

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

PRELIMINARY

- A. This MCP has been prepared by or on behalf of Meridian in order to regulate the siting, form and design of residential development in accordance with the Meridian Design Guidelines.
- B. This MCP, in conjunction with the plan of subdivision provides the information necessary to interpret the approved building envelopes.
- C. Some of the matters addressed in this MCP are not covered by or are amendments to the Regulations and Scheme or Code (as they may apply to each particular lot).
- D. This MCP is retained by the Registrar of Titles pursuant to section 91(A) of the Transfer of Land Act.

PROVISIONS

1. Small Lot Housing Code

Lots burdened by Restriction 'B' on the Plan of Subdivision are lots that the provisions of the Small Lot Housing Code relating to Type A allotments applies.

Lots burdened by Restriction 'C' on the Plan of Subdivision are lots that the provisions of the Small Lot Housing Code relating to Type B allotments applies.

In the event that a dwelling does not comply with the Small Lot Housing Code, a planning permit may be required to be procured from the Responsible Authority.

TEXT OF RESTRICTIONS

1. **Edge Lots (Regulation 71 and clause 56.04-2)**

Regulation 71 in Part 5 of the Regulations and clause 56.04-2 in the Scheme, apply to each Edge Lot.

2. **Fencing**

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- 2.1 Fencing plans must be submitted to and approved by the DRC as part of the design approval process set out in the Meridian Design Guidelines.
- 2.2 All boundary fencing must be constructed prior to occupancy of any dwelling constructed on the Lot.
- 2.3 Front Fencing
 - 2.3.1 A front fence, the design and specification of which must first be approved by the DRC, may be erected.
 - 2.3.2 If the lot is being used as a Display Home at the time of DRC approval, the front fence must be removed and any necessary remedial works performed to the front landscaping at the conclusion of the legal use of the lot as a Display Home.
- 2.4 Side and Rear fencing
 - 2.4.1 For all lots, side and rear fencing (except for rear fences on **rear loaded lots** where the rear boundary abuts a reserve, or fencing along the secondary street frontage of a corner lot, or fencing along the side boundary which is shared with the rear boundary of a corner lot) must:
 - 2.4.1.1 be constructed from capped timber palings with exposed timber posts (75mm x 125mm);
 - 2.4.1.2 not exceed 1.95 metres in height;
 - 2.4.1.3 finish a minimum of 1 metre behind each side of the front façade (not including the entry feature/porch).
 - 2.4.2 At the required point of finish behind the front façade, each side boundary fence must return at 90 degrees to abut the dwelling. Return fences must be constructed to match the boundary fencing or from timber slats and must be setback to allow for access to the meter boxes;
 - 2.4.3 Side boundary fencing along the **secondary street frontage** of a corner lot must:
 - 2.4.3.1 be constructed from capped timber palings with exposed timber posts (75mm x 125mm), except where the Small Lot Housing Code requires otherwise in which case the material must be timber slats;
 - 2.4.3.2 not exceed 1.95 metres in height; and
 - 2.4.3.3 finish at least 3 metres behind the front façade of the dwelling and behind the corner treatment, whichever is the greater.
 - 2.4.4 For **rear loaded lots** where the rear boundary abuts a reserve, the fencing on the boundary abutting the reserve must:
 - 2.4.4.1 be constructed from capped timber palings with exposed timber posts (75mm x 125mm);
 - 2.4.4.2 not exceed 1.95 metres in height; and
 - 2.4.4.3 be approved by the DRC and constructed to the requirements of the planning permit and any endorsed plan forming part of that planning permit.

3 Dwelling Design Approval

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- 3.4 The design of any building or structure to be constructed on a lot within 8 years of the registration of the plan of subdivision creating the lot must:
- 3.4.1 comply with the Meridian Design Guidelines; and
 - 3.4.2 receive approval of all plans and specifications by Meridian Estate Design Assessment Panel c/-Brown Property Group, Level 5, 523 Burwood Road, Hawthorn, Victoria, 3122 prior to a building permit being procured for any such building or structure.

3.5 Orientation of Dwelling on rear loaded lots

The dwelling constructed on a **rear loaded lot** must be designed to address the boundary of the lot opposite that which is marked for vehicular access to the garage, with pedestrian access (the entry) facing this boundary (ie. to address the boundary abutting the reserve or Primary Frontage, as the case may be).

