may encroach not more than 0.5 metre into the minimum side and rear setbacks.

- Porches and verandahs.
- Masonry chimneys.
- Sunblinds.
- Screens (to the extent needed to protect a neighbouring property from a direct view).
- Flues and pipes.
- Domestic fuel tanks and water tanks.
- Heating and cooling equipment and other services.

The following may encroach into the minimum setbacks.

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- Landings with a maximum area of 2 square metres and a maximum height of 1 metre.
- Unroofed stairways and ramps.
- Pergolas.
- Shade sails.
- Eaves, fascias and gutters not more than 0.6 metre in total width.
- Outbuildings not exceeding 10 square metres in area and 3 metres in height.

A garage with access facing the side street boundary of a corner lot must be set back at least 0.5 metres behind the side street building line of the dwelling.

Edge lots are not beneficiaries of the restriction described in 3.4 above.

3.5 Daylight to existing habitable room windows (regulation 81 and clause 54.04-3)

The provision of daylight to existing habitable room windows must be in accordance with regulation 81 (Daylight to existing habitable room windows) in Part 5 of the Regulations and clause 54.04-3 in the Scheme, except as specified below.

Any habitable room window at ground level to be constructed in a building on a lot must be clear to the sky and setback at least 1 metre from the boundary of that lot if it is to be considered, once constructed, an existing habitable room window for the purposes of regulation 81 and clause 54.04-3.

Edge lots are not beneficiaries of the restriction described in 3.5 above.

3.6 Walls on boundaries (regulation 80 and clause 54.04-2)

Walls constructed on a boundary must be in accordance with regulation 80 (Walls on boundaries) in Part 5 of the Regulations and clause 54.04-2 in the Scheme, except as specified below.

A dwelling wall on a rear boundary must be setback 2 metres, unless otherwise approved by Satterley and Cardinia Shire Council, except for a garage which may be constructed on the rear boundary.

Walls and carports constructed on or within 200 millimetres of a side boundary of a lot, except when marked with a ' ● ' on the building envelope plan, must not exceed 12 metres in length.

Walls and carports constructed on or within 200 millimetres of a side boundary of a lot marked with a ' ● ' on the building envelope plan must not exceed 20 metres or the length of any existing or simultaneously constructed abutting dwelling wall, whichever is greater.

The height of a walls and carports must not exceed 3.2 metres, or 3.6 metres if the total length of the walls and carports is 7 metres or less in length unless abutting a higher existing or simultaneously constructed dwelling wall, in which case it may be constructed to the same height as that wall.

Carports may be built on or within 200 millimetres of a side street boundary if the side of the carport facing the boundary is open.

Edge lots are not beneficiaries of the restriction described in 3.6 above.

3.7 Solar access to existing north-facing habitable room windows (regulation 82 and clause 54.04-4)

The provision of solar access to existing north-facing habitable room windows must be in accordance with regulation 82 (Solar access to existing north-facing habitable room windows) in Part 5 of the Regulations and clause 54.04-4 in the Scheme, except as specified below.

Reference to an existing north-facing habitable room window, in the case of buildings on lots contained within this MCP, refers to ground floor windows only.

Any north-facing habitable room window at ground level to be constructed in a building on a lot must be clear to the sky and setback more than 3 metres from the north boundary of that lot if it is to be considered, once constructed, an existing north-facing habitable room window for the purposes of regulation 82 and clause 54.04-4.

Edge lots are not beneficiaries of the restriction described in 3.7 above.

3.8 Overshadowing of recreational private open space (regulation 83 and clause 54.04-5)

Any overshadowing of recreational private open space must be in accordance with regulation 83 (Overshadowing of recreational private open space) in Part 5 of the Regulations and clause 54.04-5 in the Scheme, except as varied as a consequence of other restrictions in this MCP.

Where sunlight to the recreational private open space of an existing dwelling is reduced, at least 75 per cent, or 40 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. The 75 per cent, or 40 square metres minimum area, can be measured in different locations during the day.

Edge lots are not beneficiaries of the restriction described in 3.8 above.

3.9 Overlooking (regulation 84 and clause 54.04-6)

Any overlooking of a habitable room window or secluded private open space of an existing dwelling on an adjoining lot must be in accordance with regulation 84 (Overlooking) in Part 5 of the Regulations and clause 54.04-6 in the Scheme, except as varied as a consequence of other restrictions in this MCP.

