

**Memorandum of common provisions
Restrictive covenants in a transfer
Section 91A Transfer of Land Act 1958**

AA8938

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This memorandum contains provisions which are intended for inclusion in transfers of land under the Transfer of Land Act 1958 to be subsequently lodged for registration.

Provisions to apply to the transfer:

Burdened land: The Lot or Lots hereby transferred.

Benefited land: The land comprised in the Plan except the Lot or Lots hereby transferred

Covenants:

1. DEFINITIONS

- 1.1. A reference to **Design Guidelines** means the River Valley Design Guidelines, a copy of which can be obtained from the River Valley 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.
- 1.2. A reference to **Land** in this MCP means the land described in the certificate of title upon which this MCP is registered as an encumbrance.
- 1.3. A reference to **Lot** in this MCP means a lot on the Plan.
- 1.4. A reference to **Plan** in this MCP means plan of subdivision PS817489J.
- 1.5. A reference to **Transferee** in this MCP means all registered proprietors of the Land subsequent to the **Transferor**.
- 1.6. A reference to **Transferor** in this MCP means Maribyrnong Riverside Development Pty Ltd of Level 11, 50 Queen Street, Melbourne VIC 3000.

2. INTRODUCTION

- 2.1. This MCP has been prepared by or on behalf of the Transferor in order to regulate the use, siting, form and design of residential development at the River Valley Estate, so as to create a high level of amenity for owners and residents of allotments within the Plan.
- 2.2. The provisions of this MCP are incorporated into the restrictions on any certificate of title expressed to be subject to the terms of this MCP.
- 2.3. The provisions of this MCP are in addition to and where a conflict arises with restrictions supersede any other restriction registered in respect of

NDI-561693-38-196-V22

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

AA8938

the Land.

- 2.4. This MCP is retained by the Registrar of Titles pursuant to section 91A of the Transfer of Land Act 1958.

3. RESTRICTIVE COVENANTS

- 3.1. The Transferee of the Burdened Land must not nor allow any party to, without the prior written consent of the Transferor:

3.1.1. build a dwelling on the Burdened Land:

- 3.1.1.1. without obtaining prior written advice from a suitably qualified geotechnical engineer to confirm the engineering design and plans for the dwelling is suitable for, and appropriately responds to, the geotechnical conditions of the Land (**Geotech Report**);
- 3.1.1.2. unless, prior to the commencement of any building works, a copy of the Geotech Report has been submitted to the builder engaged by or on behalf of the Transferee;
- 3.1.1.3. unless the engineering design of the dwelling incorporates a Piled Suspended Slab except where the dwelling is to be constructed directly on competent basalt rock; and
- 3.1.1.4. unless the dwelling foundation design has been certified by a suitably qualified geotechnical engineer and evidence of such certification has been submitted to the builder engaged by or on behalf of the Transferee;
- 3.1.1.5. without obtaining a statement from a suitably qualified engineer detailing the design of the dwelling footings is suitable for, and appropriately responds to the conditions of the Land (**Footings Statement**);
- 3.1.1.6. unless prior to commencement of any building works, a copy of the Footings Statement is provided to Mike Purcell via email at mike@urbtech.com.au or by post to Urbtech Pty Ltd, 1304/20 Rakai Way, Docklands Victoria 3008;

3.1.2. where the Burdened Land is one of Lots 11 – 20 (inclusive) on the Plan, build a dwelling on the Burdened Land:

- 3.1.2.1. unless the piling solution incorporated in the design of the dwelling is consistent with the Australian Piling Code AS2159-2009;
- 3.1.2.2. incorporating full displacement piling systems such as concrete/timber driven piles or closed steel tube piling systems; and
- 3.1.2.3. unless the piling system forming part of the dwelling design is located wholly within the building envelope of the Land as detailed in Memorandum of Common Provisions AA8548;

3.1.3. plant or allow to be planted any tree on the Burdened Land

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

AA8938

that is not one of the following species:

- 3.1.3.1. Acacia Implexa;
- 3.1.3.2. Allocasuarina Verticillata; or
- 3.1.3.3. Callistemon Viminalis.