4 Driveways

- 4.4 A driveway must be fully constructed prior to occupancy of any dwelling constructed on the Lot.
- 4.5 The driveway must be constructed of exposed aggregate, pavers, stamped or stenciled surfacing or coloured concrete as approved by the DRC.
- 4.6 The driveway must be setback at least 400 millimetres from the nearest side boundary to allow for the establishment of landscaped garden along that side boundary.
- 4.7 Relocation of a driveway crossover or, addition of a driveway crossover to a corner lot, is permitted with the written approval of the DRC and the Responsible Authority. Relocated crossovers must be constructed at the lot owners expense to the specification of the Responsible Authority and be of the same finish as that originally provided by Meridian.

5 Permission to construct contrary to these MCPs

The requirements of these MCPs may be varied with the consent of the Responsible Authority, provided that the variation does not conflict with any requirement of the Small Lot Housing Code.

Notes on this MCP

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

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

The construction of a building which is contrary to the requirements of this MCP may occur with the written consent of Meridian and the Responsible Authority, where consent of the Responsible Authority is required by the Scheme, any planning permit affecting the lot or by operation of the law.

General definitions

In this MCP:

building has the same meaning as in the Building Act;

Building Act means the act of the Victorian Parliament known as the Building Act 1993 and any re-enactment or replacement of that act;

building permit means a building permit in terms of the Building Act;

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Code means the Small Lot Housing Code incorporated as a document in the Scheme;

control includes a restriction in terms of the Subdivision Act 1988, an agreement under section 173 of the Planning and Environment Act 1987 (PE Act), a provision of an Act (other than the Building Act), a regulation (other than the Building Regulations), a requirement of a referral authority (in terms of section 55 of the PE Act) or an order of a Court or tribunal, which relates to the siting of a Building;

DRC means the Meridian Design Review Committee appointed by Meridian and comprising representative of developer and a qualified architect for the purposes of assessing compliance by Lot owners with the Meridian Design Guidelines;

dwelling has the same meaning as in the Scheme;

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.

frontage has the same meaning as in the Scheme;

height has the same meaning as in the Regulations;

lot has the same meaning as in the Building Act;

MCP means this memorandum of common provisions;

Meridian means Meridian Clyde Pty Ltd ACN 130 125 030 or any associated entity or related body corporate of Meridian;

Meridian Design Guidelines means the design guidelines prepared by Meridian and Brown Property Group, as amended from time to time

on the boundary means a setback of up to 200 millimetres from the lot / property title boundary is deemed to be on the boundary;

plan of subdivision means the plan of subdivision to which this MCP is incorporated by way of a restrictions on that plan of subdivision;

Primary Frontage means:

- (a) For all lots other than rear loaded lots or Side Loaded lots, is the frontage on which the approved driveway crossover from the street to the garage is located;
- (b) For rear loaded lots, is the opposite frontage to the lot to the one on which the approved driveway crossover from the street to the garage is located; and
- (c) For Side-Loaded lots, is the frontage to the second street alignment which does not have an approved driveway crossover from the street to the garage.

Rear loaded lot means a lot whereby the approved driveway crossover,, from the street to the garage is located on the Secondary Frontage

Regulations means the Building Regulations 2006 or any subsequent regulations made pursuant to the Building Act which relate the siting of a Building;

reserve has the meaning given to it in the *Subdivision Act 1988* (Vic);

Responsible Authority means Casey City Council or its successor from time to time

Scheme means the planning scheme of the local authority responsible for the land contained within the plan of subdivision;

Secondary Frontage is any boundary that abuts a road or reserve, other than the Primary Frontage

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setback has the same meaning as in the Regulations;

side boundary means a boundary of a lot that runs between and connects the street frontage of the lot to the rear boundary of the lot;

Side Loaded means a lot whereby the garage opening addresses the Secondary Frontage. This is usually a corner lot.

Small Lot Housing Code refers to the Small Lot Housing Code incorporated in the Scheme pursuant to Clause 81 of the Scheme;

storey has the same meaning as in the Scheme;

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

Type A Lot – As burdened by Restriction B on the Plan of Subdivision denotes that the lot is one to which the provisions of the Small Lot Housing Code relating to Type A allotments applies; and

Type B Lot – As burdened by Restriction C on the Plan of Subdivision denotes that the lot is one to which the provisions of the Small Lot Housing Code relating to Type B allotments applies.

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