This requirement applies to any habitable room window, balcony, terrace, deck or patio of a dwelling on a lot within the specified overlooking control area (as indicated in the relevant height and setback profiles), that has direct views into an adjoining lot.

Edge lots are not beneficiaries of this restriction described in 3.9 above.

3.10 Private open space (regulation 86 and clause 54.05-2)

A dwelling on a lot must provide private open space as specified in regulation 86 (Private open space) in Part 5 of the Regulations and clause 54.05-2 in the Scheme, except as specified below.

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A dwelling on a lot marked with a ' ● ' on the building envelope plan must have private open space consisting of a minimum area of 25 square metres.

3.11 Design detail (clause 54.06-1)

3.11.1 Multiple storeys

A building on a lot marked with a ' M ' must have at least two storeys above natural ground level.

3.11.2 Front façade

A dwelling must include a balcony, verandah or portico with a minimum area of 4 square metres and a minimum depth of 1.5 metres.

All visible walls from the street, including the front façade must contain at least one habitable room window.

A front façade must contain a minimum of two colours or materials.

Two dwellings of the same front housing façade design must not be built within three dwelling lots (including the opposite side of a street) unless it is an integrated townhouse style development or unless otherwise approved by Cardinia Shire Council.

3.11.3 Ceilings and roofs

A roof of a dwelling must use a combination of hips or gables to articulate the roofline except where a skillion or flat roof is approved by Satterley.

3.11.4 External walls

Where an external wall is constructed on a boundary parapet walls and box gutters are prohibited.

3.11.5 Corner lots

A dwelling on a corner lot must be designed to address (at each level) both the front and side street or public open space. A habitable room window and articulation of the front façade is to continue around the secondary street frontage for the length of one room.

The materials and colours of a façade facing the side street of a dwelling on a corner lot must complement the front façade materials and colours.

The façade of a dwelling facing a side street or public open space for a single storey dwelling must contain at least one habitable room window with a minimum area of 1.5 square metres. The habitable room window must be located forward of the side boundary fence.

The facade of a dwelling facing a side street or public open space for a double storey dwelling must contain at least one habitable room window with a minimum area of 1.5 square metres at first floor level.

Blank walls facing a side street are prohibited.

3.11.6 Garages

Garages must be incorporated into the main roofline of the dwelling to reduce the visual impact the garage has on the façade.

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Garage roller doors are prohibited.

A single storey dwelling on a lot with a width of less than 12.5 metres must not provide a garage with more than one car space.

Single storey dwellings on lots with frontages 12.5 metres to 13.5 metres wide must have a garage opening which does not occupy greater than 50 per cent of the dwelling frontage.

Single storey dwellings on lots with frontages greater than 13.5 metres wide must have a garage opening which does not occupy greater than 40 percent of the dwelling frontage.

3.12 Fencing (regulations 89 to 95 and clause 54.06-2)

All fences must be in accordance with regulations 89 to 95 in part 5 of the Regulations and clause 54.06-2 in the Scheme, except as specified below.

Front fencing forward of the dwelling is not to be more than 1.2 metres in height and must be at least 60 per cent transparent. For a fence within 9 metres of a point of intersection of street alignments and exceeding 1 metre in height, the report and consent of the municipal building surveyor must be obtained.

Side and rear fencing must be constructed of timber.

Side boundary fencing between adjoining residential lots must finish a minimum of 1 metre behind the primary street frontage façade.

Side boundary fencing abutting a street or public open space, except on any lots with retaining walls that exceed 0.5 metres along that sideage, must be constructed of timber palings with timber posts exposed on both sides and capping provided that it does not exceed 1.8 metres in height.

Side boundary fencing constructed above or adjacent to retaining walls that exceed 0.5 metre in height must be constructed from materials and have colours that are visually appealing and complimentary. Examples of suitable materials include timber slat, brush or colorbond fencing.

Side boundary fencing constructed above or adjacent to retaining walls that exceed 1 metre in height must not exceed 1.5 metres in height.

Side boundary fencing abutting a street or public open space must not exceed 60 per cent of the length of the side street boundary commencing at the rear lot boundary.

Side boundary fencing abutting a street or public open space adjacent to a walkway must not exceed 50 per cent of the length of the side street boundary commencing at the rear lot boundary.

Where a retaining wall is to be provided along the front boundary of a lot, no front fencing can be constructed.

