

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

AA9867

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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.

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

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- 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.
  2. **RESTRICTIVE COVENANTS**
    - 2.1. The transferee of the Burdened Land must not nor allow any party to, without the prior written consent of the transferor:
      - 2.1.1. build a dwelling on the Burdened Land:
        - 2.1.1.1. 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**);
        - 2.1.1.2. 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;
        - 2.1.1.3. 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;
        - 2.1.1.4. unless the dwelling foundation design has been certified by a suitably qualified geotechnical

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- engineer and evidence of such certification has been submitted to the builder engaged by or on behalf of the transferee;
- 2.1.1.5. 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 AA8581;
  - 2.1.1.6. 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**);
  - 2.1.1.7. unless prior to commencement of any building works, a copy of the Footings Statement is provided to Urbtech Pty Ltd, via post at 1304/20 Rakai Way, Docklands Victoria 3008 or its last known mailing address, by email to Mike Purcell at mike@urbtech.com.au, or to Beck Legal via post at 177 View Street, Bendigo Victoria 3550 or its last known mailing address;
- 2.1.2. plant or allow to be planted any tree on the Land that is not one of the following species:
- 2.1.2.1. Acacia Implexa;
  - 2.1.2.2. Allocasuarina Verticillata; or
  - 2.1.2.3. Callistemon Viminalis;
- 2.1.3. conduct any excavation:
- 2.1.3.1. within 2.5 metres of the base of the retaining wall structure contained in the area marked E-1 on the plan to a depth greater than 300mm from the surface level; and
  - 2.1.3.2. on any part of the Burdened Land not contemplated by clause 2.1.3.1 to a depth greater than one metre from the surface level 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 on or adjacent to the Burdened Land and such report has been submitted to any builder engaged by or on behalf of the transferee;
- 2.1.4. build more than one dwelling house on the Burdened Land without the prior written consent of the transferor;
- 2.1.5. build a dependent person's unit on the Burdened Land;
- 2.1.6. build a dwelling on the Burdened Land unless copies of building plans, elevations, site plans, landscaping plans and a schedule of colours and materials (**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;

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- 2.1.7. 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;
- 2.1.8. subdivide the Burdened Land;
- 2.1.9. without the prior written consent of the transferor, 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 interfere with or compromise:
  - 2.1.9.1. any batter or retaining wall structure contained in the area marked E-1 on the plan on the Burdened Land; or
  - 2.1.9.2. any batter or retaining wall structure contained in the area marked E-1 on the plan on the adjoining or neighbouring land;
- 2.1.10. stockpile or store in large quantities on the Burdened Land:
  - 2.1.10.1. waste or refuse; and
  - 2.1.10.2. untidily kept materials and objects;
- 2.1.11. interfere with or otherwise obstruct the prompt commencement and completion of any works on the Burdened Land that have been approved by the transferor;
- 2.1.12. vary or allow any variation to any building, works or landscaping that have been approved by the transferor;
- 2.1.13. 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;
- 2.1.14. construct on the Land any fence (other than a front fence) unless that fence is a timber paling fence measuring 1.8 metres in height;
- 2.1.15. 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;
- 2.1.16. erect or construct a fence on the Burdened Land unless the fence complies with the Design Guidelines;
- 2.1.17. 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;
- 2.1.18. 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;
- 2.1.19. remove or in any way alter the metal fencing erected on the Burdened Land by the transferor;

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- 2.1.20. 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;
- 2.1.21. apply for any permit to use or develop the Burdened Land without the prior written consent of the transferor;
- 2.1.22. 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
- 2.1.23. keep on the Burdened Land or allow to be kept on the Burdened Land any racing or homing pigeon or other similar flocking bird.

**Expiry:** 60 years from the date of registration of the plan by the Registrar of Titles.