3.1.4. conduct any excavation:

3.1.4.1. within 2.5 metres of the rear boundary of the Burdened Land to a depth greater than 300mm from the surface level; and

3.1.4.2. on any part of the Burdened Land other than that part of the Burdened Land within:

3.1.4.2.1. the building envelope registered on the Plan; or

3.1.4.2.2. 2.5 metres of the rear boundary of the Burdened Land

to a depth greater than one metre from the surface level of the Burdened Land; and

3.1.4.3. on any part of the Burdened Land not contemplated by clauses 3.1.4.1 and 3.1.4.2 to a depth between 300mm and 1000mm from the surface level of the Burdened Land prior to obtaining a written report by an appropriately qualified geotechnical engineer certifying the proposed excavation does not interfere with the integrity of any retaining structure or batter on or adjacent to the Burdened Land and such report has been submitted to any builder engaged by or on behalf of the Transferee;

3.1.5. build more than one dwelling house on the Burdened Land without the prior written consent of the Transferor;

3.1.6. build a dependent person's unit on the Burdened Land;

3.1.7. build a dwelling on the Burdened Land unless copies of building plans, elevations, site plans, landscaping plans and a schedule of colours and materials ("the plans"), have been submitted to the Transferor or its delegated agent and the Transferor or its delegated agent has given its written approval to the plans prior to the commencement of any building works;

3.1.8. build on the Burdened Land any aircraft noise sensitive building unless it is constructed to be noise attenuated in accordance with Australian Standard 2021-2000, Acoustics - Aircraft Noise Intrusion - Building Siting and Construction;

3.1.9. subdivide the Burdened Land;

3.1.10. carry out any site-works, excavation, filling or construct any fencing or retaining walls or to remove, interfere with or compromise or do anything that may tend to or interfere with or compromise any batter or retaining wall on the Burdened Land or any adjoining or nearby land without the prior written consent of the Transferor;

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

AA8938

- 3.1.11. allow the Burdened Land to be kept other than in a neat and tidy condition and to the satisfaction of the Transferor at all times;
 - 3.1.12. delay or permit to be delayed the commencement or completion of any works that have been approved by the Transferor;
 - 3.1.13. vary or allow any variation to any building, works or landscaping that have been approved by the Transferor;
 - 3.1.14. allow the Burdened Land to remain vacant and unimproved for a period that exceeds 24 months from the date of the transfer of land;
 - 3.1.15. erect or allow others to erect a "for sale" sign on the Land prior to completion of a dwelling on the land and the issuing of an occupancy permit in respect of that dwelling;
 - 3.1.16. construct on the Burdened Land any fence (other than a front fence) unless that fence is a timber paling fence measuring 1.8 metres in height;
 - 3.1.17. erect or construct any pool, tennis court, external sign, hoarding, tank, clothes line, letter box, mast, pole, landscaping or television antenna or radio aerial on the Burdened Land or upon any building constructed upon the Burdened Land without the prior written consent of the Transferor;
 - 3.1.18. erect or construct a fence on the Burdened Land unless the fence complies with the Design Guidelines;
 - 3.1.19. erect any external floodlights or spotlights or any lights illuminating any pool or tennis court or other similar structure upon the Burdened Land without the prior approval of the Transferor;
 - 3.1.20. remove or in any way alter any fence that has been constructed in compliance with the Design Guidelines on the Burdened Land or in any way interfere with or attempt to change or modify the colour of such fence;
 - 3.1.21. remove or in any way alter the metal fencing erected on the Burdened Land by the Transferor;
 - 3.1.22. use the Burdened Land for any purpose except a dwelling and/or a home occupation as defined in the Brimbank Planning Scheme without the prior written consent of the Transferor;
 - 3.1.23. apply for any permit to use or develop the Burdened Land without the prior written consent of the Transferor;
 - 3.1.24. use the Burdened Land or any part thereof for any purpose or use unless such purpose or use is permitted (either unconditionally or subject to consent of the local council) by the Brimbank Planning Scheme; and
 - 3.1.25. keep on the Burdened Land or allow to be kept on the Burdened Land any racing or homing pigeon or other similar flocking bird.
- 3.2. And it is intended that the foregoing covenants shall be set out as encumbrances on the certificate of title issued or to issue for the

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

AA8938

Burdened Land hereby transferred.

Expiry:40 years from the date of registration of the Plan by the Registrar of Titles.....