3.13 Driveways

A driveway must be constructed from one of the following materials or similar:

- stamped or patterned concrete;
- coloured concrete;
- exposed aggregate;
- paving;

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Plain concrete driveways (in light-grey 'standard' concrete) are prohibited.

Driveways must not exceed the width of the garage door.

3.14 Front garden

Landscaping of the front garden must include at least one advanced tree species capable of achieving a height of at least 5 metres at maturity. This requirement may be varied for lots less than 300 square metres pending front setbacks.

The front garden must be completed within six months of the issuing of the certificate of occupancy for the dwelling.

3.15 External plumbing

Plumbing visible from the street must be painted to match or complement the colour of the dwelling.

3.16 Approval of dwelling design

The design of a dwelling to be built on a lot must be endorsed by Satterley as complying with this MCP and being consistent with the Design Guidelines before applying for a building permit.

3.17 Sub-Surface Structures

Design of sub-surface domestic structures that may intersect with the saturated groundwater zone (such as cellars, basements, swimming pools, etc.) are to be designed to a suitable engineered specification for waterlogged or saline conditions (if such are encountered). The design and construction process of any such sub-surface domestic structure is the responsibility of the owner/builder and is to follow the relevant Australian Standards/Guidelines when constructing these structures.

4 Notes on the MCP

- 4.1 Ground level after engineering works associated with subdivision is to be regarded as natural ground level.
- 4.2 In the case of conflict between the plan and these written notations, the specifications in the written notations prevail.
- 4.3 Buildings must not cover registered easements unless provided for by the easement.
- 4.4 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. Regulation 71 in Part 5 of the Regulations and clause 56.04-2 in the Scheme, apply to each edge lot irrespective of Sections 1 to 3 of this MCP.
- 4.5 Satterley provides each lot with a single crossover. Relocation of crossovers is only permitted with prior approval from Satterley and Cardinia Shire Council. Relocated crossovers must be constructed at the owners expense in accordance with Cardinia Shire Council specifications and be of the same finish as that originally provided by Satterley. The existing crossover must be removed and the verge, kerb and footpath constructed to the same standard as the adjoining verge, kerb and footpath at the expense of the lot owner.

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5 General definitions

If not defined above, the words below shall have the meaning attributed to them in the document identified.

In the *Building Act 1993*:

- building
- building permit
- lot

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In Part 5 of the *Building Regulations 2018*:

- clear to the sky
- height
- north (true north)
- private open space
- recreational private open space
- raised open space
- secluded private open space
- setback
- single dwelling
- site coverage
- window

In the *Cardinia Planning Scheme*:

- dwelling (Clause 73.03)
- frontage (Clause 73.01)
- habitable room (Clause 73.01)
- storey (Clause 73.01)

Additional definitions include the following.

approved building envelope

the building envelope shown for a particular lot in the building envelope plan and has the same meaning as in regulation 71 of the Regulations

building envelope

an area within each lot (defined by the particular lot setbacks) where development of a dwelling, shed, garage or carport is allowed subject to the particular provisions of this document, the Permit and the Scheme.

building envelope plan

the plan which is attached to this MCP and which shows the approved building envelopes, certain setbacks and other related matters for the lots within the plan of subdivision.

corner lot

a lot with a corner where each boundary connects to a street or public open space.

Design Guidelines

the 'Arcadia Design Guidelines' prepared by Satterley, as amended from time to time.

edge lots

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.

MCP

this memorandum of common provisions.

on the boundary

setback of up to 200 millimetres from the lot / property boundary is deemed to be on the boundary.

plan of subdivision

means the plan of subdivision referred to on page 1 of this MCP

Regulations

the Building Regulations 2018 or any subsequent regulations made pursuant to the Building Act which relate to the siting of a building.

Satterley

Satterley Property Group

Scheme

the Cardinia Planning Scheme

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.

street

for the purposes of determining street setbacks, street means any road other than a footway or carriageway easement.

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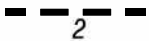
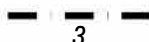



6 *Diagrams and plans*

6.1 *Explanation of symbols and terms in diagrams and plans*

NOTATIONS

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SP-A-1	SP-D-1	Building envelope profile (refer 6.2 and 6.3 following) to be applied to the particular boundary (refer plans in 6.5).
SP-B-1	RP-A-1	Note the frontage setback and easement width is designated on the plan.
		Frontage setback
		2 metres wide easement
		3 metres wide easement
		Special lot requirements (refer text)
		Lot number
		Designated vehicle crossover to lot (no other vehicular access point is permitted to a lot, except with the approval of Satterley and Cardinia Shire Council).

PARTICULAR LOT REQUIREMENTS FOR STAGE 31

This MCP does not apply to lots 3101, 3102, 3109, 3110 and 3116. These lots will be assessed against either the Small Lot Housing Code or a separate planning permit application.

Detailed design of roads, crossovers and footpaths is provided in the relevant Engineering Plans.

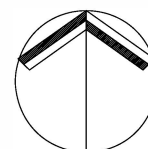
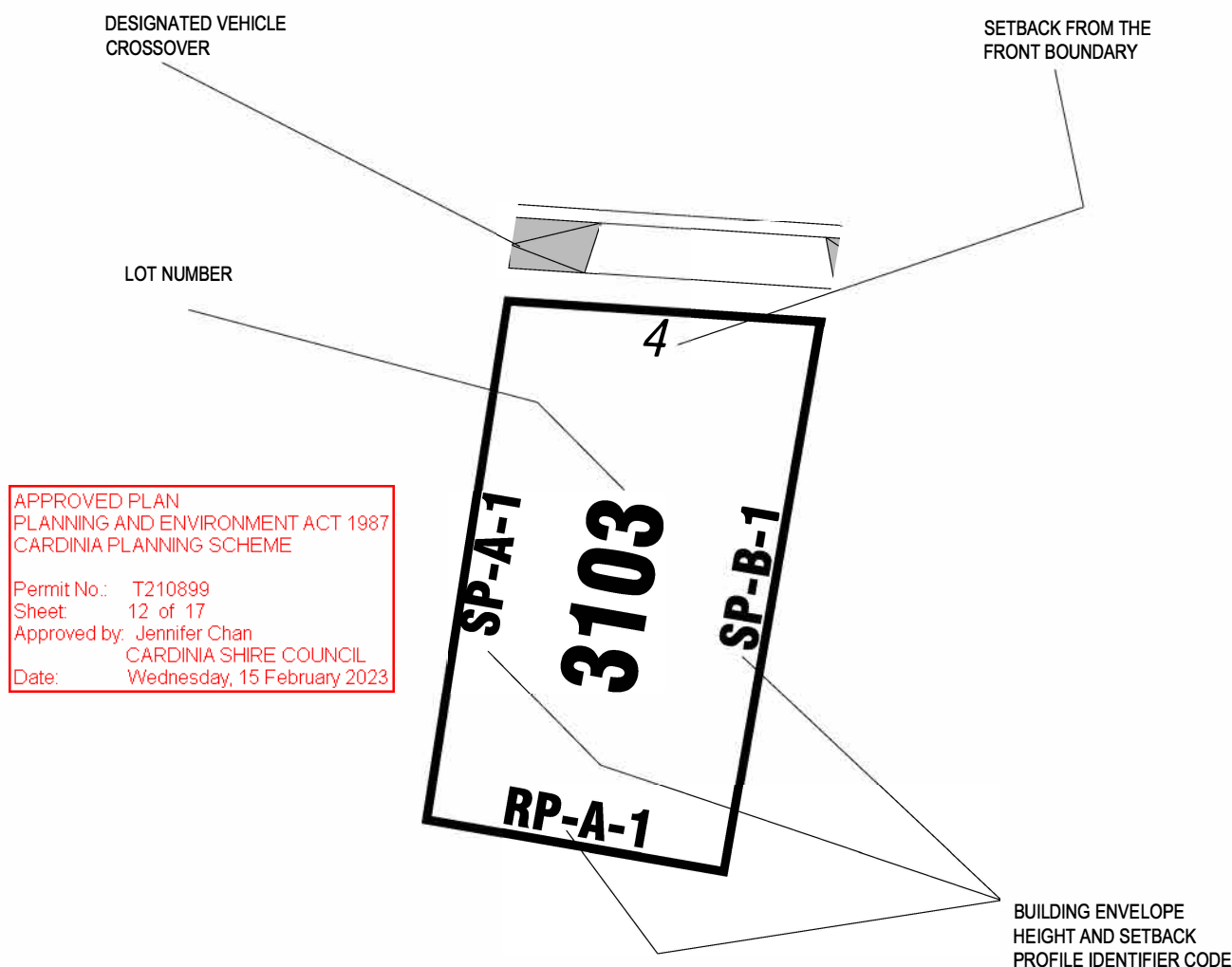
Additional easements may be required subject to detailed engineering and survey assessment.

Detailed design of landscape works is provided in the relevant Landscape Plans.

All details subject to Cardinia Shire Council approval.

6.2 *Diagrams illustrating the interpretation of the building envelope and the annotation with respect to all edge lots in this stage development*

THE BUILDING ENVELOPES ON ALL LOTS LOCATED ON THE BOUNDARY OF THIS DEVELOPMENT STAGE (EDGE LOTS) ARE ENDORSED BY CARDINIA SHIRE COUNCIL AS APPROVED BUILDING ENVELOPES.

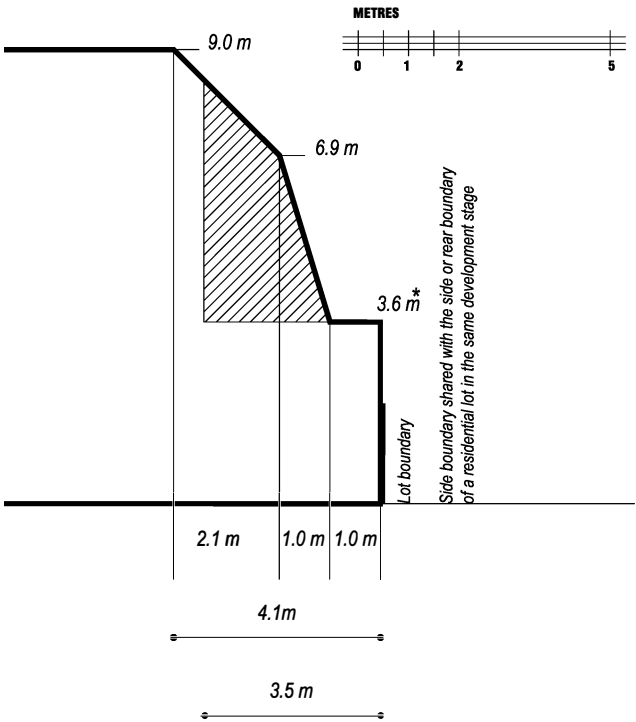


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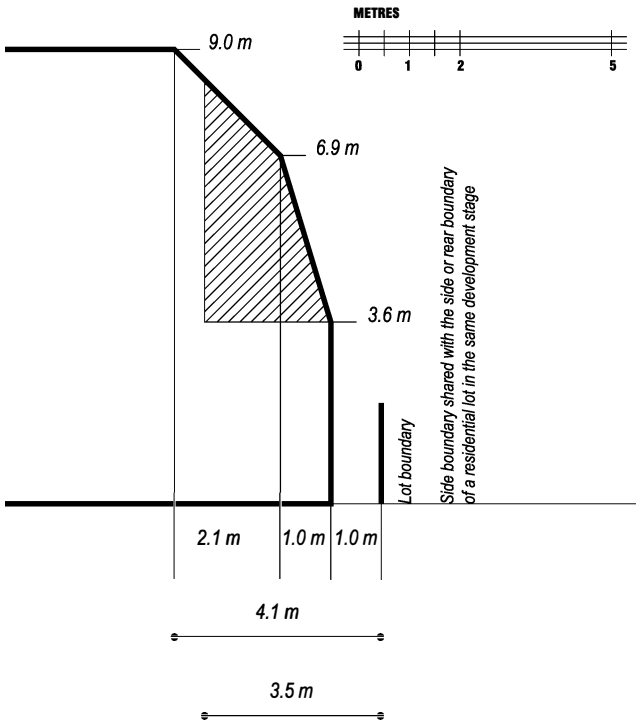
6.3 Profiles referenced in the building envelope plan

SP-A-1



* for a maximum length of 7 metres; otherwise 3.2 metres

SP-B-1



EASEMENT REQUIREMENT

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.

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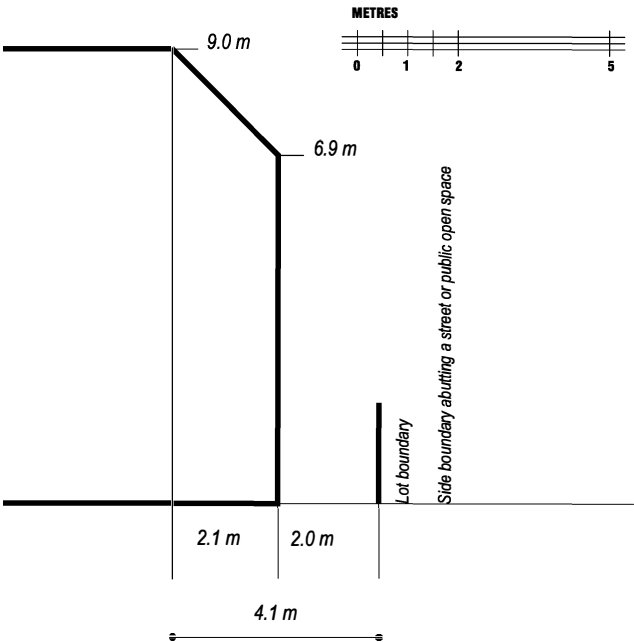


OVERLOOKING CONTROL AREA
(refer 'Overlooking' in text)

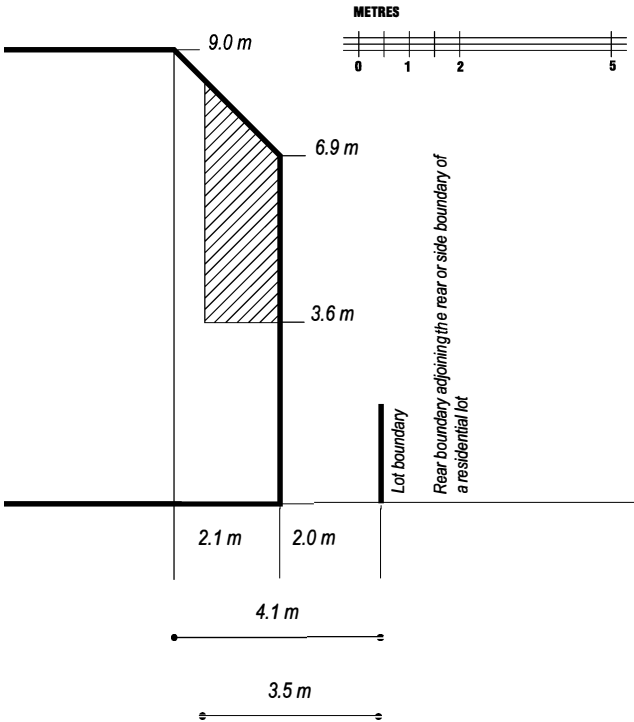
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SP-D-1



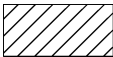
RP-A-1



EASEMENT REQUIREMENT

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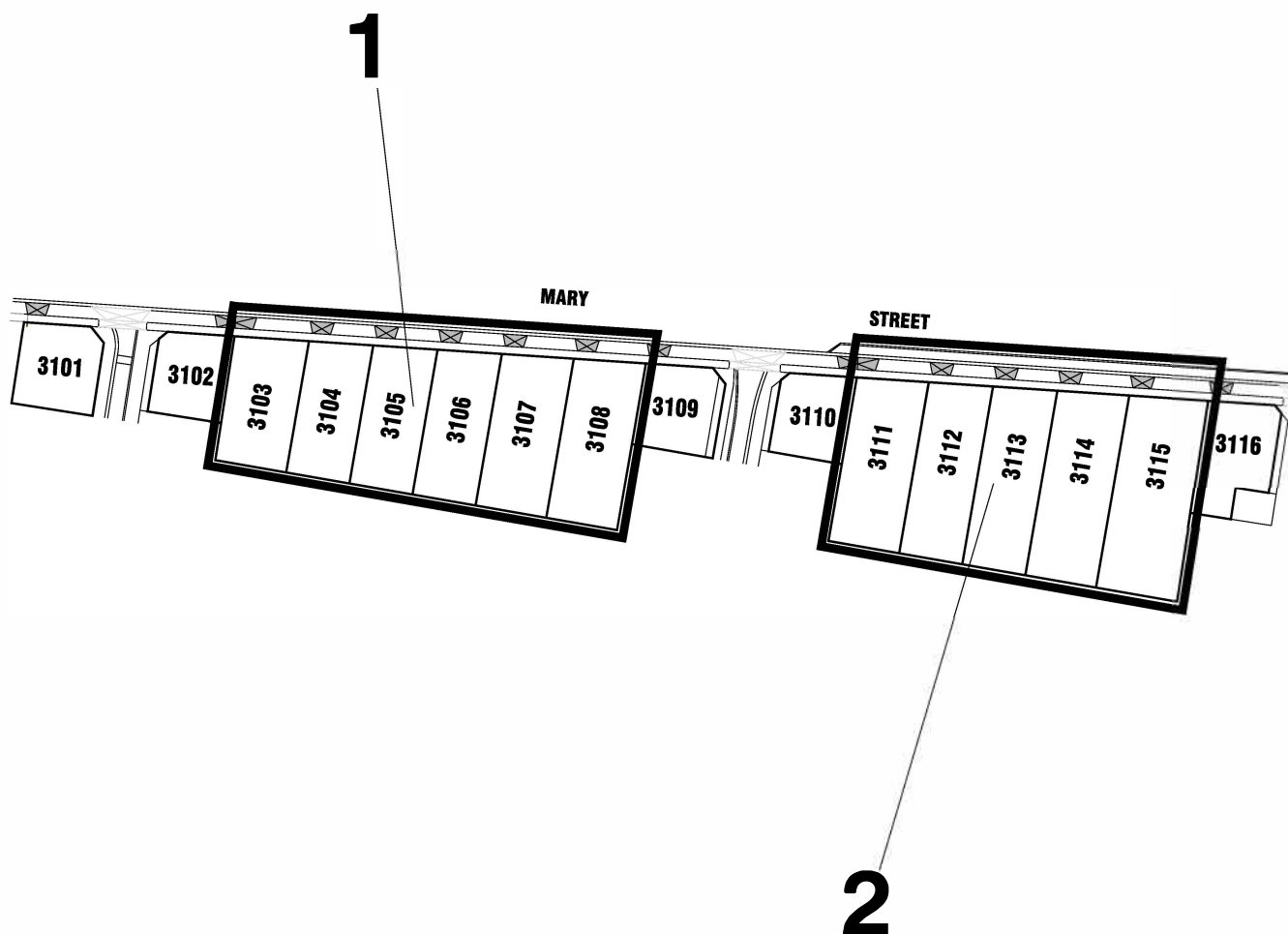


OVERLOOKING CONTROL AREA
(refer 'Overlooking' in text)

6.4 Plan of subdivision showing key to sheets

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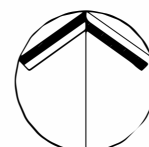
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KEY TO SHEETS

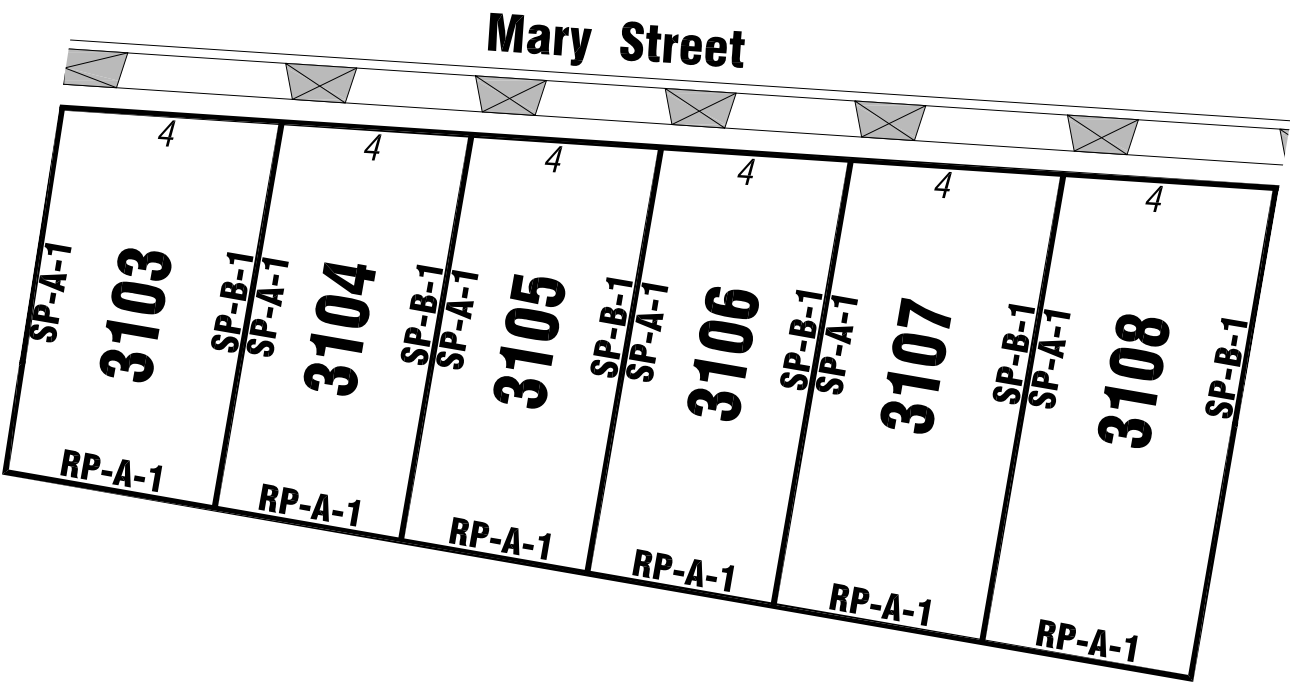


V3

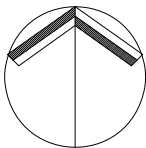
6.5 Plan of subdivision showing building envelope height and setback profile identifier code

APPROVED PLAN
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CARDINIA SHIRE COUNCIL
Date: Wednesday, 15 February 2023

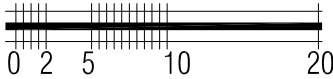


SHEET 1



V3

METRES



All dimensions are shown in metres

91ATLA

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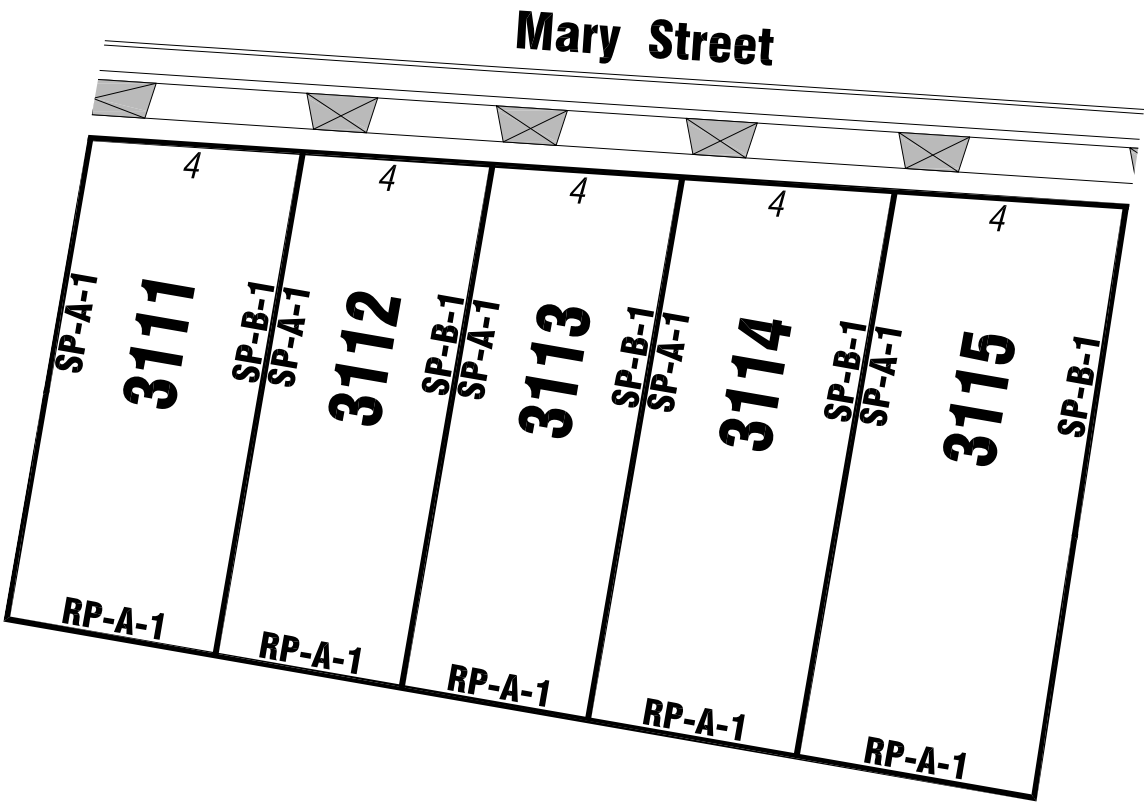
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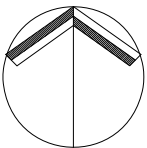
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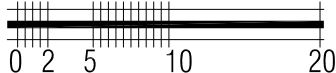


SHEET 2



V3

METRES



All dimensions are shown in metres

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